SENATE—*Tuesday, March 12, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. KERREY].

PRAYER

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

Let us pray:

Let us come before his presence with thanksgiving, and make a joyful noise unto him with psalms. For the Lord is a great God, and a great King above all gods.—Psalm 95:2,3.

Almighty God, we have much for which to be thankful. As men and women return from the Persian Gulf and are welcomed by their loved ones and all Americans, we rejoice afresh in the brevity of the war and the minimum of casualties. But even as we rejoice at the homecomings we remember those who are brought home in caskets and greeted with deep sorrow by their loved ones, a sorrow that seems almost compounded by the joy of those returning home safely.

Gracious Father, we commend to Your love and comfort and care those who sorrow. We pray for any prisoner of war who has not been returned, for those who are missing in action and for their loved ones. And we pray that, as rapidly as possible, peace and order may be restored.

Midst our thanksgiving, loving Lord, we remember those who have been held hostage for so long: Terry Anderson, Thomas Sutherland, Jesse Turner, Joseph James Cicippio, Edward Austin Tracy, and Alann Steen. Grant that their freedom may soon come to pass.

In the name of the Prince of Peace we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that today, following the time reserved for the two leaders, there be a period for morning business not to extend beyond 4 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, under a previous unanimous-consent agreement, I have the authority, following consultation with the Republican leader, to proceed to S. 578, a bill to authorize supplemental appropriations for the Department of Defense for Operation Desert Storm and for other purposes.

The distinguished Republican leader and I met earlier today. We intend to meet again shortly, and it is my hope that we can work out an arrangement whereby we will be able to proceed later today, at 4, if possible, if not, as soon thereafter as possible, to consider this legislation, I hope in a manner that will permit its prompt enactment.

This legislation includes the benefits for the men and women who served in the Desert Storm operation and, of equal importance to them and to all of us, their families. So I hope that we can proceed with that later today. We will be consulting further, and I hope to have an announcement on that shortly.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. 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.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 611 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for morning business until 4 o'clock. Senators are permitted to speak therein for not to exceed 10 minutes each.

The Senator from Texas.

Mr. BENTSEN. I thank the Chair.

(The remarks of Mr. BENTSEN, Mr. ROTH, and Mr. SEYMOUR pertaining to the introduction of S. 612 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

INTERNATIONAL CRIMINAL COURT TO TRY WAR CRIMES

Mr. SPECTER. Mr. President, I seek recognition to amplify evidence in support of a pending sense-of-the-Senate resolution to establish an international criminal court to try war crimes.

This issue was presented on the floor of the Senate last week, and a vote was deferred on Thursday afternoon because of scheduling difficulties with some Senators who would be necessarily absent; and the schedule was established where the vote would occur this week after another scheduled vote, to make sure that as many Senators were present as were possible. But there have been some intervening events since last week which are worth placing on the RECORD, Mr. President.

A report by the Philadelphia Inquirer specifies:

> The eight U.S. Air Force pilots released last week by the Iraqis were "treated in a very severe fashion, and were physically injured," a ranking Air Force doctor reported yesterday. An initial examination of the airmen at Andrews Air Force Base showed that some had lost as much as 30 pounds during their confinement because of a daily diet of a few slices of pita bread and broth. Brigadier General Robert Pol told the news conference that several had contracted intestinal parasites.

• 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

A report by the Washington Post today specifies Iraqi treatment of pilots as "severe." U.S. officials cite malnutrition, duress, and delayed medical care.

Over the weekend, the New York Times, on Sunday, reported a United States plan to bomb Iraq if poison chemical gas was administered to the internal population of Iraq. One such report, although not cited in this New York Times article, specified that a chemical weapon had been used against the dissidents within Iraq, but that the shell was so old and antiquated that it malfunctioned.

Mr. President, the additional evidence which is coming to light, and increasing acts of barbarousness on the part of Iraq, I submit, underscores the necessity for Iraqi officials, from President Saddam Hussein on down, to be on notice that they will be held responsible for war crimes.

Last week considerable detail was specified about the atrocities against Kuwait, which would warrant war crimes trials in an international court, under an analogy to Nuremberg after World War II. Similarly, there were atrocities against prisoners of war and atrocities against other civilians, and the firing of some 39 Scud missiles into civilian populations in Israel, without any conceivable military objective.

Mr. President, this additional information, I think, underscores the necessity for a very strong vote by the sense of the Senate on our determination to establish an international criminal court to try war crimes. This would be a followup to previous acts by this body. In 1986 a resolution was adopted, on the initiation of this Senator, for an international court to try terrorists; in 1988 a resolution was initiated by this Senator on an international court to try drug dealers; and, last year, there was a provision in the foreign aid bill which calls for a report from the President by October 1, 1991, and a report from the U.S. Judicial Congress.

But the evidence is mounting that the international criminal court to try war crimes is very much needed, and this additional information, I think, will lend an additional evidentiary base.

Mr. BAUCUS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

THE NORTH AMERICAN FREE TRADE AGREEMENT

Mr. BAUCUS. Mr. President, last week the administration requested authority to negotiate a free trade agreement with Mexico and Canada. This agreement builds upon the recently concluded FTA with Canada. The negotiations have been dubbed the North American Free Trade Agreement or NAFTA negotiations.

I feel considerable pride of authorship in the concept of a NAFTA. One of my first major projects when I came to the Senate in 1979 was to include an amendment in the 1979 Trade Act to require the administration to study the NAFTA concept. At the time, the idea was received with great skepticism, but it has slowly gained acceptance over the last 12 years. I ask unanimous consent that the text of the provision in the 1979 Trade Act and a statement I made at the time appear in the RECORD directly following my remarks.

BENEFITS OF A NAFTA

Why attempt to negotiate an FTA with a developing country, like Mexico?

The International Trade Commission attempted to answer that question in their recent study:

> * * * an FTA with Mexico will benefit the U.S. economy overall by expanding trade opportunities, lowering prices, increasing competition, and improving the ability of U.S. firms to exploit economies of scale.

If the United States, Mexico, and Canada were to eliminate internal trade barriers it would create a single market of 360 million consumers—by far the largest in the world. A secure market of this size would create an enormous competitive advantage for U.S. business vis-s-vis their Asian and European competitors.

Further, opening the Mexican market could have enormous commercial benefits for the United States. Mexico is already the United States' third largest trading partner. The Salinas government has undertaken a significant trade liberalization over the past 4 years. Tariffs are down from as high as 100 percent to an average of just over 10 percent, and a number of trade barriers have been dismantled. This unilateral market opening has expanded United States exports to Mexico from $12.4 to $28.4 billion in 4 short years. During that same period, the annual United States trade deficit with Mexico shrunk from $5.7 billion to $1.8 billion.

But Mexican tariffs are still more than twice as high as United States tariffs and import licenses are still required for many products. Further, Mexico's tariffs are not bound at current levels by international agreement. If the Salinas government were to change policy or be replaced, Mexico's tariffs could be raised as high as 50 percent and other barriers reimposed. A free trade agreement with Mexico could break down remaining trade barriers and prevent old ones from being reerected.

Mexico is also the United States' second largest source of oil imports behind Saudi Arabia. An FTA could help assure a reliable supply of oil from Mexico and help to lessen dependence on the Persian Gulf.

CONCERNS ABOUT MEXICO

However, though the potential benefits of an FTA with Mexico are large so are the risks. Negotiating an FTA with Canada was relatively easy. The United States and Canada are at the same level of development. Both maintain similar labor and environmental standards. And both share a common language.

Unfortunately, none of those things are true with regard to Mexico. Mexico remains a developing country with all the accompanying human rights and environmental problems usually found in developing countries.

To link Mexican economy with the United States economy is to build a bridge that spans 100 years of economic development. Such a negotiation raises particular concerns in three areas.

First the wage rate differential between the United States and Mexico is large. Wages in Mexico are only one-quarter to one-fifteenth of United States wages. Under an FTA this would seem to create a tremendous incentive for labor intensive industries in the United States to move to Mexico—causing massive job losses in the United States.

Various economic analysis suggest that this problem may be overstated. Most suggest net gains in U.S. employment. Nonetheless, in a number of U.S. sectors large job losses are likely.

In order to win approval of a United States-Mexican FTA, the administration must develop a comprehensive plan to address these job losses. In some sectors, that will mean tariff snapbacks and special safeguard measures to address import surges. In others, it could mean long transition periods.

The United States Government must also take a hard look at revamping worker adjustment assistance programs to deal with displacements that may result from free trade with Mexico. This administration has been openly hostile to trade adjustment assistance and this year proposed repealing the program. If we are going to sacrifice some low wage jobs in order to create new higher wage jobs, we must create a training ladder to help the displaced workers fill the new jobs. We must work to see to it that those who lose jobs because of an FTA with Mexico, are able to share the benefits of free trade.

Second, Mexico has not vigorously enforced its environmental laws. Most experts concede that Mexico has a fairly sound set of environmental laws on the books, but it doesn't devote sufficient resources to enforcing those laws. If an FTA were concluded under current circumstances, an incentive could be created for United States business to move to Mexico to avoid United States environmental regulations. This could create job losses in the United States and spawn new pollution.

Environmental issues do not fit well into a trade negotiation. But before a trade agreement is approved by the Congress, the United States must ensure that adequate environmental regulations are on the books and enforced in Mexico.

Finally, Mexico does not impose adequate worker's rights standards. As is the case with environmental regulations, an FTA could create an incentive for United States businesses to move to Mexico to exploit the workforce. Clearly, this is intolerable. We cannot allow free trade if it means more child labor and more workers working under unsafe conditions. As is the case with the environment, these issues should be addressed before a trade agreement is approved by Congress.

I have already announced that I intend to support an extension of the administration's fast track negotiating authority. This will allow the administration to begin negotiations with Mexico and Canada aimed at producing a NAFTA.

However, I do have serious concerns about negotiating an FTA that involves Mexico. In the end, I will be taking a hard look at any agreement produced by those negotiations. Such an agreement must be in the United States commercial and economic interest, it cannot simply be disguised foreign aid for Mexico.

Further, before the negotiations begin, Mexico must live up to all the commitments it has made to the United States in previous trade negotiations involving intellectual property protection.

Finally, the concerns that I have just laid out on wage rates, environmental standards, and worker's rights must be addressed either in or concurrently with the FTA negotiations.

Those are high standards. But if the Administration negotiates with these objectives in mind, they are achievable. The United States has great leverage with Mexico in the negotiations. After all, the U.S. market is the most prosperous in the world.

Given my past involvement with this issue, I would deeply regret voting against a North American Free Trade Agreement. But unless such an agreement measures up to these standards, I would have no choice but to vote to reject it.

Mr. President, I ask unanimous consent that material on this subject be printed in the RECORD at this point.

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

SEC. 1104. STUDY OF POSSIBLE AGREEMENTS WITH NORTH AMERICAN COUNTRIES.

(a) IN GENERAL.—Section 612 of the Trade Act of 1974 (19 U.S.C. 2486) is amended by inserting "(a)" before "It" and by adding at the end thereof the following:

"(b) The President shall study the desirability of entering into trade agreements with countries in the northern portion of the western hemisphere to promote the economic growth of the United States and such countries and the mutual expansion of market opportunities and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate his findings and conclusions within 2 years after the date of enactment of this Act. The study shall include an examination of competitive opportunities and conditions of competition between such countries and the United States in the agricultural, energy, and other appropriate sectors.".

(b) CLERICAL AMENDMENTS.—

(1) The caption of section 612 of such Act is amended to read as follows:

"SEC. 612. TRADE RELATIONS WITH NORTH AMERICAN COUNTRIES.".

(2) The table of contents of such Act is amended by striking out the item relating to section 612 and inserting in lieu thereof the following new item:

"Sec. 612. Trade relations with North American countries.".

Senator BAUCUS. The hearing of the International Trade Subcommittee will come to order. I want to welcome today all of the witnesses who are here to testify.

Today's hearing is the first of several I plan to conduct during the next few months to examine trade between the United States, Canada, Mexico and other nations in the northern portion of the Western Hemisphere.

To most Americans trade with Mexico and Canada means one thing: oil. Mexico's recent discoveries of vast reserves of oil and natural gas are an attractive alternative to Middle East oil.

At a time when lines at gasoline stations have reappeared and weekend closings are again common, such a large supply of oil on our southern border looks even more tempting.

Canada has in the past been a major supplier of energy to the United States. In my home State of Montana, Canada remains a major source of oil for refineries in Billings.

Several bills have been introduced this year that encourage energy cooperation among the three nations. Several proposals to establish a North American Common Market have come forward. We are a long way from that kind of relationship. Our neighbors are rightfully cautious about such talk and even the mention of common markets and free trade zones legitimately and correctly cause concern.

This Nation's relationship with Canada and Mexico is much more complex than simply oil. The United States conducts more trade with Canada than with any other nation by a wide margin.

In 1977, the United States sold over $25.7 billion worth of products to Canada compared to $10.5 billion to Japan. Americans bought nearly $39 billion worth of imports from Canada compared to $18 billion from Japan.

The value of U.S. trade with Canada in 1978, totaling $62 billion, is more than the amount of U.S. trade with all of the members of the European Common Market.

We are also Mexico's largest trading partner, buying 70 percent of its exports. Last year, trade between the United States and Mexico totaled $12.7 billion, up 34 percent over 1977.

Trade with Mexico and Canada is one-quarter of this Nation's total international trade. Obviously, decisions made here have a dramatic impact in their capitals and upon their people.

Today, I hope we can begin to look beyond the statistics. We should look at the quality of our relationship with these nations.

How is our Government organized to handle North American affairs?

What do Mexico and Canada want in return for selling us their oil and other resources? How willing are American firms to share their research and development with the Canadian and Mexican firms?

How do we reduce and eliminate both tariff and nontariff barriers to trade? How do we provide some organization to the dozens of agreements that now govern trade?

These are some of the questions that I hope we can examine. Also, I am inserting at this point in the record a more complete statement for the record.

[The material referred to follows:]

"The purpose of the hearings we are beginning today is to focus public and Congressional attention on the current status of North American relations in the field of trade and other areas, and to encourage serious thinking—both within and outside of our government—about the future direction of these relations.

"Today's witnesses will address themselves primarily to issues in United States-Canadian and United States-Mexican relations. However, we should at the outset note that a systematic study of the possibilities for greater cooperation among the countries of the northern portion of the Western Hemisphere should also include consideration of the nations of the Caribbean as well.

"We are witnessing an interesting change in American perceptions of our two large neighbors. Traditionally, little attention has been paid to the extensive and varied bond between our country and Canada and Mexico: We have tended to take them for granted.

"Fortunately, this is now changing. This increased American interest is a product of our own domestic needs. As our economy has slowed down and our balance of payments deficit has steadily risen, we have paid increasing attention to international trade. And as the energy crunch has become more acute, we have become more aware as a nation of the foreign sources of our energy. Analysis of where we stand in regard to energy or to trade leads inevitably to a discussion of our relations with our two major neighbors.

"Already the vastness and intricacy of the existing ties are apparent. Canada and the United States are each other's largest trading partner. The total value of U.S. trade with Canada alone ($62 billion in 1978) is slightly more than U.S. trade with all of the members of the European Common Market, and exceeds U.S. trade with the OPEC nations as a group.

"The statistics in relation to United States-Mexican trade are no less impressive. We are Mexico's largest trading partner, taking approximately 70 percent of their exports. Mexico ranks within the top five of the nations with whom we trade. In 1978, trade between the United States and Mexico totaled $12.7 billion, up 34% from $9.5 billion in 1977.

"In the field of energy, Canada's importance as a source of fossil fuel and hydroelectric generation, as well as a conduit for Alaskan oil has loomed large. Similarly, the monumental recent discoveries of oil and gas reserves in Mexico must inevitably enter our calculations about sources of future energy needs. Our interest in Mexican and Canadian

energy resources has been matched by a desire in both of those countries to protect their natural resources, and to use them imaginatively and sparingly for the important tasks of their own national development.

"Energy and trade are only two facets of the complex interrelationship. Migration patterns, cultural concerns and questions of national identity make difficult any simple analysis of cross border patterns.

"The simple fact is that our own needs have propelled us to look more closely than ever before at North America as an economic unit, and, not to the surprise of experts, we are discovering the strength of this continent as an economic entity. Without doubt, the United States, Canada and Mexico taken together, form the largest single, and most vital economic trading block in the world. It is the seat of three vibrant democratic nations, and the home of aspiring and energetic populations.

"The opportunities appear almost limitless, but there can be no doubt that there are significant obstacles to greater cooperation.

"The task which confronts us as nations is to develop structures which will allow us to work together to our mutual benefit.

"Legislation has been introduced into this Congress to encourage cooperation among the three nations, especially in the field of energy. Today some witnesses may speak about the proposed legislation and while this would be welcome we should not lose sight of the fact that this hearing and ones which will follow are primarily educational and informational in nature. We are looking for answers, but in fact, we are just beginning to formulate the right questions.

"We must assess the full panoply of the existing relationships. For instance, I believe that there is far more governmental contact at the state and province levels than is commonly realized. These should be adequately catalogued.

"We must know more about our ability as a government to improve existing relations. I am concerned that our relations with the two nations are too often compartmentalized within our own administration with the net result that our right hand does not know what our left is doing.

"We must study further the reactions and sentiments of the people of Canada and Mexico themselves to the possibilities of increased cooperation. No progress is likely if we are insensitive to their views. There is a long legacy in both Canada and Mexico of suspicion of American motives. We must conduct ourselves in such a way to convince our neighbors that we are interested in arrangements that help us all, not just arrangements that help us get all of theirs.

"We must seek out and listen to the views of all important elements of the American economy and pay particular attention to the concerns of this country's working men and women.

"We must honestly ask ourselves whether, given the great differences in economic development between Canada and Mexico, it makes sense to try to deal with the two nations as part of a trilateral entity. Are we better off forgetting about continentalism and focusing on promoting better bilateral relations with each? I frankly do not know the answers to these questions, and I want to have this Committee promote public discussion of them.

"The next decade may see profound change in our relations with our two neighbors, brought about by significant domestic developments in each. Mexico will undergo serious stress as it copes with the important questions that will be raised concerning the internal distribution of its new oil wealth. How this wealth will be used, by whom, and for whom, are likely to be the central issues of Mexican politics in the next decade. It will be a time of profound questioning. Similarly, in Canada, it is likely that the next decade will see a period of continued national self examination. The very unity of Canada is being called into doubt and while this is a question solely for Canadians to decide among themselves, it will be foolish for the United States to remain unaware or unconcerned about possible ramifications for ourselves.

"I am pleased that today we shall hear from not only spokesmen from the Executive Branch, but from individuals from private industry and the academic world, as well as representatives of private opinion in both Mexico and Canada. They will each express to us in their views about the need and possibility for increased hemispheric cooperation. Hopefully, today we shall begin a process—which is likely to be long and arduous—which will lead to greater understanding."

Senator BAUCUS. I hope this hearing will necessarily be the beginning of a very long search into the general question, but also one that is delicate and sensitive to the countries and the people concerned.

We will begin with our first witness, the Honorable Alan Wolff, Deputy Special Representative for Trade Negotiations. Mr. Wolff, you are certainly no stranger to this committee. We are happy to have you here. You may proceed in any manner that you wish.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. I thank the Chair. I realize we all stood seeking recognition. I think so far we have been recognized in the order we arrived, and I appreciate the Chair doing that.

(The remarks of Mr. BIDEN and Mr. SEYMOUR pertaining to the introduction of S. 618 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

THE ADMINISTRATION'S NATIONAL ENERGY STRATEGY

Mr. BAUCUS. Mr. President, with the successful conclusion to the Persian Gulf war, Americans are begining to shift their attention to some of our pressing domestic issues. With 8.2 million workers unemployed last month, pulling the economy out of the recession has to be No. 1 on our agenda.

But close behind it must be development of a national energy strategy. The war has brought home to all of us the fragility of our energy policy. And it should renew our determination to build a comprehensive policy that will help ensure our future.

Two weeks ago, the administration released its long awaited comprehensive national energy strategy. But now that it has been unveiled, it is difficult to see how it could have taken 18 months to develop. It is not new and it is not comprehensive. And it certainly does not look to the future.

In fact, the administration's energy policy continues to suffer from the tunnel vision of the past 10 years. It continues to chase the mirage of cheap oil while it shuns energy conservation and efficiency.

The single-minded pursuit of oil for the past decade has kept American families and businesses vulnerable to oil price shocks. It has reduced our ability to compete with Japan, Germany, and other nations in the world marketplace. And it has contributed to global warming, air pollution, and other environmental problems.

Some have said that his strategy is flawed because it is not balanced with more conservation measures. I disagree. The administration's energy policy is flawed because it has no broader vision for the future.

The administration's policy makes drilling for oil in our offshore waters and in the Arctic refuge's wilderness a panacea. But is this really a sound energy policy?

Mr. President, only about 6.1 billion barrels of oil—some 3 percent of the Nation's total oil reserves—lie within the Arctic refuge and the undeveloped areas of the Outer Continental Shelf. Even if all these protected areas were exploited to full capacity, it would only supply about a year's worth of oil.

Furthermore, the United States has only 4 percent of the world's oil reserves, with much of what is left is inaccessible or expensive to develop. No matter how hard we try—no matter how much of our natural heritage we destroy—we will never be able to produce enough oil to insulate ourselves from oil price shocks.

After all, from virtually the start of the Persian Gulf crisis, Alaskan oil has sold for the same price as oil that was imported from the Persian Gulf. So would any oil from Arctic refuge or the OCS.

Of course, our national energy strategy must not abandon domestic oil production. Our policy should provide economic incentives to put the oil rigs in Montana and elsewhere around the country back to work extracting known oil reserves. It should encourage more thorough exploration and development of the tens of millions of acres already under lease. Strikes in some of these areas already have proven to be far more promising than originally thought.

But, unfortunately, production is not a total panacea. And it never will be. In addition to production, we must also be much more efficient. We must conserve.

Our energy appetite also is costly to the global environment. Energy con-

sumption is the single largest contributor to global warming.

The United States is the leading contributor of greenhouse gases that threaten the Earth's climate. With 5 percent of the world's population, the U.S. accounts for about 20 percent of the world's emissions. U.S. carbon dioxide emissions originate almost exclusively from burning oil and other fossil fuels.

Yet, while most of the developed countries are seeking to stabilize or reduce greenhouse gas emissions, particularly carbon dioxide, the administration comes forward with a plan that calls, not for reductions in use of fossil fuels, but for continued heavy reliance on oil and for increasing carbon dioxide emissions.

Tomorrow, the Environmental Protection Subcommittee will hold a hearing to examine these very issues.

Mr. President, the path laid out by the administration will not secure this Nation's future. Only through increased energy conservation and efficiency can we find enhanced security, a more competitive economy, and a cleaner environment.

The way to protect ourselves from huge, overnight increases in the price of oil—to prepare ourselves now for the future—is to use oil more efficiently and to become less dependent upon it.

Our energy policy should weigh our options and pick the best buys first. Clearly, we must enhance conventional and renewable production. But even more, clearly, energy efficiency is the cheapest and most immediate solution we have to increased oil prices.

The Japanese, German, Swedish, and other foreign competitors already use half as much energy per capita as we do in the United States.

By increasing automobile fuel efficiency by 1.5 miles per gallon per year over 7 years, we could save as much oil as Iraq and Kuwait would have produced. An increase in fuel economy standards to 40 miles per gallon could save as much as 8 billion to 9 billion barrels of oil by 2010.

A sound energy policy is one that plans for the future. It is one that relies primarily on energy conservation and efficiency, along with renewable energy resources, to protect America's environment and its economy. And, yes, its future.

I intend to work closely with the majority leader and my other colleagues to see that the energy bill the Senate considers later this year does just that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 620 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who seeks recognition?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

THE STRENGTH OF THE ECONOMY

Mr. EXON. Mr. President, it is quite obvious why various important matters are being addressed on the floor of the Senate today and the latter part of last week. With the winding down of hostilities in the gulf, at least the wonderful, successful conclusion of that particular exercise and the fact that the Secretary of State is now involved in serious discussions in the region attempting to at least set the groundwork for some long-term peace in that region that we have not seen, it is obvious that the Senate is turning itself to other extremely important domestic matters, including the budget, the crime bill and the 100-day challenge that was presented to the Congress by the President in his recent address to the joint body.

I suspect, though, as we go into these troubled times, we had better have a little better understanding than I think is generally understood about the strength of the economy in the United States of America, or the lack thereof: Where are we going in the future; what are the problems that we have, finally, maybe at long last recognized from the past; what have we learned from those mistakes or actions; and how are we going to use some of the experiences that we have had with regard to charting a successful economic course for the future?

Suffice it to say the ever growing budget deficit is obviously going to continue to mushroom in the future, with the fact we have already passed legislation that in essence authorizes the national debt of the United States to keep soaring on up to about the $5 trillion figure. To put that in perspective for just a moment, Mr. President, I would simply cite that in 1980 we were under $1 trillion in total national debt; it is estimated that within the next couple of years, 12 years later, we are going to hit the $5 trillion national debt figure—an astonishing increase. Nothing like it has occurred in our modern history.

Unless we are wise enough to begin to chart a different course to correct that, then the economy of the United States is going to continue to be run in a state of disrepair.

I am very much concerned about the overall standard of living of the United States of America and am wondering whether or not the current downturn we are seeing may be a signal we are going to begin to pay for the excesses of the past with some hard economic choices in the future.

Nevertheless, there are some options available to us as long as we understand what the situation is and what we face and how we can best, through study and consultation and bipartisanship, move into a new, aggressive future for the United States of America as we approach the beginning of a new century.

In that regard, I have two articles I will be entering into the RECORD in just a few moments by two individual Americans, Prof. Wallace C. Peterson of the University of Nebraska economics department, and Mr. Eliot Janeway. Both of these individuals are friends of mine and I listen very carefully when they speak.

First, I will briefly quote from an article written by Professor Peterson and delivered to the Missouri Valley Economics Association in March of this year. I quote from the first page:

> In this paper I shall argue for a different—and I think a better—measure of recession or depression. This measure is the real income of the average worker or family. Why real income? This is because real income determines material living standards, and our standard of life is the best measure of economic progress.

Jumping then, Mr. President, to page 3 of this same article, I quote:

> From a 1973 peak year of $327.45 in constant (1982–84) dollars, real weekly earnings slipped to $276.95 during the 1982 recession. In the recovery and long expansion of the 1980s they climbed back up to only $270.32. Thus, 16 years after the watershed year of 1973 and in spite of the vaunted prosperity of the Reagan years, the real weekly income of a worker in 1989 was 17.4 percent below the level reached in 1973!

Jumping ahead then once again, Mr. President, to pages 10 and 11 of that article, I quote:

> For example, between 1979 and 1987 the number of jobs in the American economy expanded by nearly 15 million. But of these new jobs, 50.4 percent paid an annual wage below the poverty level ($11,610 in 1987), 37.7 percent paid a wage classified as "middle" ($11,611 to $49,443), and only 11.9 percent could be called "high wage" jobs (over $46,444). Representative of many of the jobs in the broadly-based service sector are wages in retail trade, which is where many workers displaced from manufacturing eventually find themselves. Wages are not only significantly lower than wages in manufacturing, but the gap between the two sectors has worsened. In 1950, for example, weekly wages in retail trade averaged 68.7 percent of weekly earnings in manufacturing. By 1989, the ratio had dropped to 44 percent.

Moving ahead, once again, Mr. President, in that same article to pages 12 and 13, I quote:

Four-fifths of American families saw their average income decline over this period. Only families in the top 20 percent gained.

Continuing on page 13:

Closely related to this is a second factor, the increasing internationalization of the American economy. Workers in routine production activities like manufacturing find themselves competing in the global labor markets, markets in which wages are frequently much lower than in the United States. Because, too, many corporations have become genuine multinational firms, they often find it easier to shift their operations to low wage areas in the Third World rather than attempt to pass high wages on to the consumer in the domestic economy.

Finally from this same article, on pages 16 and 17, I further quote:

And finally, I would ask, where are the economists? In the January 14, 1991 issue of Business Week, the headline over the magazine's story about the ASSA convention in Washington, D.C. between Christmas and New Year's read, "7,000 Economists—And No Answers." This is a sad commentary on the state of the profession. Economists outside the neoclassical mainstream have a long and successful history—from the American institutionalists to John Maynard Keynes—of creating the intellectual capital that nourished liberal Western governments seeking to tame the worst excesses of market capitalism. It is time to get out of the ivory tower and get on with the business of rebuilding this stock.

Mr. President, I ask unanimous consent that following my remarks the entire article by Professor Peterson, with the attachments thereto, be printed in the RECORD.

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

(See exhibit 1.)

Mr. EXON. Mr. President, likewise I am going to quote briefly from an article that appeared in the Atlanta Journal and Constitution by Eliot Janeway of February 27, 1991:

The threat of a Middle Eastern oil war should serve as an invitation for the superpowers to repeat that memorable chapter of aeronautical history in an underground setting. Working together, the two countries can reactivate the Soviet Union's huge oil fields.

The closing paragraph:

The United States is overdue the satisfaction of solving one of its foreign money problems to its advantage. Substantial political and strategic benefits will follow. When they do, perhaps Washington will be emboldened to offer its perennial food surplus in further payment for cheap, good-quality Soviet oil.

Mr. President, I ask unanimous consent that the article by Mr. Janeway be printed in the RECORD.

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

(See exhibit 2.)

EXHIBIT 1

THE SILENT DEPRESSION*

(By Wallace C. Peterson)

The words "recession" and "depression" have long been associated with substandard levels of output and employment. As is well-known—even by the lay public—the standard definition of a recession is two quarters marked by a decline in real GNP. By this standard, the nation has experienced nine recessions, including the current downturn, since the end of World War II.

In this paper I shall argue for a different—and I think better—measure of recession or depression. This measure is the real income of the average worker or family. Why real income? This is because real income determines material living standards, and our standard of life is the best measure of economic progress. A recession—or a depression—interrupt progress, so if real income stops growing, it is reasonable to regard the economy as being in a depressed state. Furthermore, this approach leads us directly to the productivity question. In the final analysis, productivity is the ultimate determinant of the economic well-being of individuals, families, and the nation.

Implicit in the argument offered in this paper is that employment as such no longer suffices as a basic measure of the economy's state of health. Since John Maynard Keynes's classic work, "The General Theory of Employment, Interest, and Income," appeared in 1936, the level of employment—or its counterpart, unemployment—has been standard macroeconomic benchmark for measuring prosperity or recession. There were good reasons for this, because over most of the post World War II period there was a strong correlation between jobs and the prosperity of the individual or family. This linkage no longer holds to the extent it once did.

If measures of real income for the worker and the family are accepted as the determining criteria for the economy's state of health, an important, even startling, conclusion follows. The economy has been in a depressed state since 1973—the last 17 years. Hence, the title, "The Silent Depression".

To develop and document this argument, I shall proceed as follows. First, I shall examine the key statistical evidence in support of the thesis. Second, I shall speculate about some of major causes for this condition, especially those causes of an institutional nature. Finally, I shall ponder the question of whether remedies exist for this situation.

THE STATISTICAL EVIDENCE

The statistical evidence for the "Long Depression" thesis rests upon what has happened to real weekly earnings in the private nonagricultural economy since 1947; upon changes in median family income measured in constant dollars in the same period; and upon the path of productivity changes since the end of World War II. These data are shown in both tabular and graphic form in the statistical appendix attached to this paper. They point to the conclusion that 1973 was a watershed year for the American economy, a year in which there was a fundamental change in direction in the trend lines for these key variables. There is no obvious explanation for this change, but it did happen. The fact that this change occurred in the same year as the first oil crisis may be sheer coincidence. Or, perhaps, the oil crisis stemming from the Yom Kippur war was the catalyst that activated other disruptive forces that had been smoldering beneath the surface of economic events. Either view is speculative. The data, however, are not speculative. After we have examined these data, we can search out the causes.

Table 1 (and Figure 1) traces out the path of average weekly earnings in constant dollars in the private nonagricultural sector from 1947 through 1989. The years from 1947 through 1973 were boom years, a time that Sir John Hicks described as the "Age of Keynes." Real weekly earnings grew at a substantial annual average rate of 1.84 percent, a trend that in combination with the increasing participation of women in the labor force put a middle class standard of life within the reach of growing numbers of American.[1] Abruptly after 1973 the rate of growth in real weekly earnings dropped. From a 1973 peak of $327.45 in constant (1982–84) dollars, real weekly earnings slipped to $276.95 during the 1982 recession. In the recovery and long expansion of the 1980s they climbed back to only $270.32. Thus, 16 years after the watershed year of 1973 and in spite of the vaunted prosperity of the Reagan years, the real weekly income of a worker in 1989 was 17.4 percent below the level reached in 1973! During this 16 year period, weekly earnings grew at a negative annual average rate of 1.16 percent. For large numbers of Americans middle class dreams for home ownership, vacations, and college for their children turned sour.

Essentially the same story, though slightly less harsh, is true for median family income measured in constant (1988) dollars. Table 2 (Figure 2) contains median family income data for the years 1947 through 1988. As with real weekly earnings, medium family income in constant dollars grew briskly from 1974 through 1973. The annual average rate of growth was 2.73 percent, a rate which would double family income in roughly a generation (25 to 30 years). It is this experience that is the source of the strengthened belief of the post World War II generation that children ought to do better economically than their parents. The rate of growth for family income between 1947 and 1973 was significantly higher than the rate of growth for real weekly earnings. The difference is accounted for the fact that, increasingly, wives and mothers are entering the work force to supplement the family income. In 1950, for example, families with a working wife had incomes 20 percent greater than those in which only the husband worked. By 1988, however, families in which the wife worked had incomes 57 percent greater than those in which the wife did not work.[2] This growing gap reflects not just the fact that more women in families are working, but also gains in the wages of women relative to those of men.

Again, and as with real weekly earnings, these gains came to an abrupt halt after 1973. Unlike real weekly earnings, however, the rate of growth for median family income did not turn negative. But it slowed to a mere trickle, the rate of increase for the 15 years from 1974 through 1988 being a minuscule 0.15 percent. The continued increase in working wives and mothers was the factor that saved real family income from an actual decline during these years. This near stagnation in family income since 1973 also explains why the generation that has come of age in the last decade doubts that their standard of living will even reach that of their parents, let alone exceed it.

Finally, let us turn to productivity, the most crucial variable of all. Productivity is the key to an improved standard of material life. If there is any one proposition upon which all economists can agree, this is probably it. The data on productivity changes are contained in Table 3 (Figure 3). From 1948 through 1973 productivity as measured by output per hour in the nonfarm business sector grew at an annual average rate of 2.51 percent, a rate that would double real output every 28 years. Then came the 1973 break in this healthy trend, with the overall growth in productivity dropping to 0.93 percent a

year. Unlike prior recoveries, the expansion after the 1981–82 recession resulted in only a weak recovery in productivity growth to an annual 1.58 percent rate. At this rate it would take 45 years for output to double. The mystery of the slowdown in the economy's rate of growth in productivity continues.

At this point the question of per capita income may come up. Hasn't per capita income in constant dollars been growing since 1974, and, if so, would not such growth invalidate the "silent depression" thesis? The answer to the first part of this question is yes, but not to the second part. Let us see why.

It is true that real per capita disposable income has continued to grow since the watershed year of 1973. However, there has been a sharp slowdown in the rate at which this measure has been growing. Between 1947 and 1973 real per capita income grew at an annual average rate of 2.94 percent, a rate that would allow disposable income per person to double in 24 years. Between 1974 and 1988 the annual rate of growth for this measure dropped to 1.61 percent, a rate of growth only about half the rate the economy experienced during the "Age of Keynes."[3] Further, at the slower 1974–1988 rate of growth, it would take almost 44 years for real per capita income to double. Thus, this slowdown in the growth rate for real per capita income reinforces the "silent depression" argument, even though the rate remained positive.

The more important issue is this: is growth in real per capita income a satisfactory measure of economic progress? This is the second part of the question previously asked. Even though it is often used for this purpose, it is, nonetheless, a seriously flawed measure. Since it is an arithmetic average, persons in the upper reaches of the income scale exert a disproportionate influence on the overall picture. Using the median rather than the mean gives us a better picture of what is actually taking place in the economy. Further, per capita figures don't capture the effect of recent changes in the distribution of income, an important part of the "silent depression" argument.

CAUSES OF THE SILENT DEPRESSION

Let us now turn to the matter of cause. Is it possible to identify the major economic factors responsible for the decay in economic well-being reflected in the decline in real earnings and family income, as well as the slowdown in productivity growth? The answer is yes, but it is a cautious yes. The reason is that the causal factors are of an institutional nature, wherein we find that cause and effect are often interlined. They are not the relatively simple macroeconomic variables of output and employment normally identified as the source of an economic downturn. The institutional character of the casual factors not only means that it is more difficult to describe them with precision, but complicates the problem of determining what corrective action ought to be taken. Let us now examine these factors, not necessarily in a definitive sense, but from the perspective that this is where economists ought to direct their research if we are to understand what is really happening to the American economy.

High on the list of causal factors is America's institutionalization of "military Keynesianism." Military Keynesianism is the phrase coined by Joan Robinson in her 1971 Ely Lecture to the AEA in which she described the degree to which military spending has come to fill the potential gap between private investment and full employment savings in the American economy.[4] The extent to which President Eisenhower's warning about the dangers inherent in the military-industrial-complex has come true is reflected in the following facts. Between 1947 and 1989 military spending accounted for 76.7 percent of federal outlays for goods and services. Even with the Korean and Vietnam war years removed, this average is above 75 percent.[5] It is not unreasonable, therefore, to describe a society that for 43 years has devoted at least 75 percent of its output of collective goods at the national level to military purposes as one dominated by military Keynesianism.

One facet of this development which bears directly on America's productivity problem is the extent to which a significant portion of the nation's scientific and engineering talent has been involved in military-related research. Lloyd J. Dumas, Professor of Political Economy at the University of Texas at Dallas, estimates that in the 1970s and 1980s nearly 60 percent of federally-funded research and development activity was for "national defense." For the economy overall, Professor Dumas asserts that for at least three decades no less than 30 percent of the America's engineering and scientific personnel have been engaged in military-oriented research.[6] This development might not be so serious if, as the conventional wisdom has it, there were significant "spinoffs" from military to civilian technology. This, as Professor Dumas also shows, has not happened to any significant degree.[7] So America's widespread and continuing "braindrain" of scientific talent into military-related research must be counted as a major factor in the productivity crisis and our increasing inability to compete with Germany and Japan internationally.

In the long view, military Keynesianism and the domination of important sectors of the economy by the military-industrial-complex must be seen in the context of the provocative theory of "imperial overstretch" developed by Professor Paul Kennedy of Yale University.[8] Essentially, Professor Kennedy's argument is two-fold. First, every great power that has the will and determination to expand its domain and influence requires a solid economic base to support the military capability necessary for empire. Second, the cost of sustaining and projecting military power eventually exceeds and undermines the nation's economic base, leading therefore to imperial decline. This fate, Professor Kennedy argues, has overtaken the great empires of the past—from the Muslims to the British—and this, too, is the likely fate of the American empire.

A second causal factor involves significant changes in the output and employment structure of the American economy. From the perspective of the thesis of this paper, the most important development is a relentless decline in employment in manufacturing and goods production generally, plus a somewhat lesser fall in the share of the national output (GNP) originating in manufacturing and goods production. These changes are summarized in Table 4 in the Appendix.

The data can be quickly summarized. Between 1950 and 1989, manufacturing employment as a percent of all nonagricultural employment dropped from 33.7 to 18.1 percent. In the same period manufacturing output as a share of the GNP went from 29.1 to 19.7 percent, a smaller relative decline than for employment, but a decline nonetheless.

Does this matter? Or is it, as many economists maintain, simply a reflection of a "normal" process of growth, one in which the economy moves from agriculture, then to industry, and, ultimately, to knowledge-based services as the dominant form of economic activity? Perhaps. But if we look more critically at what has happened as we move toward a "post-industrial" economy, we might not be quite so sanguine.

The deteriorating state of real weekly earnings documented earlier stems partly from what has happened to productivity. However, it is also linked directly to the above structural changes in both employment and output. As workers are displaced from manufacturing, where do they go? Obviously to the extent that they find jobs elsewhere, those jobs are somewhere within the broad array of activities loosely classified as services. But the shift of workers out of manufacturing into services does not necessarily mean they are moving into the knowledge-based services where high incomes are the norm. More typically, it is the other way around. For example, between 1979 and 1987 the number of jobs in the American economy expanded by nearly 15 million. But of these new jobs, 50.4 percent paid an annual wage below the poverty level ($11,610 in 1987), 37.7 percent paid a wage classified as "middle" ($11,611 to $49,443), and only 11.9 percent could be called "high-wage" jobs (over $46,444).[9] Representative of many of the jobs in the broadly-based service sector are wages in retail trade, which is where many workers displaced from manufacturing eventually find themselves. Wages are not only significantly lower than wages in manufacturing, but the gap between the two sectors has worsened. In 1950, for example, weekly wages in retail trade averaged 68.7 percent of weekly earnings in manufacturing. By 1989, this ratio had dropped to 44.0 percent.[10]

What are knowledge-based service jobs? Professor Robert B. Reich of the John F. Kennedy School of Government at Harvard University, describes jobs that fall into this category as those in which the people involved produce "symbolic-analytic services."[11] By this he means jobs that involve the manipulation of information through data, words, and oral and visual symbols. A broad array of professions and jobs—from professors to lawyers to manipulators of money to scientists writers and artists, to architects and engineers to actors and entertainers—fall into Professor Reich's "symbolic-analytic services" category. This is a heterogenous group of workers, mostly white collar, college educated, highly skilled, and often possessing great mobility. Highly paid, these workers make up roughly 20 percent of the labor force. It is absurd to imagine that many displaced workers from manufacturing can find employment in these activities.

A third development that has an important bearing on the decay in real income involves the distribution of family income. Relevant data are found in Tables 5 and 6 in the paper's appendix. Table 5 shows the share in aggregate family income in quintals (fifths) for all families for selected years since 1950. What these data tell us is that there was a rough stability in income distribution from the end of World War II until the mid-1970s. After that family income became more unequal. By 1988 the share going to the lowest fifth of families had dropped from 5.4 percent in 1975 to 4.6 percent in 1988. This was a 14.8 percent relative decline. At the top of the scale, the highest fifth of families saw their percentage share rise in this same period from 41.1 to 44.0 percent, a 7 percent relative gain. For families in the top 5 percent of the income scale, their share rose from 15.5 percent in 1975 to 17.2 percent in 1988, a 10.9 percent relative gain.

The standard Lorenz curve percentage data contained in Table 5 do not capture the full

and dramatic magnitude of the changes in family income distribution that have been taking place in the American economy. For these we need to examine the data in Table 6. These data, also in constant dollars, show average family income arrayed by deciles (tenths). They were developed by the Congressional Budget Office.[12] Four-fifths of American families saw their average income decline over this period. Only families in the top 20 percent gained. For families at the very top, the gains were, indeed, spectacular. Those in the top 5 percent of the income scale had an average gain of $31,473, or 23.4 percent. For the very rich—the top 1 percent of families—the gain averaged $134,513, or 49.8 percent! As Kevin Phillips points out in his provocative book, "The Politics of Rich and Poor," there have been only two prior eras in American history that witnessed such a far-reaching change in the distribution of income and wealth toward families and persons at the top. The first was the Gilded Age of the late 1870s and 1880s, and the second was the 1920s.[13]

What accounts for this upheaval in the pattern of income distribution? Three factors are involved. The first has already been noted, namely the changing structure of employment in the United States. With the decline in employment in manufacturing, many workers have been thrust unwillingly into lower-paying work. Closely related to this is a second factor, the increasing internationalization of the American economy. Workers in routine production activities like manufacturing find themselves competing in global labor markets, markets in which wage levels are frequently much lower than in the United States. Because, too, many American corporations have become genuine multinational firms, they often find it easier to shift their operations to low wage areas in the Third World rather than attempt to pass high wages on to the consumer in the domestic economy. Finally, there are the recent changes in the tax laws, changes which have drastically reduced the degree of progression in the structure for all federal taxes.[14] Table 7 shows the changes in effective tax rates between 1977 and 1988 for all families arrayed by deciles. Families which benefitted most from tax law change in the 1980s are those in the top brackets. Some families in the income ranges below the top 20 percent actually experienced an increase in effective rates between 1977 and 1988. This was because of increases in Social Security taxes, whereas families at the very top—the upper 5 and 1 percent—received the most benefit from changes in the personal income taxes.

Aside from the fact that these well-documented shifts in the distribution of family income have played an important role in the deteriorating income situation for large segments of the population, they reflect another and much more ominous development. David Halberstam expressed fears about this in his recent book, "The Next Century."[15] Reporting on a conversation that he had with Lester Thurow, Professor of Economics and Dean of the Sloan School of Management at MIT, Halberstam said that Professor Thurow raised the disturbing question of whether America has an "establishment" or an "oligarchy." An establishment, Thurow went on to explain, consists of people at the very top—obviously wealthy—who realize that they cannot continue to succeed unless the larger society succeeds. An oligarchy, on the other hand, also involves the very wealthy at the top, but the wealthy in an oligarchy are indifferent to the fate of the rest of the society. In Thurow's view, modern-day Japan is run by an establishment, but many Latin American countries are run by an oligarchy.[16] America, both Halberstam and Thurow fear, is moving toward an oligarchy. This, too, is another consequence of the institutionalization of military Keynesianism.

ARE THERE REMEDIES?

I will conclude with a few brief remarks directed toward what is, perhaps, the toughest question of all. Are there remedies for the economy's silent depression? In principle, the answer is an easy yes. It is surely not beyond the wit of economists not trapped in the mainstream to devise a policy agenda to cope with the decline in our individual strength and international competitiveness; to restore progression in our federal tax system, thus helping reverse the drift toward a bipolar society of rich and poor astride a shrinking middle; and to direct our scarce scientific and engineering talent to those areas dedicated to the enhancement, not the destruction of human life. This is not a task for mainstream economists, who, on the whole, are content with the status quo. Like modern-day Candides they see our contemporary market-based capitalistic structure as the best of all possible economic worlds. If the task is to be done at all, it will be done by those outside the mainstream.

The more question is: will it be done? A realistic answer is probably not—at least not in the foreseeable future. There are several reasons for pessimism. A year ago with the collapse of the Soviet empire in Eastern Europe there was hope that America, too, might pull back from political and military commitments that are outrunning their economic base (imperial overstretch). No longer. Irrespective of the rightness or wrongness of the Gulf war, its legacy will be a greater—not a lesser—commitment to support client states around the globe.

Second, the federal government has neither the energy, the ideas, nor the leadership to turn the nation away from the illusions of empire, and, instead, seek to build a harmonious and just society here at home. Ever since Viet Nam shattered Lyndon Johnson's dream of a "Great Society" our two-party system of national government has been in a state of near paralysis, unable to bring its power and imagination to bear on national problems that cry out for national answers—the pathology of a growing "underclass," the decay within our great cities, the crumbling infrastructure, the crisis in public education, growing chaos in our "system" of medical care, to name only the most pressing.

And finally, I would ask, where are the economists? In the January 14, 1991 issue of Business Week, the headline over the magazine's story about the ASSA convention in Washington, D.C. between Christmas and New Year's read, "7,000 Economists—And No Answers." This is a sad commentary on the state of the profession. Economists outside the neoclassical mainstream have a long and successful history—from the American institutionalists to John Maynard Keynes—of creating the intellectual capital that nourished liberal western governments seeking to tame the worst excesses of market capitalism. It is time to get out of the ivory tower and get on with the business of rebuilding this stock.

FOOTNOTES

*Paper presented at the Missouri Valley Economics Association meeting, Kansas City, MO, February 28—March 2, 1991.

[1] In 1948 only one-third (32.7 percent) of women, married and unmarried, participated in the labor force. By 1973 the labor force participation rate for women had climbed to 44.7 percent. It has continued to rise, reaching 57.4 percent in 1989. See *Economic Report of the President* 1990, p. 335.

[2] U.S. Department of Commerce, Current Population Reports, Series P-60, No. 167, *Trends in Income by Selected Characteristics:* 1947 to 1988, 1990, p. 19.

[3] *Economic Report of the President*, 1990, p. 325.

[4] Joan Robinson, "The Second Crisis on Economc Theory," *The American Economic Review*, May, 1972.

[5] *Economic Report of the President*, 1990, p. 295.

[6] Lloyd Jeffy Dumas, *The Overburdened Economy* (Berkeley, University of California Press, 1986), pp. 208 ff.

[7] Ibid.

[8] Paul Kennedy, *The Rise and Fall of the Great Powers* (New York, Random House, 1987).

[9] United States Senate, Committee on the Budget, *Wages of American Workers in the 1980's* (Washington, D.C., U.S. Government Printing Office, 1988). p. x.

[10] *Economic Report of the President*, 1990, p. 344.

[11] Robert B. Reich, "As the World Turns," *The New Republic*, May 1, 1988.

[12] Congress of the United States, Congressional Budget Office, *The Changing Distribution of Federal Taxes:* 1975–1990, October, 1987.

[13] Kevin Phillips, *The Politics of Rich and Poor: Wealth and the American Electorate in the Reagan Aftermath* (New York, Random House, 1990).

[14] The Suits Index measures the degree of progression in the tax system. It is similar to the Gini coefficient which measures the degree of inequality in the distribution of income. For the Suits Index, an increase in its value means the tax system has become more progressive; a decline, the opposite. According to the Congressional Budget Office, the Suits Index dropped from .1025 in 1977 to .0696 in 1988, a major decline (32.1 percent) in the degree of progression in federal taxes. Congressional Budget Office, op. cit., p. 77.

[15] David Halberstam, *The Next Century* (New York, William Morrow and Company, Inc., 1991).

[16] Ibid., p. 124.

TABLE 1.—*Earnings in constant dollars:*[1] *1947–89*

Year:	*Earnings*
1947	204.37
1948	203.31
1949	211.09
1950	216.31
1951	227.53
1952	228.87
1953	238.80
1954	238.84
1955	252.68
1956	260.07
1957	260.96
1958	259.79
1959	270.72
1960	272.53
1961	279.05
1962	284.47
1963	289.08
1964	294.46
1965	304.02
1966	305.00
1967	304.91
1968	309.56
1969	312.29
1970	308.84
1971	314.35
1972	327.51
1973	327.45
1974	319.43
1975	303.96
1976	308.35
1977	311.88
1978	312.42
1979	302.90
1980	285.32
1981	280.75
1982	276.95
1983	281.83
1984	281.67
1985	277.96
1986	278.14
1987	275.09
1988	272.49
1989	270.32

[1] Current dollars deflated by CPI (1982–84 = 100).

Source: "Economic Report of the President," 1990, pp 344, 359.

TABLE 2.—*Median family income in constant dollars:[1] 1947–88*

Year:	Income
1947	16,079
1948	15,644
1949	15,444
1950	16,292
1951	16,876
1952	17,366
1953	18,795
1954	18,326
1955	19,502
1956	20,789
1957	20,907
1958	20,823
1959	27,022
1960	22,461
1961	22,691
1962	23,331
1963	24,159
1964	25,068
1965	26,127
1966	27,501
1967	28,098
1968	29,344
1969	30,407
1970	30,084
1971	30,042
1972	31,460
1973	32,109
1974	30,960
1975	30,167
1976	31,099
1977	31,252
1978	32,006
1979	31,917
1980	30,182
1981	29,136
1982	30,161
1983	30,688
1984	31,523
1985	32,051
1986	31,796
1987	32,251
1988	33,191
1989	

[1] In 1988 dollars.

Source: Bureau of the Census, Current Population Reports, P–60, No. 167, "Trends in Income by Selected Characteristics: 1947 to 1988," p. 17. (By Mary F. Henson).

TABLE 3.—*Annual average rate of change in productivity:[1] 1948–89*

[In percent]

Year:	Rate of change
1948	3.8
1949	1.6
1950	6.5
1951	3.1
1952	2.2
1953	2.2
1954	1.4
1955	3.0
1956	.6
1957	1.9
1958	2.3
1959	3.2
1960	1.1
1961	3.1
1962	3.3
1963	3.6
1964	3.9
1965	2.6
1966	2.2
1967	2.6
1968	2.9
1969	−.3
1970	.5
1971	2.9
1972	3.0
1973	2.1
1974	−1.9
1975	1.9
1976	2.8
1977	1.7
1978	.9
1979	−1.5
1980	−.3
1981	1.1
1982	−.9
1983	2.9
1984	2.1
1985	1.3
1986	2.0
1987	1.0
1988	2.5
1989	−.7

[1] Output per hour per person in nonfarm business sector.

Source: "Economic Report of the President," 1990, p. 347.

TABLE 4.—OUTPUT AND EMPLOYMENT IN GOODS[1] PRODUCTION AND MANUFACTURING FOR SELECTED YEARS: 1950–89

[In percent]

	Output[2]		Employment[3]	
	Goods	Manufacturing	Goods	Manufacturing
1950	41.5	29.1	40.9	33.7
1955	37.7	29.9	40.5	33.3
1960	35.2	28.0	37.7	31.0
1965	35.0	28.1	36.0	29.7
1970	31.7	24.8	33.3	27.3
1975	29.7	22.4	29.4	23.8
1980	30.2	21.3	28.4	22.4
1985	27.2	19.7	22.9	19.8
1989				18.0

[1] Mining, Construction, and Manufacturing.
[2] As a Percent of the GNP.
[3] As a Percent of Nonagricultural Employment.

Source: "Economics Report of the President," 1990, pp. 306, 342.

TABLE 5.—DISTRIBUTION OF FAMILY INCOME BY QUINTALS FOR SELECTED YEARS: 1950–88

[In percent]

Year	Lowest fifth	Second fifth	Third fifth	Fourth fifth	Highest fifth	Top 5 percent
1950	4.5	12.0	17.4	23.4	42.7	17.3
1955	4.8	12.3	17.8	23.7	41.3	16.4
1960	4.8	12.2	17.8	24.0	41.3	15.9
1965	5.2	12.2	17.8	23.9	40.9	15.5
1970	5.4	12.2	17.6	23.8	40.9	15.6
1975	5.4	11.8	17.6	24.1	41.1	15.5
1980	5.1	11.6	17.5	24.3	41.6	15.3
1985	4.6	10.9	16.9	24.2	43.5	16.7
1988	4.6	10.7	16.7	24.0	44.0	17.2

Source: Bureau of the Census, Current Population Reports P–60, No. 167, "Trends in Income by Selected Characteristics:" 1947–1988, p. 16 (by Mary F. Henson).

TABLE 6.—AVERAGE FAMILY INCOME IN CONSTANT DOLLARS[1] BY DECILES: 1977 AND 1988

Decile	1977	1988	Change	
			In dollars	In percent
1st	4,113	3,504	−609	−14.8
2d	8,334	7,669	−665	−8.0
3d	13,104	12,327	−777	−5.9
4th	18,436	17,220	−1,216	−6.6
5th	23,896	22,389	−1,057	−4.4
6th	29,824	28,205	−1,619	−5.4
7th	36,405	34,828	−1,577	−4.3
8th	44,305	43,507	−798	−1.8
9th	55,487	56,064	577	1.0
10th	102,722	119,635	16,913	16.5
Top 5 percent	134,543	166,016	32,473	23.4
Top 1 percent	270,053	404,566	134,513	49.8

Source: Congress of the United States, Congressional Budget Office, "The Changing Distnbution of Federal Taxes: 1975–1990," p. 39.

TABLE 7.—EFFECTIVE FEDERAL TAX RATE FOR ALL FEDERAL TAXES[1] BY DECILES: 1977 AND 1988

[In percent]

Decile	1977	1988	Percentage change
1st	8.0	9.6	20.0
2d	8.7	8.3	−4.6
3d	12.0	13.3	10.8
4th	16.2	16.8	3.7
5th	19.1	19.2	.5
6th	21.0	20.9	−.5
7th	23.0	22.3	−3.0
8th	23.6	23.6	
9th	24.5	24.7	.8
10th	26.7	25.0	−6.4
Top 5 percent	27.5	24.9	−9.5
Top 1 percent	30.9	24.9	−19.4
All deciles	22.8	22.7	−.4

[1] Federal Individual Income, Corporate Income, Social Security, and Excise Taxes.

Source: Congress of the United States, Congressional Budget Office, "The Changing Distnbution of Federal Taxes:" 1975–90, p. 48.

EXHIBIT 2

[From the Atlanta Journal and Constitution, Nov. 18, 1990]

HELP FOR UNITED STATES LIES IN SOVIET OILFIELDS

(By Eliot Janeway)

After America rushed to the Soviet Union's defense in World War II, Soviet mechanics developed an impressive knack for repairing rudimentary U.S. aircraft. Teamwork between Soviet mechanics and American pilots relieved the United States of the need to move its own mechanics to the Soviet Union.

The threat of a Middle Eastern oil war should serve as an invitation for the superpowers to repeat that memorable chapter of aeronautical history in an underground setting: Working together, the two countries can reactivate the Soviet Union's huge oil fields.

For lack of U.S. equipment, the Soviet Union has been cutting back oil production when it could profit from an expansion. America, for its part, has missed a rare double opportunity to strengthen its security and its exports. Opportunities for the United States to combine good business with prudent foreign policy are all too rare, and the country's problems are too severe for it to dare ignore such a chance.

Right now the oil world is as inflammable as oil itself. As fast as oil surpluses push oil prices down, war scares reinflate them. The list of "supposes" is at least as lively a source of speculation in the oil market as any hard performance count. It includes sober talk about the possible destruction of part or even all the oil reserves in Saudi Arabia. An order by Saddam Hussein would eliminate all of Kuwait's reserves in a matter of minutes.

Admittedly, loading all the Soviet Union's present oil wells with American oil equipment would not provide instant insurance against the shock of such a disaster. In fact, no one can begin to calculate how much insurance it would provide until lost time is made up in getting American oil equipment into the neglected Soviet oil fields and updating estimates of Soviet reserves.

So far neither superpower has acted to free the price of oil from the manipulation to which the Persian Gulf powers habitually subject it. The United States in particular has always invited the oil world to treat it as weak and gullible. But the simple and profitable ploy of financing and equipping the Soviet Union will quickly repair that long-standing strategic error.

The Arab world would read such joint Soviet-American action as formalizing the two superpowers' recognition of their common interest on the oil front. A long overdue decision by Moscow to stop the small oil allot-

ment it gives to Cuba for re-export would remove any doubt that the Soviet Union means to get serious about using oil to help America balance its oil economy, collecting a price paid in oil equipment.

Habitual mismanagement of resources has transformed the national strength of each superpower into a market weakness. The Soviet Union is the world's largest oil producer; its output has continued to top Saudi Arabia's, despite the recent expansion undertaken by the Saudis. But the obsolescence of the fields the Soviet Union is tapping, and the richness of the fields it is ignoring, defy description. Meanwhile, America remains unchallenged as the world's leading manufacturer of oil-producing equipment—but it is the most conspicuous absentee from the world's export boom.

In fact, the lag in U.S. oil equipment sales to the Soviets goes far to explain the lead that our industrial competitors enjoy in other markets. U.S. manufacturers wait for sales to come to them with hard cash on the table, with no recognition of the key role that government-financed export credits play in securing export sales. When the Soviet Union launched its latest program to expand oil production, Soviet authorities failed to place orders for American equipment, and the United States in turn failed to remind them.

So the Soviet Union has wound up with lots of shut oil wells, while the United States has wound up short of cash and oil but volunteering to protect creditors who are both cash- and oil-rich.

Instead, the United States could anticipate freeing its troops from the hazards of desert life and desert war by the simple and profitable expedient of equipping the Soviet Union with the products that we make best.

Secretary of Commerce Robert A. Mosbacher Sr., like President Bush an alumnus of the American oil industry, has taken steps toward this productive collaboration. He has taken a team from the U.S. oil equipment industry to the Soviet oil fields to identify their needs, as well as the opportunity for America.

The hang-up remains the need of U.S. manufacturers to get paid in dollars. The Soviet oil industry, potentially a huge dollar-earner, is choking because it is out of them. Moreover, thanks to the failure of the take-off projected for gold prices, the Russian central bank is shorter than ever of dollars.

The Commerce Department could end this frustration without any administrative pioneering. All it need do is invite the oil companies and oil equipment producers to form industry committees, as was done in time of war. If idealogical objections from free marketeers on the right and trust-busters on the left are not allowed to hog-tie them in this emergency, these industry committees could be authorized to buy oil for future delivery from the Soviet Union as fast as the equipment producers supplied and installed equipment there.

As a practical matter, the dollars advanced or guaranteed by the U.S. goverment would never leave the United States. They would go directly to the U.S. equipment producers, and the Soviets would wind up with the equipment and the sales needed to pay for it.

The United States is overdue the satisfaction of solving one of its foreign money problems to its advantage. Substantial political and strategic benefits would follow. When they do, perhaps Washington will be emboldened to offer its perennial food surplus in further payment for cheap, good-quality Soviet oil.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Nebraska has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. 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 Kansas is recognized.

EXTENSION OF MORNING BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the period for morning business be extended for an indefinite period of time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair is pleased to recognize the Senator from Kansas for a period of time as outlined in the previous morning business order.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of Senate Joint Resolution 92 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

HUGH MORTON: A UNIQUE GUY WHO "GETS INTO EVERYTHING"

Mr. HELMS. Mr. President, well within the parameters of the familiar declaration—"braggin' ain't braggin' if you can prove it"—I intend to brag a little bit today about a fellow named Hugh Morton. Then I shall read into the RECORD some remarks by Hugh Morton, delivered February 24 on the occasion of the 215th anniversary of what is known in North Carolina as the Battle of Moore's Creek.

But first, a few inadequate words about Hugh Morton. I acknowledge up front that Hugh is a longtime friend. He is an extraordinary citizen of my State. Someone inquired of Hugh sometime back about his "line of work." Hugh replied that he is "just a photographer."

Well, Mr. President, Hugh Morton is a photographer—and, like Howard Baker, he is one of the finest in the country. But that's merely one of Hugh's constructive and appealing hobbies. He is a remarkably successful businessman. For example, he owns the beautiful Grandfather's Mountain at Linville, NC, which countless hundreds of thousands of tourists and North Carolinians have enjoyed. But, as Sam Ervin once remarked, "Hugh's into everything that's good for North Carolina."

Senator Ervin had it right: Throughout his life, Hugh Morton has indeed been "into everything"—more often than not the result of creative ideas that occurred to him. The guy loves North Carolina passionately; he loves America fervently—as will be obvious to anyone who reads the text of his remarks back in February to which I alluded at the outset.

Few would have dreamed, back when Hugh was working to get the old U.S.S. *North Carolina* moored permanently at Wilmington, NC, that this battleship would be a top-flight tourist attraction on North Carolina's coast. Today, some of the youngsters who first examined that old battlewagon when it was opened to the public decades ago are now escorting their own grandchildren around the ship.

Hugh Morton is a well-informed, dedicated, and hard-working environmentalist. He is never a pain in the neck about it, but he has worked arduously to persuade officials of State and Federal governments to take a look at the ravages of acid rain and other destructive environmental hazards.

When the historical lighthouse at Cape Hatteras was about to fall into the waters of the Atlantic, there was Hugh Morton, just like Sam Ervin said, "getting into it." He formed a committee consisting of the leaders of North Carolina—and headed by two somewhat adversarial political figures. Hugh figured that every effort should be made to save the lighthouse. Today it still stands, and the efforts to make it permanently secure are still going on.

A few years ago, Hugh Morton teamed up with Ed Rankin to produce an enormous and handsome book containing personality sketches and splendid photographs of dozens of unique North Carolinians. The book is on display today in thousands of homes.

Parenthetically, Mr. President, please allow me a few words about Ed Rankin. His full name is Edward L. Rankin, Jr., and he says he is retired—but like Hugh Morton he is "into everything" also. Ed made several forays into public life because of his many talents. He was a top assistant to U.S. Senator William B. Umstead, he was private secretary of North Carolina's Gov. Luther Hodges, he was director of administration for the State of North Carolina when Gov. Dan K. Moore was chief executive of our State. Each time, it was a case of the job seeking the man—and Ed Rankin was the man. He and Hugh Morton make a good team.

Mr. President, in conclusion let me comment on Hugh Morton's brief address on February 24 on the 215th anniversary of the Battle of Moore's Creek. Bear in mind that February 24 was the first day of the ground war in the Persian Gulf. The White House heard about Hugh's remarks and requested a copy.

Hugh sent the text of his speech, as requested. He also sent a picture he took when he went to the White House

to accept the Theodore Roosevelt Conservation Award. During the ceremony Hugh snapped a picture of President Bush at the podium. In a letter to the President, Hugh said he hoped the President would like what he said in his speech.

I can testify that George Bush did indeed like it. He liked the picture, too.

Mr. President, I think you understand why I admire and respect my friend Hugh Morton, and I ask unanimous consent that the text of his February 24 address be printed in the RECORD at the conclusion of my remarks.

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

REMARKS BY HUGH M. MORTON AT MOORE'S CREEK BATTLEGROUND ANNIVERSARY, FEBRUARY 24, 1991

I am not nearly the historian that many of you are, yet I have taken some pride in being reasonably familiar with the accomplishments of our leaders who have served as President of the United States during the 70 years of my lifetime. I have to admit, however, that I haven't really worked at knowing what President Calvin Coolidge accomplished. If I had not done a little homework to prepare for this occasion, I probably could not have named a thing.

Some of you will remember what may be President Coolidge's most memorable statement: "If you don't say something, you won't be called on to repeat it". Those choice words seem to sum up Calvin Coolidge, and the fact that my hero, Will Rogers, used Silent Cal as the butt of many of his jokes probably reinforced my impression of our most colorless President. Today I know that President Coolidge did accomplish something. He was the President who signed the bill to establish Moore's Creek National Military Park on June 2, 1926, and as long as I live I will think of him fondly for it.

You folks who are my hosts here have given me a great honor. You have invited me to be your speaker at the commemoration of a Revolutionary War conflict that was possibly the most efficiently and brilliantly conducted battle in the history of our great country. Furthermore, your invitation has come in the year when the program is dedicated to the patriotic Americans who are serving in the Persian Gulf in the most efficiently run war in which our nation has ever been a participant. I am extremely proud of the past event, and of the present, and I thank you for this opportunity to say so.

In the battle at Widow Moore's Creek, we know there were good people on both sides, because at least some soldiers on both sides were Scots. You expect a Scot to make a biased statement like that, so I have said it. But cases of some on both sides being Scot did not make them equal in their determination to fight. The Patriot Scots seemed to understand what they were fighting for better than did the Loyalist Scots who had been bribed with land and other benefits to fight in the service of the King. The Patriots were fighting for freedom.

Even taking into account the skillful planning by Patriot Colonels Alexander Lillington, Richard Caswell, and James Moore, the outcome of the battle of Moore's Creek is simply amazing. The Loyalists lost 30 killed and 40 wounded. The Patriots lost one—John Grady of Duplin County, the first North Carolinian to die in the American Revolution. The number of casualties was small, but the casualty percentage between Loyalists and Patriots was overwhelming, and it was a true turning point in America's battle for independence.

If the measure of successful conduct of war is achieving victory while suffering a minimum number of casualties, certainly Moore's Creek stands the test of time as being one of our greatest, both in minimum casualties, and what it accomplished. One Patriot killed, 70 Loyalist casualties, that is still hard to believe. For several days after the conflict the roundup of Loyalists continued until nearly 900 had been captured, including 30 officers. This remarkable battle ended British hope of organizing meaningful Loyalist resistance in North Carolina, even though many Loyalists resided in our state.

While our spotlight today is on Moore's Creek, and on the Persian Gulf, let's go downstream from here a few miles to the U.S.S. North Carolina Battleship Memorial which is a memorial to the 10,000 North Carolinians in all of the United States military services who died in World War II. Think about that 10,000 men and women from this one state killed, not just wounded, in that one terrible war. Does it not give us something to appreciate when we realize that prior to the ground war America has suffered only about 25 dead in the Persian Gulf? We do not know how it will end, but up to now our people in the Persian Gulf have done a masterful job. Each day that passes brings new hope that we may be on the verge of victory, and to have achieved this with only 25 American dead leading into the ground war is absolutely remarkable.

I would not want to start an argument with anyone on what are the most important subjects for students to learn in school. Everyone can benefit from a well rounded education covering many things, and the basic reading, writing, and arithmetic are of course essential. I would like to add history to that essential list, because a knowledge of history allows us to benefit from the mistakes and the successes of those who have gone before us. In the case of the War in the Persian Gulf, I am convinced we have made the right decisions and the right moves up to now, and that our ability to select the right course is strongly influenced by history.

All of us know that a nobody named Adolf Hitler was able to worm his way into power in Germany, and because the world was not willing to stand up to him immediately, he was able to overrun many of his small neighbors before this country and several others recognized it for its seriousness. This experience with having to fight a tremendous war that killed 10,000 service people from North Carolina taught us a lesson. Thankfully the majority of our leaders today have wanted no part of the appeasement that leads to a big war instead of a little one. We are nipping Saddam in the bud, rather than let him gain the strength of Hitler.

Whether we will come out of the Persian Gulf without an extended and expensive ground war remains to be seen. History tells us we want to handle it right the first time, however, because we do not, in a few years, want to fight this one again. There is a further reason for not grabbing the first inadequate peace feelers. The upstart two-bit dictators of the world need to not be tempted. They need to know that they should not pull Saddam-like stunts and expect to get away with it. President George Bush has made all of the right moves up to this point, and I thank him for it.

But the Persian Gulf War is not being run only by President Bush, Secretary Cheney, General Powell, General Schwarzkopf, and General Horner. We have over 500,000 of our people over there, and every one of them is a volunteer. There may be a few who do not understand why they are there, and of course all of them want to be home. The bulk of them know that they are fighting for the freedom of this nation and the world. Most of them are there at extreme personal and family inconvenience and sacrifice. We owe them a lot, all 500,000 of them, and none of us should ever forget it.

So today at Moore's Creek National Military Park we express our thanks to brave men for two events in our nation's history 215 years apart. Both events appear to be among the most efficiently conducted military operations our country has ever seen. Both events called upon our people to make agonizing decisions, and in both instances skillful planning and correct priorities led to the right conclusions. The Patriots in February 1776 knew they were fighting for freedom, and the Patriot missile crews and our other 500,000 patriots in February 1991 are protecting our freedom, too. Let's all of us use every opportunity to say thanks that 215 years apart, level heads have prevailed.

Thank you again for inviting me to speak at this program.

THE FEDERAL TRIANGLE BUILDING

Mr. MOYNIHAN. Mr. President, I would like to call the Senators' attention to an article that appeared in the Washington Post on Saturday, March 9. The article is a review by that most able reporter, Benjamin Forgey, of the new Federal Triangle project design by James Freed of the renowned architecture firm of Pei Cobb Freed & Partners.

As you know, Mr. President, we are dealing with some unfinished business here. With the authority granted by Congress in the Public Buildings Act of 1926, Mr. Andrew Mellon, then-Secretary of the Treasury, commenced a great project of Federal buildings called the Federal Triangle. Some grand buildings resulted from this effort, but with the onset of the Depression, the project just plain stopped. We were left with a parking lot of unsurpassed ugliness. And that parking lot has remained with us for over 60 years.

On August 21, 1987, President Reagan signed the Federal Triangle bill into law. We authorized a grand building nearly two-thirds the space of the Pentagon. But this is not simply a large office building. It assumes a prominent place on Pennsylvania Avenue—America's Main Street.

Too often we have permitted our public buildings to fall far short of excellence. Yet architecture is the one inescapable public art. Our public buildings speak volumes about us, about who we are, and about the dignity or disdain with which we go about this governmental enterprise of ours.

I am pleased that when the construction is done, as Mr. Forgey explains, we will be proud of what this new Federal Triangle Building will say about us. Mr. President, I ask that a copy of the

Washington Post article be reprinted in the RECORD.

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

[From the Washington Post, Mar. 9, 1991]

THE SHAPE OF THE TRIANGLE'S FUTURE

(By Benjamin Forgey)

The Federal Triangle has shamefacedly remained incomplete for more than half a century, its last piece a surface parking lot—undignified, unsightly and unpleasant. A bold plan to complete the great compound has been stalled for a couple of years in controversy about its cost, its efficacy, its ethics and even its design, by the renowned architecture firm of Pei Cobb Freed & Partners.

Questions persist about some issues, but worries about the architecture worries can cease. Though not without fault, the International Cultural and Trade Center, as the behemoth building is to be called, promises enormous visual enrichment, spatial excitement and design finesse. An immensely complicated enterprise, it'll be a building unlike any other in the Federal Triangle, but it will contribute greatly to the complex and, strangely enough, it will fit in.

In terms of sheer size and number of uses, not to mention the price tag of more than $650 million, the ICTC project is an amazement. More than half a Pentagon big, it encompasses 3.1 million gross square feet, including four levels of underground parking for 2,500 cars. Its facilities include sizable conference rooms, exhibition halls, training centers, information exchanges, a large-screen theater and three small cinemas, a large auditorium for 800 (reduced from 1,500 for cost reasons), a small one for 300, a multimedia "World Globe," a "World Link Atrium," a presidential memorial as part of the Woodrow Wilson Center, stores, bars, restaurants, cafes and a whopping amount of federal office space.

One of the major questions concerning the design after it was first unveiled by the Pennsylvania Avenue Development Corp. as the victor in a developer-architect competition two years ago was, indeed, its compatibility with the classic revival architecture of the buildings that surround the huge, irregular site. (It's bounded by Pennsylvania Avenue NW to the north, the District Building and 14th Street to the west, and elaborate federal buildings to the south and east.)

Such concern was understandable—the Pei firm has never been identified with soft architectural insertions in the cityscape. To the contrary, its stamp ever since its founding by I.M. Pei three decades ago has been strong contrasts, succinct geometries, superb technologies and extraordinary finishes. Witness, for one good instance, Pei's own East Building of the National Gallery of Art.

From the beginning the firm's conception of the ICTC possessed powerful, daring qualities. It proposed a dramatic new public park opening off Pennsylvania Avenue and a stupendous new interior court. But its "dressing"—the elevations presented for the competition—had a parched, asbstemious look. Although the competition rules established certain fundamentals of the context—heights, roof and facade materials, percentages of window openings—one could not handily imagine the new facades cozying up to the neoclassical ambience established by the Beaux-Arts architects of the original buildings.

James Freed, the partner in charge of this design, admitted as much in an interview last winter. "It's hard for me to believe the old rules still apply," he said. "The dilemma is to maintain the dignity of the government and to celebrate the liveliness of the ICTC. One cannot just stand on dignity alone. But to design decorative moldings is something I never thought I would do."

So spoke the lifelong modernist. It's something no observer of the Pei firm ever thought it would do or could do, either. But Freed and company have perhaps surprised even themselves with the work they've done in the ensuing year. The new elevations are thoroughly satisfactory. With rusticated bases, pilastered midsections, a variety of emphatically formed pavilions and entrances, deeply framed windows and forcefully corniced tops, they demonstrate a sound understanding of the neoclassical modus operandi. As intended, they'll stand in contrast to but correspond kindly with their Federal Triangle companions.

To architects more comfortable with revivalist styles—to Washington's Hartman-Cox, for example—this issue of the proper dressing for the new building would not have caused great stress. But to architects such as Freed, insistent upon making "something we can relate to as a part of modern life" even in this unusually circumspect environment, it was a struggle.

Hesitant to take the Federal Triangle itself as a precedent, Freed and his colleagues (there were five younger architects on the original design team) fastened on the nearby northern elevation of Robert Mills's 19th-century Treasury Building, taking lessons from its sober rhythms. From this, they developed an archetypal elevation they called their "Rosetta stone." There's none of Mills's ornamentation (in itself quite minimal) in their facades—Freed didn't actually design any decorative moldings—but there's more variety of form, more depth and more glass.

"This is not a clone," Freed said recently, and it isn't. It is a sophisticated, highly abstracted late-20th-century version of neoclassical architecture. As appropriate for so large and prominent a structure, this one is "designed out" on all sides. Indeed, one of the delights of these facades is their variety within the overriding uniformity of stylistic vocabulary.

On 14th Street there is a graceful, subtly curved facade with end pavilions and a recessed entryway. Pennsylvania Avenue is marked by a tremendous ceremonial cylinder with raised paired columns. Even the less visible elevations (facing the District Building, for instance) are treated with systematic respect. And the eastern facade is a supple piece of work. Designed to frame the new public space, it's a contrapuntal combination of angles and curves, positive and negative spaces, and emphatic, discrete forms. It is with these calculated asymmetries that Freed best attains his risky aim of honoring the classical tradition while defying it, politely but decisively. One can rest assured that the building will respond wonderfully to Washington light.

The long arm of this facade, extending southwest at a 90-degree angle to the diagonal of Pennsylvania Avenue where it meets 13th Street, was one of Freed's bold moves at the very beginning of the design process. Alone among the competitors did he decide to complete the courtyard, framed by the existing federal hemicyle, in a truly celebratory fashion. (Intended as a noble armature for a major public park, the Grand Plaza, the hemicyle became just a forgotten focus for the parking lot.)

This was, in a way, an in-your-face gesture—the conventional approach would have been to shape the space with a mirror-image half-circle—but it is exceedingly promising. Freed's theory clearly was that taut opposites attract—in this case the long, straight diagonal vs. the semicircle. His belief is that the dramatic diagonal will lure people toward the space. His aim is to make this vast open space a densely populated, active zone in the heart of the Federal Triangle.

Whether this dream comes true remains a question, and not strictly an architectural one. But definitely it is possible—this is a place with amazing asthetic and entrepreneurial potential. A lot depends on the success of this institution itself, and so far the specific components of the International Cultural and Trade Center have remained somewhat pie-in-the-sky. But the density is there—close to 10,000 federal workers in the building itself, and untold numbers of tourists and more purposeful visitors. And the infrastructure: The building will connect directly to the Federal Triangle Metro station. The ICTC could become the long-desired break in the "China Wall" of the Federal Triangle, pulling visitors toward downtown from the Mall.

A lot depends as well on continuing refinements to the architecture, particularly to the sketchy furnishings of the plaza. (Like many a modernist diagram, this one does not welcome works of art as integral to the design.) But there is no mistaking that Freed and his talented colleagues have established the groundwork with that great eastern wall. Likewise, landscape architect Peter Walker has done good homework—his plan to a bifurcated space, half paved, half green, complements Freed's concept extremely well.

Another major strength of this design, as of so many products of the Pei firm, is its command of pedestrian circulation, its artfulness and sophistication at getting people to move from here to there. In this respect, of course, the ICTC building is as complex as they come, and the architectural work in both plan and three dimensions is nothing short of dazzling. Access to the principal public areas is clear, and frequently dramatic; corridors are properly placed for maximum efficiency and best views; links between the underground, ground level and mezzanine concourses are many and delightful. And so on. Visiting this building will be a many-faceted treat.

In a way I've saved the best for last, for as good as the exterior architecture is, the principal interior public spaces promise to be even better. Or, one should say, they're of a different kind, and they're superb. "One of the big problems with a building as big as this," Freed has said, "is to know where you are. And you can only do that with architecture. You can't do it with signs and such."

Three cheers for Freed and friends. They've gone the extra mile to shape great spaces inside. The two auditoriums, for instance, stand very nearly free in the Pennsylvania Avenue lobby—they're beautifully designed events in themselves. The World Globe, described as a "scaffold for technologies that haven't been invented yet," will be in its naked state a looming spherical structure of metal trusses—quite a sight.

The World Link Atrium tops them all. Enclosed by a conical, steel-frame glass roof, screened in part by a delicate suspended scrim, supported by an independent system of steel columns, it looks in model to be breathtaking and, even, spellbindingly beautiful. It could become one of the great interior attractions in the world.

TRIBUTE TO LOUIS GREENE

Mr. SHELBY. Mr. President, I rise today to pay homage to a dear friend and influential leader in the State of Alabama. Louis Greene will retire April after 20 years of faithful service as director of the Alabama Legislative Reference Service.

Lou was appointed director of the LRS in 1970. He has also served as secretary to the Legislative Council. As director, he has direct control over a staff of 24, with explicit responsibility for all agency duties and functions. Lou, and the Alabama Legislative Reference Service, have been widely commended during his tenure. As a State senator and chairman of the Legislative Council in the 1970's, I had the privilege of working directly with Lou and watching first hand as he established a legacy of accomplishments that will be a challenge to sustain.

Lou's work at the LRS was the culmination of a long and successful professional career. A native of Birmingham and a Montgomery resident since 1950, Lou is one of Alabama's finest citizens. He is a veteran of World War II where he served in the U.S. Army Air Corps, including combat duty in the Pacific theater. He is a graduate of the University of Alabama and received his law degree in 1950. Lou was engaged in a successful law practice in Montgomery until his appointment to the LRS' top post in 1970.

Lou has been affiliated with many professional, social, and religious organizations including the Trinity Presbyterian Church, the Montgomery Lions Club, the Montgomery Toastmaster's Club, Phi Alpha Delta Law Fraternity, the Montgomery County, AL, and American Bar Associations, and the Jackson Hospital Foundation Board of Directors.

Lou's retirement is well deserved. Now he will be able to enjoy time spent with his wife Linda, their daughter Jane, son-in-law Scott, and grandchildren Mary and Patrick.

Mr. President, it is an honor to share some of Louis Greene's immense accomplishments with my colleagues in the U.S. Senate.

PRESIDENT BUSH SALUTES SISTER MARY FLORITA SPRINGER AS THE 394TH "DAILY POINT OF LIGHT"

Mr. PACKWOOD. Mr. President, it is a pleasure for me to rise today in honor of a remarkable, 81-year-old woman in Pendleton, OR. Her name is Sister Mary Florita Springer, and she has dedicated her life to improving the lives of others. The many contributions she has made to Oregon are best demonstrated by her work helping the elderly residents of the Umatilla Indian Reservation in my State.

Despite having suffered two heart attacks and two surgeries, Sister Florita regularly travels 8 miles to the Umatilla Reservation outside Pendleton to visit 30 homebound elderly individuals. She spends most of her day talking with them, assisting them with chores, and offering them reading materials. After completing her visits, she goes to the senior center on the reservation to pick up hot meals and deliver them to those who are unable to prepare meals for themselves. Sister Florita goes out of her way each day to ensure that all of her friends on the reservation receive a pleasurable meal.

Sister Florita became interested in working with the residents of the Umatilla Indian Reservation after a 45-year career in teaching. For the last 15 years of her teaching career she was the principal at the St. Andrews Catholic School on the reservation. After being forced to retire from teaching because of her health conditions, Sister Florita decided to come back to the reservation as a companion to the elderly who live there. Many of her friends are the grandmothers and grandfathers of the children she used to teach. Each day Sister Florita ensures that the elderly receive the friendship and care that they so deserve.

As recognition for her hard work and dedication to improving the lives of the elderly residents of the Umatilla Reservation in Oregon, President Bush has saluted Sister Florita as the 394th "Daily Point of Light." The Daily Point of Light recognition is intended to call every individual and group in America to claim society's problems as their own by taking direct and consequential action, like the efforts taken by Sister Florita.

On behalf of Oregon, and the many people on the Umatilla Reservation in whose lives you make a difference, many thanks, Sister Florita.

RECOGNITION OF THE CONTRIBUTION OF VERMONTERS IN THE PERSIAN GULF

Mr. JEFFORDS. Mr. President, I rise today to recognize all of the Vermonters who made a contribution to the quest to liberate Kuwait from the grasp of a tyrant. Vermonters serve in all four branches of the military and the reserves. Their tasks range from waging the battle against Iraq, to helping the Kuwaiti's start rebuilding their war-torn country. I wish to commend each and every one of them for a job well done.

Let us not forget to recognize those unsung heroes back home—the families of the soldiers—for they are the motivating factor for our troops. I remember from my days in the U.S. Navy the importance of letters and packages from home. the words of love and support mean more than anything. Husbands, wives, parents, and even children are running the show back at home while their loved ones so bravely serve our country. The families of our service personnel deserve our respect and admiration as well.

Mr. President, I wish to call special attention to several Vermonters who I have learned were injured while serving our country:

Sgt. Michael Devost, of Rutland. Michael suffered a back injury while part of the 131st Engineering Company of the National Guard Reserve unit from Camp Johnson. I know that I join the many folks at the Shelburne Post Office in wishing for his quick recovery. I hope to see him back at home with his wife, Pam, very soon.

Sgt. Daniel D. Foss, of Burlington. Daniel, also a part of the 131st, was injured in a bulldozer accident. I am very happy to have heard recently that he will make a full recovery.

Sgt. Edward L. Gilbert, of Woodford. Edward, who is part of the 3d Armored Division, was injured by shrapnel from a land mine when driving two doctors in a jeep. Edward got an extra boost of support when he was visited by a captain from the 131st National Guard unit who brought Edward a Vermont flag. His wife, Lisa, is patiently awaiting his return home.

Mark M. Jacques, of Barre. Mark injured his back while serving with the 131st. I am very pleased to report that Mark is now at Fort Devens and is feeling much better.

Pfc. John Knapp, Jr., of Pownal. John was injured while on a tank mission to clear mines with other members of the 1st Infantry Division. I wish him a swift and complete recovery so that he may return home soon to his wife, Lisa, who is expecting a child.

Sgt. Michael J. Nauceder, of Bellows Falls. Michael also became disabled while working as a part of the 131st. I am pleased to report that he is now recovering at home with his wife, Julie.

Jeffrey "Mike" Twardy, of Shelburne. Mike was injured when an Iraqi shell hit his Bradley fighting vehicle. He is a part of the 1st Infantry Division. I just learned yesterday that Mike will be coming back to the States on Friday to continue his recovery. I wish he and his wife, Christine, all the best.

Sgt. James Verchereau, of Grand Isle. James is also a member of the 131st who suffered from a back injury. James will be coming back to the States in the next few days, and I hope that soon he will be back in Vermont with his wife, Kathy.

I am very impressed with the actions and the caring spirit of all of those involved in the war effort both in the gulf and back at home in Vermont. We owe our service personnel a debt of gratitude. Thank you for a job well done.

U.S. FORCES: THE PRIDE OF AMERICA

Mr. THURMOND. Mr. President, I recently had the pleasure of reading an excellent editorial entitled, "U.S. Forces: The Pride of America," which appeared in the Charleston News and Courier on Friday, March 1, 1991.

The Charleston News and Courier is a fine newspaper with an outstanding reputation. It is a valuable source of information for people throughout our State and it is the oldest newspaper in South Carolina, having been founded in 1894.

I ask unanimous consent that this editorial be inserted into the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

[From the Charleston News and Courier, Mar. 1, 1991]

U.S. FORCES: THE PRIDE OF AMERICA

In his televised address to the nation Wednesday night announcing the Persian Gulf cease-fire, President Bush spoke glowingly of the superb performance of America's armed forces. Never before has such a massive buildup of men and material been accomplished in so short a time, and never has victory come as quickly or with such little loss of life.

"This is not a time of euphoria; certainly not a time to gloat," the president said. "But it is a time of pride—pride in our troops, pride in our friends who stood with us during the crisis, pride in our nation and the people whose strength and resolve made victory quick, decisive and just. . . . Let us give thanks to those who have risked their lives. Let us never forget those who gave their lives. May God bless our valiant military forces and their families. . . ."

The American people have just cause for pride in their armed forces. The 100-hour ground war that crushed Saddam Hussein's army would have been the fodder of novelists had it not been for the exacting, thoroughly professional performance of the men and women in uniform. If ever there was a case to be made for the efficacy of the all-volunteer military, this was it. The goals of the campaign were achieved rapidly, expertly and with an absolute minimum of casualties.

Credit for this belongs to Gen. H. Norman Schwarzkopf, the tall and affable bulldog who guided coalition forces as supreme allied commander. Not since Gen. Douglas MacArthur has America had a field commander who could manage combined operations—air, sea and land—with such economy and grace. The seriousness with which he undertook his mission was leavened by compassion and humor, and the dividends his leadership paid were summed up by the nickname his troops bestowed on him: Storm-in' Norman.

About the troops themselves, words are imperfect instruments in acknowledging their courage and professionalism. The damage they inflicted on the Iraqis is only now coming to light, but it was by every measure awesome. Forty of the enemy's 42 divisions in the theater were either eviscerated or knocked out, and the landscape was littered with the wreckage of Iraqi armor. In the final analysis, it was not so much that the Iraqis were poor soldiers who were badly led. They were up against the very best troops in the world. It was no contest from the start.

President Bush is reaping political bouquets for the way in which the White House and the administration handled the war, and the praise is richly deserved—from Defense Secretary Richard Cheney to Joint Chiefs of Staff Chairman Gen. Colin L. Powell and on down the line. It has been said before, but it merits saying again: The campaign would not, could not, have been as successful if the president had not had the self-confidence to leave the fighting to the professionals. The commander-in-chief's hands-off policy was so significant a factor in the allied victory that Gen. Schwarzkopf himself paid tribute to the president's discipline.

Even now, in the exuberance of victory, a grateful nation remembers that 79 of its sons and daughters will not return with their comrades, that 79 American homes and countless hearts are filled with agony. The wings of man's life are plummed with the feathers of death, as Milton wrote, but the loss of even one American life in battle is a terrible price to pay.

The soldiers have done their heroic duty. It is now up to the statesmen to ensure that their sacrifice was not in vain.

SOCIAL SECURITY NOTCH

Mr. REID. Mr. President, I join to correct a problem which plagues a special group of older Americans—those affected by the Social Security notch.

For my colleagues who may not be aware, the Social Security notch causes 10 million Americans born between the years 1917–26 to receive less in Social Security benefits than Americans born outside the notch years due to changes made in the 1977 Social Security benefit formula.

Under the current formula, benefits for retirees born in the years 1917–26 are as much as 20 percent lower than benefits received by those born before 1917.

I have felt compelled over the years to speak out about this issue and the injustice it imposes on millions of Americans. The notch issue has been debated and debated and debated over the last several years, yet no solution to it has been found. Because of this, older Americans must scrimp to afford the most basic of necessities. These are hard-working Americans we are talking about here—people who paid into Social Security year after year, until their retirement, expecting, at age 65, to reap the benefit of years of hard work.

There is no doubt in my mind that Congress and the President had good intentions when it changed Social Security benefits in 1972. Members of Congress had attempted to institutionalize Social Security cost-of-living adjustments which had previously been legislated inconsistently. Unfortunately, it soon became evident that these 1972 amendments were calculated incorrectly. In an attempt to right these formula mistakes, the Social Security notch was born. Benefits were reduced by 10 to 20 percent for all Americans born between 1917 and 1926. These Americans, now known as notch babies, are not deserving of this treatment. They receive hundreds of dollars less in Social Security benefits than their friends and relatives who were just lucky enough to be born a few days outside the Social Security notch.

While my brief synopsis of the notch history reveals well-meaning actions on the part of the Congress to protect America's seniors, we must take responsibility without delay for the fact that to date, the actions have been disastrous. And time is running out. I do not need to tell you that our notch babies are not getting any younger.

The legislation being offered today by Senator SANFORD and me incorporates the best features of many proposals offered during past Congresses to address the notch injustice. Other legislative proposals have been incorporated into what we see before us today—a simple, uncomplicated act which will restore the fair and democratic treatment of millions of our older Americans.

What this legislation does is simple: It creates a 10-year transition formula for persons born in the years 1917 through 1926. That is it. This proposal is affordable as well—another attractive feature—it makes but a small dent in the huge Social Security trust fund surplus. Surely we can see fit to spend Social Security funds on the very people whose money was collected year after year to create them.

My mail tells woeful tales. Jack Gibson of Carson City, NV, writes:

> I am a former Marine attached to the Second Marine Division during the Second World War, seeing action in the Pacific Theater of war.
>
> I am also a second class citizen of the United States.
>
> That is because I was born in 1920, became a working registrant of the Social Security system when it was first started, and have paid into it all my life except when I was in the Marine Corps.
>
> Yes, I am a "Notch" baby, one of the forgotten citizens of this country. Downgraded because I, and thousands before me were born at the wrong time. Unfortunately, those born later or earlier have not had their Social Security payments "docked" due to legislation. * * *

Edward Lilian of Thunder, NV, writes:

> By procrastinating about the repeal of this Act, you and your peers are in fact making the decision to ignore and discriminate against us.

The legislation offered today is a responsible solution to the notch inequity. This bill will not bankrupt the Social Security System. The transition formula extends over 10 years. It increases notch babies' Social Security checks by an estimated $37 to $114 per month. This may not sound like much money to my colleagues who have good steady incomes, but to a senior who lives on a fixed income it is a fortune. This small amount, a fortune to some, can mean the ability to put food on the

table. It can mean the ability to purchase a vital prescription drug.

It is time for Congress to return dollars to the hands of those who earned them—Social Security beneficiaries. It is time for my fellow Members of Congress to listen to the Jack Gibsons and Edward Lilians of their respective States. It is time to destroy the Social Security notch. For millions of America's senior citizens, this will be no less than miraculous. For the 102d Congress, this will be no less than miraculous.

TRIBUTE TO NORTH DAKOTA'S WAYNE LUBENOW

Mr. BURDICK. Mr. President, I was saddened to learn last week of the death of Wayne Lubenow, one of my favorite writers and a personal friend. The columns he wrote are like Norman Rockwell paintings which can be enjoyed for generations to come, they so well illustrate the best of American life.

Wayne Lubenow was an eloquent salesman for North Dakota. As a tribute to him, I ask unanimous consent that a column he wrote about the State in 1962 be printed in the RECORD at this point.

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

NORTH DAKOTA: A BLIND DATE

What it's like, see, is getting stuck with a blind date. You hate to go because you've heard she's a dog.

But you go anyway—you find all the Miss Americas rolled into one beautiful package and you wonder how she ever got that bad image.

That's North Dakota.

She's a beauty beyond your imagination—but you have to see her to believe it.

I know, because I was invited to take a 10-day tour of my State the last week in June, compliments of the North Dakota Travel Association.

I didn't exactly do cartwheels when I was told I could tour North Dakota for 10 days. But it's 10 days off the old grind so why not?

So I went on the blind date, but only because it seemed like a duty. And there, so help me, was the queen that had been right in my backyard all these years and that I never really saw.

Ron Campbell, a member of the tour from the Regina, Sask., *Leader-Post*, had been to North Dakota before. And he told me, "Wayne, this is a new North Dakota."

I agree, but what struck me is that my blind date was twins—two North Dakotas.

First, there is the old gal—the one who has been around a long, long time. She's the breath-taking Badlands and the buttes and the forts and the history and the pioneers and the scenery that puts butterflies where your last meal should be.

She is miles and miles of sheer, untamed beauty and if you look hard into a sunset and let your imagination go, you can see the red men and the cowboys and the flag-waving cavalry.

She is mostly a western North Dakota gal, this old one, for that is where the rough country is. But you can see her, too, in the rivers of Eastern North Dakota—but you'll be looking for sternwheelers hauling people and provisions to Dakota Territory.

Her mirror, of course, is the Theodore Roosevelt National Park with cowtown Medora as her boudoir. From there her territory stretches through the South Unit of the park, up north through the even more fabulous North Unit.

But her charm doesn't end there. It runs to places like Grassy Butte with its sod-built old post office, to the State's three Indian reservations where much of what is old and historic remains as it was.

That's old gal, the old North Dakota—and a queen she is.

But she is being challenged by a princess, a young starlet who can't possibly harm her—but who only adds to North Dakota's luster.

The debutante is the revitalization of her cities, of her commerce, and even of her lands.

Minot and her Air Base bustle; Bismark booms; Dickinson swings; Grand Forks and Fargo grow and grow.

New people, new industry, new growth.

That's what Campbell meant by a "new" North Dakota.

You see it in her new-spawned recreational areas—the Garrison Reservoir where power boats and lunker fish are the order of the day.

You see it in old Medora where private capital is making it possible to sleep in air-conditioned comfort before going out to woo that Old Gal Badlands.

You see it at Rolla in the north where the Bulova firm has established the only industrial jewel plant in all of North America and where they really do business in a small way—like some of the jewels they make are so small it takes a magnifying glass to see them.

You see it in North Dakota's highways where it's tough to find a bad road even if you were looking.

That's this new, young girl of a North Dakota—the one who builds sprawling, powerful new electric plants capable of churning out hundreds of thousands of kilowatts.

But she does it on the old gal's ancient lignite.

The cattle ranches and farms are still here, a legacy from the old days. But the roundups are apt to be with jeeps and the grain fields are filled with machines, not men.

The old people, those who still are in love with the old gal, are still here, too. But so are the new young bloods who go courting the maiden.

And that's North Dakota—two striking women, one with white hair and one with gold, and you'll love them both.

But like I say, you have to try that blind date to really believe it.

IN MEMORY OF SGT. DAVID Q. DOUTHIT OF ALASKA

Mr. MURKOWSKI. Mr. President, today in my home State of Alaska a funeral and burial service is being held for an American hero named David Douthit. This brave young man proudly served our country in the Persian Gulf war and lost his life just hours before the President's cease-fire order went into effect. David's death reminds us all that the price of freedom is not without human cost. It cost us the precious life of one Alaskan.

Our quick and decisive victory over Iraqi forces in Kuwait is a tribute to the men and women of our Armed Forces. Now our Nation rightfully honors these outstanding Americans for their dedication and sacrifice.

David was a 1984 graduate of Soldotna High School and served in the U.S. Army for 6 years. He has been stationed at Fort Lewis, WA, and was sent to the gulf after Christmas. He served there as a crew chief on an M-2 Bradley, armored personnel carrier.

David leaves behind his parents, Harvey and Nita Douthit, and his young wife, Jessica, who is 8 months pregnant with their first child. As one life is taken away, another comes into the world.

Alaskans have rallied around the Douthit family and the unborn child. A scholarship fund has been established and donations have been received from caring Americans throughout the Nation.

I know that David holds a special place in the heart of all Alaskans. He gave the ultimate sacrifice for our Nation and we are proud of him. The prayers of all Americans are with the families of those who were killed during the Persian Gulf war. Today, the prayers of all Alaskans are with David Douthit and his family.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,187th day that Terry Anderson has been held captive in Lebanon.

Today, Associated Press special correspondent Walter Mears offers a tribute to Terry Anderson and the other hostages still held in Lebanon. I ask unanimous consent that it be printed in the RECORD at this time.

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

WALTER MEARS: REMEMBERING TERRY ANDERSON AND OTHERS HELD IN LEBANON

(By Walter R. Mears)

WASHINGTON.—In a season of celebration for the freed prisoners and returning veterans of the Persian Gulf War, it's time for another sort of ceremony, a bleak one at the sixth anniversary of Terry Anderson's captivity in Lebanon.

The contrasts are jarring.

So far, America's Middle East victory does not apply to Anderson or to the other five U.S. hostages, reportedly moved by their captors from Beirut to the Baalbeck area in eastern Lebanon.

The war against Iraq was won in 42 days, the ground war in 100 hours. Anderson has been held hostage for 2,187 days.

In the conflict over Kuwait, the one posted demand of his kidnappers was rendered moot. The Muslim extremists who seized Anderson on March 16, 1985, demanded the release of fellow Shiites imprisoned by Kuwait for terrorist bombings there. The last of them was freed when Iraq invaded on Aug. 2.

Syria, which joined the U.S.-led coalition against Iraq, is the dominant force in Lebanon, a position strengthened during the Persian Gulf crisis. The Syrian army controls the region where the hostages are believed held by pro-Iranian Muslim factions grouped together as Hezbollah, or the Party of God. Iran remained officially neutral in the war that drove Iraq from Kuwait.

Despite their power in the region, the Syrians have avoided confrontation with Iranian-backed factions. There are said to be about 3,000 Iranian Revolutionary Guard troops in or near Baalbeck.

Secretary of State James A. Baker III is to visit Damascus later this week, meeting with Syrian President Hafez Assad as part of the postwar quest for a comprehensive peace settlement in the Middle East.

President Bush said Baker would raise the plight of the hostages in Lebanon. "We have not forgotten them," Bush told Congress in his March 6 victory speech. "We will not forget them."

Next day at the White House, Bush's spokesman said there had to be some hope that with all the changes in the Middle East, the captors would see the futility of continuing to hold the hostages.

But on Monday, White House Press Secretary Marlin Fitzwater said the administration had no word on the whereabouts of the hostages, and nothing to indicate that they might soon be freed.

Fitzwater said there are continuing U.S. contacts abroad on the hostage situation. "I assume those are still happening, but I don't have any new breakthroughs to report or anything like that," he said.

And the last word from Hezbollah, on March 6, was that the organization would not force release of the hostages.

Such words of hope, uncertainty and intransigence have been heard again and again since the ordeal of American hostages in Lebanon began in 1983.

Anderson, 43, chief Middle East correspondent of the Associated Press, is now the longest held American hostage. The others are Thomas Sutherland, Joseph Cicippio, Jesse Turner and Alann Steen, all of whom are educators in Beirut, and Edward Austin Tracy, a writer.

There are seven other western hostages, four of them British, two German, one Italian, all believed held by the same Muslim groups.

On Friday, Anderson's family, colleagues and friends, and the families of other hostages will gather for still another anniversary observance, sponsored by an organization called No Greater Love.

This time, there will be words of thanksgiving for the release of other captives the 21 POWs who came home on Sunday, the CBS News crew held captive for six weeks by Iraq, the 40 journalists captured last week near Basra, freed on Saturday.

There also will be demands for the same kind of U.S. and international pressure to gain release of the hostages in Lebanon.

They are fewer in number, less visible, captives of shadow factions, with not even an enemy government to be held accountable for their plight.

But the new, peaceful world order President Bush envisions will be a hollow one unless Anderson and the other hostages are at long last freed to join in it.

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

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

PROTESTS IN SERBIA

Mr. DOLE. Mr. President, for over a year now we have watched as the hardline Communist government of the Republic of Serbia has brutally repressed the Albanian population of Kosova. But, last weekend, the world witnessed the same brutality in Belgrade, as Serbian police—joined by Yugoslav federal troops—tried to disperse a large crowd using the same violent tactics I witnessed in the streets of Pristina last summer—clubs, tear gas, rubber bullets. Opposition leaders were arrested. Two people were killed and many more were injured.

On Saturday, tens of thousands of Serbs—mostly young Serbs—took to the streets of Belgrade to send a message to Serbian President Milosevic. These students, professors, opposition party members, and intellectuals, made their way to Belgrade's main square to say that they were fed up, fed up with communism and its control over the economy, which is in ruins; fed up with TV and radio censorship and one-sided media reporting; and finally, that they were fed up with hardliner Milosevic and his henchmen.

Today, a group of opposition party lawmakers left the Serbian Parliament to join anti-Communist protesters in yet another day of demonstrations against Milosevic's hardline government. And, according to press reports, these demonstrations are spreading to other cities.

Despite Milosevic's finger-pointing, these protesters recognize that the blame for the severe political and economic problems in Serbia does not rest with the oppressed Albanians in Kosova, or with the democratically elected non-Communist Republics of Croatia and Slovenia; they have not been persuaded by the allegations the Serbian President makes in his speeches and repeats through his puppets in the press. These thousands of Serbs realize that Milosevic himself is to blame. They know that Milosevic and his 1950's-style Communist policies are responsible for the lack of basic freedoms and the economic turmoil that has affected the lives of most Serbs.

The Milosevic myth of anti-Serbian forces and enemies of Serbia is melting away and reality is taking its place. The reality is that Milosevic and his supporters who advocate hardline communism are the real enemies of Serbia. Milosevic sent Serbian police to the streets with orders to use violence. Milosevic has strangled the press and wiped out freedom of speech. Milosevic has brought the economy of Serbia to near ruin—despite the fact that he stole $1.3 billion in dinars from the central government, there are still thousands of workers who have not been paid in a month, 2 months, or more.

As these demonstrations have shown to the world, the Serbian people want to get rid of communism. The Serbs want the same freedoms and opportunities that the people in Slovenia and Croatia are creating for themselves in their new democracies and free market economics.

Mr. President, the events of the past few days highlight once again who the enemies of democracy and human rights in Yugoslavia really are: the Communists in the Serbian Government and in the Yugoslav Government. These Communists may have changed their name to Socialists, but their methods and policies remain the same.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 624 and S. 631 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

WELCOMING THE REESTABLISHMENT OF DIPLOMATIC RELATIONS WITH ALBANIA

Mr. PELL. Mr. President, I welcome today's announcement by the State Department that the United States and Albania will reestablish diplomatic relations. Later this week, Albania's Foreign Minister will travel to Washington to formalize the reestablishment of official ties, which were broken off more than 50 years ago.

I believe that now is a particularly opportune moment to reestablish diplomatic relations with Albania. Later this month, Albania will hold elections, and in my view, by reestablishing ties with Albania, the United

States will demonstrate its support for the reform process and for increased attention to human rights issues.

For decades, Albania has lived outside the pale of European civilization. Aside from the Baltic States, Albania is the only European country that is not a member of the Commission on Security and Cooperation in Europe or CSCE. I believe that through the establishment of diplomatic relations, we in the United States have an opportunity to encourage Albania to join in that process and to play a constructive role in the new Europe.

On a personal note, I am particularly pleased by today's developments. My first assignment upon joining the United States Foreign Service shortly after World War II, was supposed to be to Tirana, Albania. Although our legation in Tirana had been closed in 1939, it was expected that with the end of the war, relations would be resumed. Regrettably, ties were not reestablished at that time.

Most would agree that Albania has been one of Europe's most closed societies, and accordingly, we have much to learn about that country, and they about ours. My hope is that our new diplomatic relationship will provide a framework for that process.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 11, 1991, during the recess of the Senate, received a message from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on March 11, 1991, are printed in today's RECORD at the end of the Senate proceedings.)

TERMINATION OF SANCTIONS WITH RESPECT TO KUWAIT—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I hereby provide notice, consistent with section 586C(c)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513), of my intention to terminate, in whole or in part, no sooner than 15 days after the date of this notice, the sanctions imposed with respect to Kuwait pursuant to Executive Orders Nos. 12723 and 12725.

GEORGE BUSH.

THE WHITE HOUSE, *March 8, 1991.*

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am pleased to transmit this administration's primary legislative initiative addressing the continuing threat of violent crime in this country. This proposal, entitled the "Comprehensive Violent Crime Control Act of 1991," contains a broad spectrum of critically needed reforms to the criminal justice system, as well as new offenses and penalties for various acts of life-threatening criminal behavior. Also transmitted is a section-by-section analysis. I urge that congressional action on this initiative be completed within the next 100 days.

The enormous danger posed by violent criminals in our midst today is totally unacceptable. In 1990, more than 20,000 Americans were murdered. Our citizens are rightly demanding that elected officials act with resolve to reduce substantially the threat violent crime poses to their families and communities. The dramatic victory achieved by our military forces in the Persian Gulf serves as a model for what can be accomplished by leaders and citizens committed to achieving a common goal. It is time for all Americans to work together to take back the streets and liberate our neighborhoods from the tyranny of fear.

This legislative package is designed to address comprehensively the failures of the current criminal justice system. There must be a clear understanding on the streets of America that anyone who threatens the lives of others will be held accountable. To this end, it is essential that we have swift and certain apprehension, prosecution, and incarceration. Too many times, in too many cases, criminals go free because the scales of justice are unfairly loaded against dedicated law enforcement officials.

The core elements of my proposal are:

—*Restoration of the Federal Death Penalty* by establishing constitutionally sound procedures and adequate standards for imposing Federal death penalties that are already on the books (including mail bombing and murder of Federal officials); and authorizing the death penalty for drug kingpins and for certain heinous acts such as terrorist murders of American nationals abroad, killing of hostages, and murder for hire.

—*Habeas Corpus Reform* to stop the often frivolous and repetitive appeals that clog our criminal justice system, and in many cases effectively nullify State death penalties, by limiting the ability of Federal and State prisoners to file repetitive habeas corpus petitions.

—*Exclusionary Rule Reform* to limit the release of violent criminals due to legal technicalities by permitting the use of evidence that has been seized by Federal or State law enforcement officials acting in "good faith," or a firearm seized from dangerous criminals by a Federal law enforcement officer. This proposal also includes a system for punishing Federal officers who violate Fourth Amendment standards, as well as a means for compensating victims of unlawful searches.

—*Increased Firearms Offenses and Penalties* including a 10-year mandatory prison term for the use of a semiautomatic firearm in a drug trafficking offense or violent felony, a 5-year mandatory sentence for possession of a firearm by dangerous felons, new offenses involving theft of firearms and smuggling firearms in furtherance of drug trafficking or violent crimes, and a general ban on gun clips and magazines that enable a firearm to fire more than 15 rounds without reloading.

In addition to these proposals, my initiative contains elements designed to curb terrorism, racial injustice, sexual violence, and juvenile crime, and to support appropriate drug testing as a condition of post-conviction release for Federal prisoners.

I look forward to working with the Congress during the next 100 days on this necessary legislation.

GEORGE BUSH.

THE WHITE HOUSE, *March 11, 1991.*

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 RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 8, 1991, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 98. Joint resolution designating March 4 through 10, 1991, as "National School Breakfast Week."

Under the authority of the order of the Senate of January 3, 1991, the enrolled joint resolution was signed on March 8, 1991, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 2:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1281. An act making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1281. An act making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1284. An act to authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-744. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal years 1992 and 1993, for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes; to the Committee on Armed Services.

EC-745. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense dated January 1991; to the Committee on Armed Services.

EC-746. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on funds obligated in the chemical warfare-chemical/biological defense programs during fiscal year 1990; to the Committee on Armed Services.

EC-747. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving United States exports to Israel; to the Committee on Banking, Housing, and Urban Affairs.

EC-748. A communication from the Secretary of Transportation, transmitting, pursuant to law, a biennial report entitled "Public Transportation in the United States: Performance and Condition"; to the Committee on Banking, Housing, and Urban Affairs.

EC-749. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the third annual report for fiscal year 1990; to the Committee on Commerce, Science, and Transportation.

EC-750. A communication from the Secretary of Commerce, transmitting, pursuant to law, a draft of proposed legislation entitled "Spectrum Reallocation and Management Improvement Act of 1991; to the Committee on Commerce, Science, and Transportation.

EC-751. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report to Congress entitled "Alcohol Limits for Drivers: A Report on the Effects of Alcohol, and Expected Institutional Responses to New Limits"; to the Committee on Commerce, Science, and Transportation.

EC-752. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a draft of proposed legislation "to authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; research and program management; and Inspector General; and for other purposes," together with a sectional analysis; to the Committee on Commerce, Science, and Transportation.

EC-753. A communication from the Deputy Associate Director for Collection and Disbursement of the United States Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-754. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-755. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to implement the National Energy Strategy, and for other purposes; to the Committee on Energy and Natural Resources.

EC-756. A communication from the Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide authority to the Secretary of the Interior to undertake certain activities to reduce the impacts of drought conditions, and for other purposes; to the Committee on Energy and Natural Resources.

EC-757. A communication from the Assistant Secretary of Energy (Environment, Safety, and Health), transmitting, pursuant to law, notice that the annual report of the Department on progress in implementing the Superfund Amendments and Reauthorization Act will be submitted in April 1991; to the Committee on Environment and Public Works.

EC-758. A communication from the Inspector General of the Department of the Interior, transmitting, pursuant to law, an audit report entitled "Accounting for Reimburseable Expenditures of Environmental Protection Agency Superfund Money. Office of Environmental Affairs, Office of the Secretary"; to the Committee on Environment and Public Works.

EC-759. A communication from the Administrator of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, a report on demonstration projects authorized under the Surface Transportation and Uniform Relocation Assistance Act; to the Committee on Environment and Public Works.

EC-760. A communication from the Assistant Secretary of State (Legislative Affairs) and the Assistant Administrator of the Office of Policy, Planning, and Evaluation of the Environmental Protection Agency, transmitting jointly, pursuant to law, a report entitled "The U.S. Efforts to Address Global Climate Change" and a brochure entitled "America's Climate Change Strategy: An Action Agenda"; to the Committee on Foreign Relations.

EC-761. A communication from the Assistant Administrator of the Small Business Administration (Hearings and Appeals), transmitting, pursuant to law, a report on the Small Business Administration's revised Privacy Act system of records; to the Committee on Governmental Affairs.

EC-762. A communication from the Secretary of the Commission of Fine Arts, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-763. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Election Commission for the period ending September 30, 1990; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 483. A bill entitled the "Taconic Mountains Protection Act of 1991" (Rept. No. 102-21).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

S. 207. A bill to amend the Commodity Exchange Act to authorize appropriations for and enhance the effectiveness of the Commodity Futures Trading Commission, to curb abuses in the making of trades and the execution of orders at designated contract markets, to provide greater representation of the public interest in the governance of such contract markets, to enhance the integrity of the United States financial markets by providing for Federal oversight of margins on stock index futures, clarifying jurisdiction over innovative financial products and providing mechanisms for addressing intermarket issues, and for other purposes (Rept. No. 102-22).

S. 393. A bill to provide for fair treatment for farmers and ranchers who are participating in the Persian Gulf War as active reservists or in any other military capacity, and for other purposes.

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. DOLE (for himself, Mr. HATCH, Mr. SIMPSON, Mr. MCCAIN, Mr. STEVENS, Mr. MURKOWSKI, Mr. GARN, Mr. MCCONNELL, and Mr. KASTEN):

S. 611. A bill to amend the Civil Rights Act of 1964 to strengthen protections against discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN (for himself, Mr. ROTH, Mr. MITCHELL, Mr. FORD, Mr. PRYOR, Mr. DASCHLE, Mr. INOUYE, Mr. ROBB, Mr. COCHRAN, Mr. KASTEN, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, Mr. HEINZ, Mr. BOREN, Mr. SYMMS, Mr. RIEGLE, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BREAUX, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mr. BROWN, Mr. BRYAN, Mr. BURDICK, Mr. BURNS, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MACK, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RUDMAN, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. NUNN):

S. 612. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 613. A bill for the relief of Miroslaw Adam Jasinski; to the Committee on the Judiciary.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. BURDICK, Mr. CONRAD, Mr. HARKIN, Mr. JOHNSTON, and Mr. INOUYE):

S. 614. A bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, and Mr. LIEBERMAN):

S. 615. A bill entitled the "Environmental Marketing Claims Act of 1991"; to the Committee on Environment and Public Works.

By Mr. PELL (by request):

S. 616. A bill to authorize appropriations for Fiscal Years 1992 and 1993 for the United States Information Agency, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. SPECTER, Mr. SIMPSON, Mr. DOMENICI, Mr. INOUYE, Mr. COCHRAN, Mr. D'AMATO, Mr. MCCAIN, Mr. BOND, and Mr. GORTON):

S. 617. A bill to reauthorize the Commission on Civil Rights; to the Committee on the Judiciary.

By Mr. BIDEN (for himself and Mr. DECONCINI):

S. 618. A bill to control and reduce violent crime; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. KENNEDY):

S. 619. A bill to establish a Link-up for Learning demonstration grant program to provide coordinated services to at-risk youth; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 620. A bill to reform habeas corpus procedures; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 621. A bill to establish the Manzanar National Historic Site in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 622. A bill to amend title 18 of the United States Code to require drug testing for released Federal prisoners; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. DECONCINI, and Mr. HOLLINGS):

S. 623. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to maintain the current Federal-State funding ratio for the Justice Assistance Grant Program; to the Committee on the Judiciary.

By Mr. EXON (for himself and Mr. KERREY):

S. 624. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated business of such organization; to the Committee on Finance.

By Mr. REID (for himself and Mr. BROWN):

S. 625. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to United States investment; to the Committee on Finance.

By Mr. HEINZ:

S. 626. A bill to increase the literacy skills of commercial drivers; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 627. A bill to designate the lock and dam 1 on the Red River Waterway in Louisiana as the "Lindy Clairborne Boggs Lock"; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 628. A bill to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 629. A bill to establish the grade of General of the Army and to authorize the President to appoint Generals Colin L. Powell and H. Norman Schwarzkopf, Jr., to that grade; to the Committee on Armed Services.

By Mr. D'AMATO (for himself, Mr. DECONCINI, Mr. THURMOND, and Mr. COATS):

S. 630. A bill entitled the "Money Laundering Enforcement Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EXON (for himself, Mr. DANFORTH, and Mr. KASTEN):

S. 631. A bill to authorize appropriations for the Motor Carrier Safety Assistance Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PRYOR:

S. 632. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of interest paid in connection with certain life insurance contracts; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. AKAKA):

S. 633. A bill to improve basic educational assistance benefits for members of the Armed Forces of the United States under chapter 30 of title 38, United States Code, and under chapter 106 of title 10, United States Code, and for other purposes; to the Committee on Veterans Affairs.

By Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. KERRY, Mr. CRANSTON, Mr. HARKIN, Mr. MOYNIHAN, Mr. GORE, and Mr. LEVIN):

S.J. Res. 91. Joint resolution expressing the sense of the Congress regarding the political and human rights situation in Kenya; to the Committee on Foreign Relations.

By Mrs. KASSEBAUM (for herself, Mr. BOND, Mr. BROWN, Mr. CHAFEE, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. HATCH, Mr. JEFFORDS, Mr. KASTEN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. COATS, Mr. ADAMS, Mr. BAUCUS, Mr. BRADLEY, Mr. BREAUX, Mr. BURDICK, Mr. CRANSTON, Mr. DECONCINI, Mr. DIXON, Mr. FORD, Mr. FOWLER, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. BOREN, Mr. ROBB, and Mr. SARBANES):

S.J. Res. 92. Joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day"; 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. D'AMATO (for himself, Mr. HEINZ, Mr. DIXON, Mr. CRANSTON, Mr. CHAFEE, Mr. HATFIELD, Mr. KERRY, Ms. MIKULSKI, Mr. GORTON, Mr. PACKWOOD, Mr. SPECTER, Mr. DODD, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. BOND, and Mr. SEYMOUR):

S. Res. 77. Resolution concerning mass transit programs; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. Con. Res. 17. Concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. PELL, Mr. MOYNIHAN, Mr. KERRY, Mr. AKAKA, Mr. GORE, Mr. KENNEDY, Mr. ROBB, and Mr. SIMON):

S. Con. Res. 18. Concurrent resolution expressing the concern of the Senate for the ongoing human rights abuses in Burma and for the status of displaced Burmese and Burmese refugees; to the Committee on Foreign Relations.

By Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. PELL, Mr. KERRY, Mr. BIDEN, Mr. DECONCINI, Mr. AKAKA, Mr. GORE, Mr. KENNEDY, Mr. ROBB, Mr. DIXON, and Mr. SIMON):

S. Con. Res. 19. Concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. METZENBAUM, Mr. PELL, Mr. MURKOWSKI, and Mr. KASTEN):

S. Con. Res. 20. Concurrent resolution to authorize the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

By Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. PELL, Mr. KERRY, Mr. AKAKA, Mr. GORE, Mr. KENNEDY, Mr. ROBB, Mr. SIMON, Mr. LUGAR, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. DOLE):

S. Con. Res. 21. Concurrent resolution commending the people of Mongolia on their first multiparty elections; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE, for himself, Mr. HATCH, Mr. SIMPSON, Mr. MCCAIN, Mr. MURKOWSKI, Mr. GARN, Mr. STEVENS, Mr. MCCONNELL, and Mr. KASTEN):

S. 611. A bill to amend the Civil Rights Act of 1964 to strengthen protections against discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS ACT OF 1991

Mr. DOLE. Mr. President, America today is proudly saluting its Desert Storm heroes. These troops—men and women, black and white, native American, Hispanic, and Asian—risked their lives to rescue a nation from tyranny. This stunning military success can teach us a valuable lesson about the kind of America we all want: An America based on equality of opportunity for all its citizens. Our military got the job done without quotas and without discrimination. If only the rest of our society can make the same claim.

Last year, President Bush stood foursquare on the side of equal opportunity by proposing his own civil rights bill, and then, in an effort to reach a negotiated compromise with the Democratic Congress, the President and his key advisers walked the extra mile, and then some, only to reject a bill that meant more to the American Trial Lawyers Association than to the cause of civil rights.

This year, the President's commitment to civil rights remains as firm as ever. In fact, he indicated this morning in a congressional leadership meeting that he wants to sign a civil rights bill.

During last Wednesday's joint session, the President denounced the scourge of discrimination, promising to draft a bill that confronts discrimination head on. Today, the President has delivered on this promise. I am joining with my distinguished colleague in the House, Republican leader BOB MICHEL, in introducing President Bush's Civil Rights Act of 1991. To his credit, the President has proposed a bill that restores the careful balance of title VII, not one that transforms title VII into a national tort law. The President has proposed a bill that stands for racial justice and equal opportunity, not quota justice and equal results.

Mr. President, the Civil Rights Act of 1991 has plenty of firepower, not only for our Nation's minorities, but for the women of America too.

It overturns the Supreme Court's Patterson decision by expanding the coverage of section 1981 to include racial harassment on the job. It overturns the Supreme Court's decision in Lorance versus AT&T Technologies by allowing an employee to challenge a discriminatory seniority plan at any time after the plan's adoption. It overturns the Supreme Court's Wards Cove decision by shifting the burden of proof to the employer once the plaintiff shows that an employment practice causes a disparate impact. It codifies the Griggs decision by adopting word for word the so-called Griggs definition of "business necessity." And, I would add, most importantly, the Civil Rights Act of 1991 establishes, for the first time in our Nation's history, a Federal monetary remedy of up to $150,000 for the victims of sexual harassment and harassment based on disability.

So we are going to debate these issues. I know it is good to have a nice-sounding labor bill with a "civil rights" label. But the real civil rights bill in this debate is the President's bill.

Several years ago, I stood on this floor and managed on the Republican side the Martin Luther King holiday bill. I provided the key vote in the 25-year extension of the Voting Rights Act. I was a key player in the passage of the Americans With Disabilities Act. So I am not going to be defensive about this issue or any other civil rights issue. I do not think anyone on our side should be defensive either. If the Democrats, or a small group of liberals on the other side of the aisle working with certain civil rights activists, are going to demand we have a quota bill, then they are going to have to provide votes for the quota bill and they are going to have to provide votes to override the President's veto of a quota bill. If they want a civil rights bill, we can pass that next week.

I call upon some of my friends on the other side of the aisle. It was a party-line vote last year. It was politics, not civil rights. Politics. Those who were engaged in the negotiations were playing politics.

The President, as I said as recently as 4 hours ago, indicated to me that he wanted to sign a civil rights bill, wanted to do it this year and would like to do it as quickly as possible.

So, Mr. President, I think we have an opportunity if we want a civil rights bill. Those of us who have spotless records in the civil rights area want to be participants. We do not want to be spectators; we do not want to be run over by those who are out for political gain. We have never had a partisan civil rights bill as long as I have been here, until last year. If we want to repeat that again this year, we are going to do our best to sustain a veto.

I hope that others will be involved in the debate, not just two or three Senators on the other side of the aisle, and that we can have a civil rights bill. There is no doubt in my mind that we all pretty much agree and have pretty much the same objectives. I do not believe many Members on the other side of the aisle really want a quota bill.

So I send the bill to the desk on behalf of myself, Senator HATCH, Senator SIMPSON, Senator MCCAIN, Senator MURKOWSKI, Senator STEVENS, Senator GARN, and Senator MCCONNELL and ask for its appropriate referral.

I also ask unanimous consent that a section-by-section analysis, along with the bill, be printed in the RECORD, as well as letters from the Attorney General and other assorted material.

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

S. 611

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 "Civil Rights Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that additional protections and remedies under Fed-

eral law are needed to deter unlawful discrimination.

(b) PURPOSE.—The purpose of this Act is to strengthen existing protections and remedies available under Federal civil rights laws.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(*l*) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this Title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'justified by business necessity' means that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by, even if they do not require, the challenged practice.

"(o) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).

"(p)(1) The term 'harass' means, in cases involving discrimination because of race, color, religion, sex, or national origin, the subjection of an individual to conduct that creates a working environment that would be found intimidating, hostile or offensive by a reasonable person.

"(2) The term 'harass' also means, in cases involving discrimination because of sex, (i) making the submission to unwelcome sexual advances by an employer a term or condition of employment of the individual; or (ii) using the rejection of such advances as a basis for employment decisions adversely affecting the individual; or (iii) making unwelcome sexual advances that create a working environment that would be found intimidating, hostile or offensive by a reasonable person.".

SEC. 4. DISPARATE IMPACT CLAIMS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—Under this Title, an unlawful employment practice based on disparate impact is established only when a complaining party demonstrates that a particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is justified by business necessity: *Provided, however*, That an unlawful employment practice shall nonetheless be established if the complaining party demonstrates the availability of an alternative employment practice, comparable in cost and equally effective in predicting job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and the respondent refuses to adopt such alternative."

SEC. 5. FINALITY OF JUDGMENTS OR ORDERS.

For purposes of determining whether a litigated or consent judgment or order resolving a claim of employment discrimination because of race, color, religion, sex, national origin, or disability shall bind only those individuals who were parties to the judgment or order, the Federal Rules of Civil Procedure shall apply in the same manner as they apply with respect to other civil causes of action.

SEC. 6. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contract.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Subsection 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended by adding at the end the following sentence: "For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. PROVIDING FOR ADDITIONAL REMEDIES FOR HARASSMENT IN THE WORKPLACE BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN.

(a) Subsection 703(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(a)) is amended by deleting the period at the end and inserting in lieu thereof "; or" and by adding at the end the following new paragraph:

"(3) to harass any employee or applicant for employment because of that individual's race, color, religion, sex, or national origin; provided, however, that no such unlawful employment practice shall be found to have occurred if the complaining party failed to avail himself or herself of a procedure, of which the complaining party was or should have been aware, established by the employer for resolving complaints of harassment in an effective fashion within a period not exceeding 90 days."

(b) Section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5) is amended by adding at the end the following new subsections:

"(*l*) EMERGENCY RELIEF IN HARASSMENT CASES.—An employee or other complaining party alleging a violation of section 703(a)(3) of this Title may petition the court for temporary or preliminary relief. If the complaining party establishes a substantial probability of success on the merits of such harassment claim, the continued submission to the harassment shall be deemed injury sufficiently irreparable to warrant the entry of temporary or preliminary relief. A court having jurisdication over a request for temporary or preliminary relief pursuant to this paragraph shall assign the case for hearing at the earliest practicable date and cause such case to be expedited in every way practicable.

"(m) EQUITABLE MONETARY AWARDS IN HARASSMENT CASES.—

"(1) In ordering relief for a violation of section 703(a)(3) of this Title, the court may, in addition to ordering appropriate equitable relief under subsection (g) of this section, exercise its equitable discretion to require the employer to pay the complaining party an amount up to but not exceeding a total of $150,000.00, if the court finds that an additional equitable remedy beyond those available under subsection (g) of this section is justified by the equities, is consistent with the purposes of this Title, and is in the public interest. In weighing the equities and fixing the amount of any award under this paragraph, the court shall give due consideration, along with any other relevant equitable factors, to (i) the nature of compliance programs, if any, established by the employer to ensure that unlawful harassment does not occur in the workplace; (ii) the nature of procedures, if any, established by the employer for resolving complaints of harassment in an effective fashion; (iii) whether the employer took prompt and reasonable corrective action upon becoming aware of the conduct complained of; (iv) the employer's size and the effect of the award on its economic viability; (v) whether the harassment was willful or egregious; and (vi) the need, if any, to provide restitution for the complaining party.

"(2) all issues in cases arising under this Title, including cases arising under section 703(a)(3) of this Title, shall be heard and determined by a judge, as provided in subsection (f) of this section. If, however, the court holds that a monetary award pursuant to paragraph (1) of this subsection is sought by the complaining party and that such an award cannot constitutionally be granted unless a jury determines liability on one or more issues with respect to which such award is sought, a jury may be empaneled to hear and determine such liability issues and no others. In no case arising under this Title shall a jury consider, recommend, or determine the amount of any monetary award sought pursuant to paragraph (1) of this subsection."

(c) Subsection 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) (as amended by section 7 of this Act) is further amended by adding at the end the following sentence: "For purposes of actions involving harassment under section 703(a)(3) of this Title, the period of limitations established under this subsection shall be tolled during the time (not exceeding 90 days) that an employee avails himself or herself of a procedure established by the employer for resolving complaints of harassment."

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including reasonable expert fees up to but not exceeding $300 per day)" after "attorney's fee".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection 717(c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection 717(d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties".

SEC. 11. PROVIDING CIVIL RIGHTS PROTECTIONS TO CONGRESSIONAL EMPLOYEES.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) (as amended by section 10 of this Act) is further amended—

(1) in subsection 717(a), by striking "legislative and judicial branches" and inserting in lieu thereof "judicial branch".

(2) in subsection 717(a), by striking "in the Library of Congress" and inserting in lieu thereof: "in the Congress of the United States, or its Houses, committees, offices or instrumentalities, or the offices of any of its Members".

(3) in subsection 717(b), by striking the last sentence and inserting in lieu thereof: "With respect to the Congress of the United States, its Houses, committees, offices, and instrumentalities, and the offices of its Members, authorities granted in this subsection to the Commission shall be exercised in each House of Congress as determined by that House of Congress, and in offices and instrumentalities not within a House of Congress as determined by the Congress."

(4) in subsection 717(c), by inserting, after "Equal Employment Opportunity Commission" each time it appears, ", or a congressional entity exercising the authorities of the Commission pursuant to subsection (b) of this section,".

SEC. 12. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where knowingly and voluntarily agreed to by the parties, reasonable alternative means of dispute resolution, including binding arbitration, shall be encouraged in place of the judicial resolution of disputes arising under this Act and the Acts amended by this Act.

SEC. 13. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provisions of this Act to other persons and circumstances, shall not be affected thereby.

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon enactment. The amendments made by this Act shall not apply to any claim arising before the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The legislation may be cited as the "Civil Rights Act of 1991."

SECTION 2. FINDINGS AND PURPOSE

The Congress finds that this legislation is necessary to provide additional protections and remedies against unlawful discrimination in employment. The purpose of this Act is to strengthen existing protections and remedies in order to deter discrimination more effectively and provide meaningful relief for victims of discrimination.

SECTION 3. DEFINITIONS

Section 3 adds definitions to those already in Title VII.

The definition of "demonstrates" requires that a party bear the burden of production and persuasion when the statute requires that he or she "demonstrate" a fact.

The definition of the term "justified by business necessity" is meant to codify the meaning of business necessity as used in *Griggs* v. *Duke Power Co.*, 400 U.S. 424, 432 (1971), and subsequent cases including *New York City Transit Authority* v. *Beazer*, 440 U.S. 568, 587 n. 31 (1979). Such a definition was reaffirmed by the Court in *Wards Cove Packing Co., Inc.* v. *Atonio*, 109 S. Ct. 2115, 2125–2126 (1989). Even the dissent in Wards Cove acknowledged that "*Griggs* made it clear that a neutral practice that operates to exclude minorities is nevertheless lawful if it serves a *valid business purpose*." See 109 S. Ct., at 2129 (Stevens, J., dissenting) (emphasis added).

The terms "complaining party" and "respondent" are defined to include those persons and entities listed in the Act. The definition of the term "harass" is explained in the analysis of Section 8 below.

SECTION 4. DISPARATE IMPACT CLAIMS

In *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), the Supreme Court ruled that Title VII of the Civil Rights Act of 1964 prohibits hiring and promotion practices that unintentionally but disproportionately exclude persons of a particular race, color, religion, sex, or national origin unless these practices are justified by "business necessity." Law suits challenging such practices are called "disparate impact" cases, in contrast to "disparate treatment" cases brought to challenge intentional discrimination.

In a series of cases decided in subsequent years, the Supreme Court refined and clarified the doctrine of disparate impact. In 1988, the Court greatly expanded the scope of the doctrine's coverage by applying it to subjective hiring and promotion practices (the Court had previously applied it only in cases involving objective criteria such as diploma requirements and height-and-weight requirements). Justice O'Connor took this occasion to explain with great care both the reasons for the expansion and the need to be clear about the evidentiary standards that would operate to prevent the expansion of disparate impact, doctrine from leading to quotas. In the course of her discussion, she pointed out:

"[T]he inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prophylactic measures. . . . [E]xtending disparate impact analysis to subjective employment practices has the potential to create a Hobson's choice for employers and thus to lead in practice to perverse results. If quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted. The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met." *Watson* v. *Fort Worth Bank & Trust Co.*, 108 S. Ct. 2777, 2787–2788 (1988) (plurality opinion).

The following year, in *Wards Cove Packing Co.* v. *Atonio*, 109 S. Ct. 2115, 2126 (1989), the Court considered whether the plaintiff or the defendant had the burden of proof on the issue of business necessity. Resolving an ambiguity in the prior law, the Court placed the burden on the plaintiff.

Under this Act, a complaining party makes out a prima facie case of disparate impact when he or she identifies a particular employment practice and demonstrates that the practice has caused a disparate impact on the basis of race, color, religion, sex, or national origin. The burden of proof then shifts to the respondent to demonstrate that the practice is justified by business necessity. It is then open to the complaining party to rebut that defense by demonstrating the availability of an alternative employment practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and that the respondent refuses to adopt such alternative.

The burden-of-proof issue that Wards Cove resolved in favor of defendants is resolved by this Act in favor of plaintiffs. Wards Cove is thereby overruled. On all other issues, this Act leaves existing law undisturbed.

As Justice O'Connor emphasized in her Watson opinion, the use of disparate impact analysis creates a very real risk that Title VII will lead to the use of quotas. Indeed, there is evidence that the adoption of disparate impact analysis by the courts has led to the use of quotas, although the extent of this phenomenon is for obvious reasons not measurable. See e.g., Hearings on H.R. 1, "Civil Rights Act of 1991," before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, U.S. House of Representatives, 102d Cong., 1st Sess., February 7, 1991 (testimony of Assistant Attorney General John R. Dunne); Hearings on S. 2104, "Civil Rights Act of 1990," before the Committee on Labor and Human Resources, U.S. Senate, 101st Cong., 2d Sess., February 23, 1990 (testimony of Professor Charles Fried); Joint Hearings on H.R. 4000, "Civil Rights Act of 1990," before the Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, U.S. House of Representatives, 101st Cong., 2d Sess., March 20, 1990, vol. 2, pp. 516, 625, 633 (testimony of Glen D. Nager, Esq.); Fortune, March 13, 1989, at 87–88 (reporting a poll of 202 CEOs of Fortune 500 and Service 500 companies, in which 18% of the CEOs admitted that their companies have "specific quotas for hiring and promoting"). The use of quotas, however, represents a perversion of Title VII and of disparate impact law. As the Court noted in Griggs, 401 U.S., at 431: "Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed."

Because of the serious dangers inherent in the use of disparate impact analysis, any codification of a cause of action under the disparate impact theory must include evidentiary safeguards recognized in Justice O'Connor's Watson opinion and in Justice White's opinion for the Court in Wards Cove. The codification adopted in Sections 3 and 4 of this Act does so, and it is vital that courts and employers construe this Act in a manner that neither makes it possible to defend or justify the use of employment quotas nor encourages their use.

If an ability test, for example, has a disparate impact and the test is not justified by business necessity as defined in Section 3 of this Act, the test should not be used. If business necessity can be shown, then the disparate impact need not be reduced or eliminated unless the complaining party demonstrates the availability of an alternative employment practice as required by Section 4 of this Act and the respondent refuses to adopt such alternative. In neither event is an employer required or permitted to adjust test scores, or to use different cut-offs for members of different groups, or otherwise to use the test scores in a discriminatory manner. Manipulating test results in such a fashion is not an alternative employment practice of the kind that an employer must adopt to avoid liability at the surrebuttal phase of a disparate impact case. On the contrary, such discrimination violates Title VII, whether practiced by an employer, an employment agency, or any other "respondent" as defined in Section 3 of this Act. Similarly, a discriminatory practice could not be defended until Title VII on the ground that the practice was necessary or useful in avoiding the possibility of liability under the disparate impact theory. *CF.* Civil Rights Act of 1964, sec. 703(j), 42 U.S.C. 2000e-2(j).

It should be noted that in identifying the particular employment practice alleged to cause disparate impact, it is not the inten-

tion of this Act to require the plaintiff to do the impossible in breaking down an employer's practices to the greatest conceivable degree. Courts will be permitted to hold, for example, that vesting complete hiring discretion in an individual guided only by unknown subjective standards constitutes a single particular employment practice susceptible to challenge.

This approach is consistent with Wards Cove, see 109 S. Ct., at 2125, and has been employed since Wards Cove in *Sledge* v. *J.P. Stevens & Co.*, 52 EPD para. 39,537 (E.D.N.C. Nov. 30, 1989). The Sledge court alluded to the difficulty of "delving into the workings of an employment decisionmaker's mind" and noted that the defendant's peronnel officers reported having no idea of the basis on which they made their employment decisions. The court held that "the identification by the plaintiffs of the uncontrolled, subjective discretion of defendant's employing officials as the source of the discrimination shown by plaintiff's statistics sufficed to satisfy the causation requirements of Wards Cove." This Act contemplates that the use of such uncontrolled and unexplained discretion is properly treated, as it was in the *Sledge* case, as one employment practice that need not be divided by the plaintiff into discrete subparts.

SECTION 5. FINALITY OF JUDGMENTS OR ORDERS

In *Hansberry* v. *Lee*, 311 U.S. 32, 40–41 (1940) (citations omitted), the Supreme Court held:

It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in personam in which he is not designated as a party or to which he has not been made a party by service of process. . . . A judgment rendered in such circumstances is not entitled to the full faith and credit which the Constitution and statutes of the United States . . . prescribe, . . . and judicial action enforcing it against the person or property of the absent party is not that due process which the Fifth and Fourteenth Amendments require.

In Hansberry, Carl Hansberry and his family, who were black, were seeking to challenge a racial covenant prohibiting the sale of land to blacks. One of the owners who wanted the covenant enforced argued that the Hansberrys could not litigate the validity of the covenant because that question had previously been adjudicated, and the covenant sustained, in an earlier lawsuit, although the Hansberrys were not parties in that lawsuit. The Illinois court had ruled that the Hansberrys' challenge was barred, but the Supreme Court found that this ruling violated due process and allowed the challenge.

In *Martin* v. *Wilks*, 109 S. Ct. 2180 (1989), the Court confronted a similar argument. That case involved a claim by Robert Wilks and other white firefighters that the City of Birmingham had discriminated against them by refusing to promote them because of their race. The City argued that their challenge was barred because the City's promotion process had been sanctioned in a consent decree entered in an earlier case between the City and a class of black plaintiffs, of which Wilks and the white fire-fighters were aware, but in which they were not parties. The Court rejected this argument. Instead, it concluded that the Federal Rules of Civil Procedure required that persons seeking to bind outsiders to the results of litigation have a duty to join them as parties, see Fed. R. Civ. P. 19, unless the court certified a class of defendants adequately represented by a named defendant, see Fed. R. Civ. P. 23. The Court specifically rejected the defendants' argument that a different rule should obtain in civil rights litigation.

This Section codifies that holding. Had the rule advocated by the City of Birmingham in Wilks been adopted in Hansberry, one judicial decree in one case between one plaintiff and one defendant would have prevented an attack on the racial covenant by anyone who had ever heard of the original case. That is not how the Federal Rules of Civil Procedure operate. And there is no reason why a different rule should be devised to prevent civil rights plaintiffs, as opposed to persons bringing all other kinds of cases, from bringing suit.

SECTION 6. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS

Under 42 U.S.C. 1981, persons of all races have the same right "to make and enforce contracts." In *Patterson* v. *McLean Credit Union*, 109 S. Ct. 2363 (1989), the Supreme Court held: "The most obvious feature of the provision is the restriction of its scope to forbidding discrimination in the 'mak[ing] and enforce[ment]' of contracts alone. Where an alleged act of discrimination does not involve the impairment of one of these specific rights, [sec.] 1981 provides no relief."

As written, therefore, section 1981 provides insufficient protection against racial discrimination in the context of contracts. In particular, it provides no relief for discrimination in the performance of contracts (as contrasted with the making and enforcement of contracts). Section 1981, as amended by this Act, will provide a remedy for individuals who are subjected to discriminatory performance of their employment contracts (through racial harassment, for example) or are dismissed or denied promotions because of race. In addition, the discriminatory infringement of contractual rights that do not involve employment will be made actionable under section 1981. This will, for example, create a remedy for a black child who is admitted to a private school as required pursuant to section 1981, but is then subjected to discriminatory treatment in the performance of the contract once he or she is attending the school.

In addition to overruling the Patterson decision, this Section of the Act codifies the holding of *Runyon* v. *McCrary*, 427 U.S. 160 (1976), under which section 1981 prohibits private, as well as governmental, discrimination.

SECTION 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS

Section 7 overrules the holding in *Lorance* v. *AT&T Technologies, Inc.*, 109 St. Ct. 2261 (1989), in which female employees challenged a seniority system pursuant to Title VII, claiming that it was adopted with an intent to discriminate against women. Although the system was facially nondiscriminatory and treated all similarly situated employees alike, it produced demotions for the plaintiffs, who claimed that the employer had adopted the seniority system with the intention of altering their contractual rights. The Supreme Court held that the claim was barred by Title VII's requirement that a charge must be filed within 180 days (or 300 days if the matter can be referred to a state agency) after the alleged discrimination occurred.

The Court held that the time for plaintiffs to file their complaint began to run when the employer adopted the allegedly discriminatory seniority system, since it was the adoption of the system with a discriminatory purpose that allegedly violated their rights. According to the Court, that was the point at which plaintiffs suffered the diminution in employment status about which they complained.

The rule adopted by the Court is contrary to the position that had been taken by the Department of Justice and the EEOC. It shields existing seniority systems from legitimate discrimination claims. The discriminatory reasons for adoption of a seniority system may become apparent only when the system is finally applied to affect the employment status of the employees that it covers. At that time, the controversy between an employer and an employee can be focused more sharply.

In addition, a rule that limits challenges to the period immediately following adoption of a seniority system will promote unnecessary, as well as unfocused, litigation. Employees will be forced either to challenge the system before they have suffered harm or to remain forever silent. Given such a choice, employees who are unlikely ever to suffer harm from the seniority system may nonetheless feel that they must file a charge as a precautionary measure—an especially difficult choice since they may be understandably reluctant to initiate a lawsuit against an employer if they do not have to.

Finally, the Lorance rule will prevent employees who are hired more than 180 (or 300) days after adoption of a seniority system from ever challenging the adverse consequences of that system, regardless of how severe they may be. Such a rule fails to protect sufficiently the important interest in eliminating employment discrimination that is embodied in Title VII.

Likewise, a rule that an employee may sue only within 180 (or 300) days after becoming subject to a seniority system would be unfair to both employers and employees. The rule fails to protect seniority systems from delayed challenge, since so long as employees are being hired someone will be able to sue. And, while this rule would give every employee a theoretical opportunity to challenge a discriminatory seniority system, it would do so, in most instances, before the challenge was sufficiently focused and before it was clear that a challenge was necessary. Finally, most employees would be reluctant to begin their jobs by suing their employers.

This change in the law, therefore, is warranted. Indeed, it is necessary to safeguard the same principles upheld by the Supreme Court in *Martin* v *Wilks*, 109 S. Ct. 2180 (1989), which guarantees civil rights complainants a fair opportunity to present their claims in court.

SECTION 8. PROVIDING FOR ADDITIONAL REMEDIES FOR HARASSMENT IN THE WORKPLACE BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

This provision is designed to redress an anomaly in current law. Title VII prohibits discrimination in employment, but provides inadequate remedies for harassment in the workplace, including sexual harassment, which the Supreme Court has recognized as actionable under Title VII. see, *e.g.*, *Meritor Savings Bank, FSB* v. *Vinson*, 477 U.S. 57 (1986). Such harassment frequently will not be so intolerable that an employee subjected to it immediately leaves. In such circumstances, the only remedy the victim of harassment can obtain under Title VII's remedial scheme as currently drafted is declaratory and injunctive relief against continuation of the harassment.

Such a rule is plainly inequitable. It effectively tells employers that the only consequences of creating an environment so hos-

tile to an employee that he or she is forced to sue to obtain relief is a directive to refrain in the future. This defect must be corrected.

At the same time, Title VII's existing framework, with its emphasis on conciliation and mediation, has served the country well for more than a quarter of a century as a tool for combatting discrimination. It would be most unwise to jettison or rewrite this basic statute in favor of a tort-style approach including compensatory and punitive damages at a time when our tort system is widely recognized to be in crisis. President Bush has made it clear that our civil rights laws "should not be turned into some lawyer's bonanza, encouraging litigation at the expense of conciliation, mediation, or settlement."

Section 8 is designed to meet both of these concerns. It creates a new remedy for on-the-job harassment, allowing courts to make a monetary award in addition to granting declaratory and injunctive relief. The new remedy is available on the same terms for all forms of on-the-job harassment, whether based on race, color, religion, sex, or national origin.

The new remedy created by this Section is capped at $150,000. Courts are directed to make a monetary award when an additional equitable remedy is justified by the equities, is consistent with the purposes of Title VII, and is in the public interest. In weighing the equities and determining the amount of any award, courts are instructed to consider the nature of compliance programs implemented by the employer; the nature of the employer's complaint procedures, if any, used to resolve claims of harassment; whether the employer took prompt and effective remedial action upon learning of the harassment; the employer's size and the effect of the award on its economic viability (so that the maximum award would be available only against very large and financially secure employers); whether the harassment was willful or egregious; and the need, if any, to provide restitution for the complaining party.

This Section allows a court to make a monetary award "up to but not exceeding a total of $150,000." This language is intended to make clear that where there are several related incidents that could arguably be subdivided into distinct unlawful employment practices, the award that can be obtained under this new provision for all of them combined is limited to $150,000. Otherwise, plaintiffs and their lawyers will have incentives to spend resources on hair-splitting litigation over how many unlawful employment practices have occurred. $150,000 is a large enough amount to be an adequate and effective remedy for the type of conduct sought to be prevented, and no good purpose would be served by encouraging lawyers to use their inventiveness to circumvent the limitation of $150,000.

The substantive definition of harassment set out in Section 3 of this Act makes it an offense for an employer or its agents to harass any employee because of race, color, religion, sex, or national origin. The term "harass" encompasses "the subjection of an individual to conduct that creates a working environment that would be found intimidating, hostile or offensive by a reasonable person." The definition also explicitly defines sexual harassment to include certain conduct involving unwelcome sexual advances. The definition is intended to codify current law as stated by the Supreme Court. See *Meritor Savings Bank, supra*, 477 U.S., at 66 ("Since the Guidelines were issued, courts have uniformly held, and we agree, that a plaintiff may establish a violation of Title VII by proving that discrimination based on sex has created a hostile or abusive work environment.").

The new provisions of Title VII established in this Section are designed to deter and provide restitution for harassment, and to encourage employers to adopt meaningful complaint procedures to redress harassment and to encourage employees to use them. The employer will not be found liable if the complaining party failed to avail himself or herself of an effective complaint procedure. In determining the appropriate remedy, moreover, courts will consider whether an employer took prompt and effective remedial action. The effect of these requirements will be to encourage preventive measures and prompt remedial action by employers and to minimize litigation, thus maximizing the speed and efficacy of relief.

This provision of the Act protects employers from liability only when they have established a procedure "for resolving complaints of harassment in an effective fashion within a period not exceeding 90 days." Procedures under which victims of harassment are required to seek relief from the same supervisor who has engaged in the harassing conduct, or under which victims would otherwise reasonably expect their complaints to result in retaliation against them rather than in a fair investigation and effective resolution of their complaint, will not insulate the employer from liability. The new provisions of Title VII allow an employee, moreover, to petition a court for emergency relief, and they provide that the continued suffering of harassment shall be assumed to be sufficient irreparable harm to warrant judicial relief, whether or not the employee has fully exhausted a complaint procedure, so long as the employee has initiated a complaint.

This Section includes a provision reaffirming that Congress intends all issues to be decided by judges, as has always been the case under Title VII. Such a provision is important in avoiding the creation of an inefficient tort-style litigation system that is foreign to the purposes of employment law. Because the courts have relatively limited experience with harassment cases, because particular cases will undoubtedly raise issues requiring clarification, and because employers therefore require the information contained in written judicial opinions to assist them in conforming their conduct with the law, it is particularly important to avoid a profusion of unexplained and inconsistent jury verdicts if possible.

Because the monetary relief authorized in these amendments to Title VII is characterized as equitable, the courts should find that bench trials are consistent with the Seventh Amendment. Because the question of constitutionality is not free from doubt, however, this Section also provides that should a court hold that a jury trial with respect to issues of liability is constitutionally required, it may empanel a jury to hear those issues and no others. This ensures that the additional relief this scheme makes available will not become a dead letter should the courts conclude that the Seventh Amendment requires a jury trial on liability. See *Tull* v. *United States*, 107 S. Ct. 1831 (1987).

SECTION 9. ALLOWING THE AWARD OF EXPERT FEES

Section 9 authorizes the recovery of expert witness fees (up to but not exceeding $300 per day) by prevailing parties according to the same standards that govern awards of attorney fees under Title VII. *Cf. Crawford Fitting Co.* v. *J.T. Gibbons, Inc.*, 482 U.S. 437 (1987). The provision is intended to allow recovery for work done in preparation for trial as well as after trial has begun, with the cap applying to each witness.

SECTION 10. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT

Section 10 extends the period for filing a complaint against the Federal government pursuant to Title VII from 30 days to 90 days. It also authorizes the payment of interest to compensate for delay in the payment of a judgment according to the same rules that govern such payments in actions against private parties.

SECTION 11. PROVIDING CIVIL RIGHTS PROTECTIONS TO CONGRESSIONAL EMPLOYEES

Section 11 extends the protections of Title VII to congressional employees on the same basis that they extend to Executive branch employees. The Executive branch, like private employers and state and local governments, is forbidden by law to discriminate on the basis of race, color, religion, sex, or national origin. The Congress, however, has exempted itself from the law. President Bush has stated that Congress "should live by the same requirements it prescribes for others" and that Congress "should join the Executive branch in setting an example for these private employers."

In addition to setting a helpful example, and providing congressional employees with the same rights enjoyed by other Americans, coverage under Title VII will provide the Congress with the valuable experience of living under the same rules that it imposes on other employers. This experience should prove useful in encouraging the Congress to give prompt and serious consideration to proposals for improving the law and enabling the Congress to resist ill-considered proposals—like the bill that President Bush vetoed on October 22, 1990—that would undermine the cause of civil rights and impose completely unjustified burdens on the employers of this nation.

It should be emphasized that this Section allows the Congress to create its own internal mechanisms for enforcing Title VII in the legislative branch. Like Executive branch employees, congressional employees would retain the right to judicial relief, but the Executive branch would have absolutely no role in enforcing Title VII against the Congress. For that reason, any objection to this Section on separation-of-powers grounds would not be well-founded.

SECTION 12. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

This provision encourages the use of alternative means of dispute resolution, including binding arbitration, where the parties knowingly and voluntarily elect to use these methods.

In light of the litigation crisis facing this country and the increasing sophistication and reliability of alternatives to litigation, there is no reason to disfavor the use of such forums.

SECTION 13. SEVERABILITY

Section 13 states that if a provision of this Act is found invalid, that finding will not affect the remainder of the Act.

SECTION 14. EFFECTIVE DATE

Section 14 specifies that the Act and the amendments made by the Act take effect upon enactment, and will not apply to cases arising before the effective date of the Act.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, March 1, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit a legislative proposal to make several significant improvements in our Nation's employment discrimination laws, along with a section-by-section analysis explaining the proposal. This bill reflects the President's longstanding commitment, recently reaffirmed in his State of the Union Address, to strengthening the legal tools designed to eliminate the intolerable blight of discrimination from our society. This package will accomplish the four major objectives the President set out in his address to civil rights leaders on May 17, 1990.

First, as the President has said, any civil rights bill must "operate to obliterate consideration of factors such as race, color, religion, sex, or national origin from employment decisions." Under this proposal, employers will be encouraged and required to provide equal opportunity for all workers without resorting to quotas or other unfair preferences. The bill codifies a cause of action for "disparate impact," as recognized in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), which outlawed certain practices that unintentionally but disproportionately exclude individuals from certain jobs because of their race, color, religion, sex, or national origin. With respect to these "disparate impact" cases, the bill places the burden of proof on the employer to demonstrate "business necessity," thereby overruling a contrary ruling in *Wards Cove Packing Co.* v. *Antonio*, 109 S. Ct. 2115 (1989).

The bill greatly expands the prohibition against racial discrimination in the performance of contracts under 42 U.S.C. 1981, and overturns the decision in *Patterson* v. *McLean Credit Union*, 109 S. Ct. 2363 (1989). In addition, this proposal amends Title VII to eliminate a need less and unfair limitation on the time for filing challenges to discriminatory seniority systems, overruling *Lorance* v. *AT&T Technologies, Inc.*, 109 S. Ct. 2261 (1989). Similarly, in the interest of ensuring that legitimate claims can be pursued, the bill extends the time for filing a Title VII claim against the Federal government from 30 to 90 days.

The bill also permits the courts to make awards to prevailing parties for the fees of expert witnesses, and authorizes the award of interest in actions against the Federal government on the same terms on which such awards are available against other parties.

The second requirement established by the President is that a bill must "reflect fundamental principles of fairness that apply throughout our legal system." Accordingly, this bill expressly provides that the Federal Rules of Civil Procedure shall apply in determining who is bound by an employment discrimination decree, must as they apply in other civil causes of action. This provision ensures that the standard rules of joinder and intervention will operate to give all victims of illegal discrimination a fair opportunity to protect their constitutional and civil rights in court.

The third essential element of a civil rights bill is a provision to ensure that Federal law provides an adequate deterrent against sexual harassment in the workplace. Under current law, the only judicial remedy for many cases of such harassment is a directive to refrain from such conduct in the future. This cannot provide adequate deterrence. In order to rectify this shortcoming, the bill makes available new monetary remedies for the victims of illegal harassment under Title VII.

The President has also insisted, however, that our civil rights laws not be "turned into some lawyer's bonanza, encouraging litigation at the expense of conciliation, mediation, or settlement." Accordingly, this proposal for the creation of a new monetary remedy under Title VII provides for bench trials, and it caps the monetary award at $150,000. The bill also includes special incentives for employers to develop and implement meaningful internal complaint procedures for harassment claims, while allowing employees to obtain emergency relief from the courts when employers fail to respond quickly and effectively to complaints of illegal behavior. More generally, the bill encourages the use of alternatives to litigation in resolving disputes under our civil rights laws.

Fourth, the President has said that the Congress should live by the same requirements it prescribes for others. Accordingly, this bill eliminates the congressional exemption from Title VII of the Civil Rights Act of 1964, and gives congressional employees the same fundamental protections that employees of the Executive branch have enjoyed for many years. The bill gives the Executive no role in enforcing the law against the Congress, allowing the Congress to establish its own mechanisms for enforcement. Congressional employees, like employees of the Executive branch, will be able to maintain a private right of action upon exhaustion of their administrative remedies.

Finally, the President has observed that the Congress must also take action in other areas to enhance equal opportunity. The elimination of employment discrimination, which is the aim of this bill, will have little meaning unless jobs are available and individuals have the skills and education needed to fill them. Nor can we expect young people to achieve their full potential if they grow up in neighborhoods and schools permeated by violence, drugs, and hopelessness. The Administration is proposing several initiatives to enable individual Americans to claim control over their own lives and futures. Enactment of those initiatives, along with this bill, will achieve real advances for the cause of equal opportunity.

Very truly yours,

DICK THORNBURGH,
Attorney General.

Mr. HATCH. Mr. President, I am pleased to cosponsor the administration's civil rights bill. We can enact true equal opportunity legislation without creating incentives to hire and promote by quota, without stripping some innocent Americans of their right to a day in court to have their equal protection and statutory civil rights claims heard, and without providing a bonanza for lawyers.

I am pleased that the bill overturns the *Lorance* v. *AT&T Technologies, Inc.*, 109 S.Ct. 2261 (1989) decision and the *Patterson* v. *McLean Credit Union*, 109 S.Ct. 2363 (1989) decision. In Lorance, the Court ruled that an employee challenge to a seniority system pursuant to title VII must be filed within 180 days—or 300 days if the matter can be referred to a State agency—after the alleged discrimination occurred. The Court held that the discrimination occurred at the adoption of a facially neutral seniority system which was allegedly selected for the purpose of discriminating against women. As such, the Court ruled all challenges to that system had to be made within 180 days of its adoption or they would be barred. The administration's bill eliminates this shield against these legitimate discrimination claims. Section 7 of the bill preserved title VII claims in such cases until after the "person aggrieved is injured by the application of the seniority system."

In Patterson, the Court construed section 1981, which bans racial discrimination in contracts, to apply only to the formation and enforcement of contracts, not to racial discrimination in the terms and conditions of the contract, such as racial harassment on the job which does not lead to dismissal. Section 6 of the administration's bill allows section 1981 claims to be based on "the making, performance, modification and termination of contracts." This section protects the employee's "enjoyment of all benefits, privileges, terms and conditions of the contract," thus overturning Patterson and barring, inter alia, racial harassment.

The administration's bill also adds to title VII an effective remedy for sexual and other harassment on the job. Under title VII, in certain circumstances the only remedy available for illegal harassment in the workplace is declaratory and injunctive relief against continuation of the harassment. Section 8 of the administration's bill makes available new monetary remedies for victims of illegal harassment under title VII.

These are very important and worthy provisions which we should enact. I commend the President for pressing for these changes.

With respect to the bill's provisions on the *Wards Cove* v. *Antonio* 109 S.Ct. 2115 (1989) decision, which I believe was correctly decided and is consistent with *Griggs* v. *Duke Power Company*, 401 U.S. 424 (1971), I have one reservation. I do not believe it is appropriate to shift the burden of persuasion to the employer once the plaintiff establishes a prima facie case of disparate impact for the reasons I set forth at length during last year's debate this year.

I do believe, however, this bill contains many worthy features and I want to associate myself with those provisions.

Mr. McCAIN. Mr. President, Congress has a duty, prescribed over 200 years ago by our Founding Fathers, to further the cause of equality in our Nation, and make the American dream equally available to all. I believe that Congress has done an admirable, albeit sometimes inexcusably slow, job in fulfilling this mandate. However, Mr. President, we must do more. We must be tolerated.

This task is not taken lightly, and it is not always popular. However, I believe that Congress must act to advance the concepts of social and economic justice, even when the majority of society may not like them. I have consistently fought hard to maintain that goal, as when I voted to override former President Reagan's veto of the Civil Rights Restoration Act, and when I authored one of the main titles of the Americans With Disabilities Act.

Mr. President, a good example of the difficulties we encounter in trying to resolve these problems legislatively are the employer sanctions provisions included in the last reform of our immigrations laws. I strongly favor repealing employer sanctions. Congress clearly made a mistake when it passed that law. Employer sanctions have resulted in a disparate impact on Hispanics. In my home State of Arizona there is a large population of Hispanic people who reside there legally. The case is clear, however, that employer sanctions have encouraged employers to reject Hispanic job applicants for fear they will be found to be illegal aliens. The unfortunate result is higher unemployment rates among Hispanics, and we in Congress have an obligation to rectify this situation which we created.

The example of employer sanctions serves yet another purpose Mr. President. It graphically demonstrates that our Nation must never give up our fight for equal rights. If we for but 1 minute allow our attention to wane, we will be plagued by new forms of discrimination and inequality. For this reason, I also support modifying some of the recent Supreme Court decisions.

Specifically, the decision of the Court in the Wards Cove case is incorrect. For that reason, I support returning to the standards established in Griggs versus Duke (1971) and reaffirmed in New York City Transit Authority versus Beazer (1979). Additionally, I believe that we must provide remedies for harassment in the workplace due to race, color, religion, sex, disability, or national origin. For this reason, I am proud to cosponsor Senator DOLE's Civil Rights Act of 1991.

I strongly support title VII of the Civil Rights Act of 1964, and this legislation will serve to strengthen that landmark measure. Society must be color blind in its application of law and in its offering of opportunities. Unfortunately, some legislation that has been introduced, specifically H.R. 1, does not further that goal. Nobody should be discriminated against because of race, sex, religion, or ethnic origin, and that is what title VII prohibits. However, H.R. 1, by its authors' own admission to the New York Times, went considerably beyond this, and would have effectively required employers to institute quotas in their hiring practices, and I cannot support that. Mr. President, quotas simply legally sanction certain types of discrimination, and that is wrong.

Justice William O. Douglas made good sense when in commenting on our laws and hiring programs, he said that a university's law school admission system, "cannot be to produce black lawyers for blacks, Polish lawyers for Poles, Jewish lawyers for Jews, Irish lawyers for Irish."

It is unjust to discriminate against a person who is innocent of discrimination to advance another racial or ethnic person who was not discriminated against. When our laws either tolerate or require discrimination of any kind against citizens innocent of discrimination themselves, we are not serving justice, and we invite disrespect of law and tension in our society.

Mr. President, we need new civil rights legislation. We must ensure, however, that we do not repeat the mistakes of the past. To be exact, we need good civil rights legislation—legislation that will truly address the needs of America's diverse population without creating a litany of new problems. Our Nation is only as great as her citizens make her, and Americans have made our country the torchbearer of freedom, a country for all others to hold in esteem. This legislation will further that goal, and I hope for its quick passage.

By Mr. BENTSEN (for himself, Mr. ROTH, Mr. MITCHELL, Mr. FORD, Mr. PRYOR, Mr. DASCHLE, Mr. INOUYE, Mr. ROBB, Mr. COCHRAN, Mr. KASTEN, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, Mr. HEINZ, Mr. BOREN, Mr. SYMMS, Mr. RIEGLE, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BREAUX, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mr. BROWN, Mr. BRYAN, Mr. BURDICK, Mr. BURNS, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MACK, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RUDMAN, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE):

S. 612. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Finance.

SAVINGS AND INVESTMENT INCENTIVE ACT OF 1991

Mr. BENTSEN. Mr. President, I rise, along with my distinguished colleague, the Senator from Delaware, Mr. ROTH, and 73 other cosponsors to bring back the individual retirement account—the IRA. We want to bring it back for all Americans. In fact, the bill is going to improve on the traditional retirement IRA. It is going to improve the IRA in a number of ways to make it an even more powerful tool for savings in this country.

The bill will provide every American with the option to choose between tax deductible contributions to a traditional IRA or contributions to a new type of IRA. Contributions to the new type of IRA would not be tax deductible, but all interest that is earned would come back tax free.

The bill also expands on the usefulness of the IRA by letting people use their IRA's, to save for college education, first home purchases, and financially devastating medical expenses.

The new options will give individuals greater flexibility to choose the savings vehicle that best suits their particular needs.

Why do we have to bring back the IRA? First, history shows that the underlying strength of America is the kind of economic growth that creates prosperity and opportunity for all of our people. The key to maintaining that kind of economic growth is savings. And the IRA helps stimulate savings. Today personal savings in this country is at an all time low—the lowest of any of our major economic competitors. In 1990 American consumers saved less than 5 cents out of every dollar earned. Compare that to Japan, where it is 16 cents on the dollar.

Related problem we are facing in this country is a real capital crunch. As we enter the 1990's, you are seeing a difference from the situation which prevailed through most of the last decade. In the 1980's, we were able to finance our debts and our budget deficits by the Japanese and others buying our securities. Now they are seeing serious real estate valuation problems in Japanese banks and problems in the Japanese real estate market generally. There are also problems in the Japanese stock market. In turn, West German capital, is being diverted into East Germany. And then, of course, the devastation that has occurred in the Persian Gulf, and the cost of its repair will also draw capital away from the United States.

So once again we are looking at a situation where there is going to be less capital available to build those new plants, to increase productivity, to lower the trade deficit, and to keep America more competitive in the world economy.

One of the things that can help turn that around is a restoration of the IRA. People understand the IRA. They like it, they will save in it, and they will invest through it.

In 1981, when we put in the full deductibility of the IRA, and expanded its utilization, IRA savings went up 700 percent. In 1987, when the full deductibility of the IRA was cut back, we saw a steep drop in the personal savings rate in this country. Ever since that time we have seen savings rates in this country 25 percent below the levels that prevailed in the early 1980's.

You hear a few economists yet who still say that IRA contributions are a shift of existing savings, but they are looking at old data. New studies by Dr. David Wise of Harvard's Kennedy School, Dr. Steven Venti of Dartmouth, Dr. Jonathan Skinner of University of Virginia, and others show that the IRA worked at increasing savings. Since the IRA was cut back as a part of the 1986 Tax Reform Act, we saw enrollments drop by over 60 percent. We saw contributions drop by close to 70 percent.

In the last Congress at hearings in the Finance Committee, Dr. Lawrence Summers of Harvard testified that the cutbacks in IRA eligibility in 1986 caused many families that still remained eligible for IRA's to stop putting their money in. According to Dr. Summers, we saw a 40-percent decrease in participation by those persons who still remained eligible. I think one of the principal reasons was because you had a great barrage of publicity—advertising that came along around April 15—that had everyone thinking about savings, thinking about IRA's and the $2,000 deduction they would get.

When all of that advertising stopped, you saw people turn their minds to other things. They cut back on the amount they saved for the future.

There is another reason we have to bring back the IRA. Americans are living longer. With longer periods in retirement, they will have to save more money to ensure a financially secure retirement. The Federal Government ought to be encouraging people to save, and the IRA is a proven tool to do it.

In addition, the expanded Bentsen-Roth IRA will encourage savings not only for retirement but also for two of the biggest investments people have to make in their lifetimes: their first home and college education.

Why not let the people make penalty-free withdrawals from their IRA accounts and similar section 401(k) and 403(b) plans for these specific purposes? Encouraging these savings is critical to ensuring that our children can afford to go to college. For a child born today, average college costs are expected to go to $200,000 for 4 years at a private university and $60,000 for public schools. Yet most Americans who expect their children to attend college save little or nothing for that purpose. The Bentsen-Roth bill would help people use the IRA to help save for college and vocational school expenses.

People do try to save for that first home, but they find themselves in a cycle they just cannot break. Housing costs go up faster than their income and many younger Americans can never put aside enough money for the down payment.

The Bentsen-Roth bill would help young couples use the tax advantages of the IRA to open the door to that first home. The bill will also allow parents and grandparents to tap their IRA funds to help their children and grandchildren buy a first home. That makes sense, and I thank my colleague from Michigan, Senator LEVIN, for his consistent support of that proposal.

Finally, health care costs today are almost 2½ times as high as they were at the start of the 1980's. With medical costs rising faster than paychecks, typical Americans find it very difficult to hold onto their health insurance to take care of a catastrophic illness that might come along.

This bill would give people access to their IRA balance in an emergency. I think having that access will also make it more likely they will put that money aside in the first place, thus increasing savings.

There are no easy, painless answers to tough problems like high interest rates, high costs of education, housing and health care. But the newly expanded IRA can help in every instance. It will give Americans a flexible tool to save for a better tomorrow.

I know the key question that has become constant to every new idea in Government is, What will it cost? In the long run, it is going to make profit for America. It is going to build those new plants. It is going to increase income. It will result in more taxes finally being collected. But in the short term, yes, there will be a net cost, and we will pay for it.

As chairman of the Finance Committee, it is my policy to pursue only legislation that will not increase the deficit. So we are in the process of getting precise, credible cost estimates for this bill and we are developing the options to meet those costs without adding to the deficit. It will not be easy; it never is; but we will get it done.

I am pleased that so many of my colleagues on both sides of the aisle have already joined us in supporting the Bentsen-Roth IRA, now three-fourths of the Senate. I am going to call hearings in the Finance Committee very soon because I want to begin work as soon as possible on the job of enacting this important legislation. It is time that we took the IRA out of retirement and put it back to work helping Americans save for the future. The IRA allows people to invest in America's future at the same time they are investing in their own, and that is a gain for all Americans.

Mr. President, both the Senator from Delaware and I have been working on incentives for savings for many a year. I commend my colleague for the work that he has done in the past and am delighted to be working with him today on this important legislation.

I ask unanimous consent that the text of the bill and a brief summary thereof be printed in the RECORD.

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

S. 612

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 "Savings and Investment Incentive 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—RETIREMENT SAVINGS INCENTIVES

Subtitle A—Restoration of IRA Deduction

SEC. 101. RESTORATION OF IRA DEDUCTION.

(a) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1990."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 102. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 101, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If this subsection applies to any calendar year, then each applicable dollar amount for any taxable year beginning in the adjustment period for such calendar year shall be equal to the sum of—

"(A) such applicable dollar amount for taxable years beginning in such calendar year, plus

"(B) $500.

"(2) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any calendar year if the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for such calendar year,

is equal to or greater than $500.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2).

"(5) ADJUSTMENT PERIOD.—For purposes of this subsection, the term 'adjustment period' means, with respect to any calendar year to which this subsection applies, the period—

"(A) beginning on the 1st day of the calendar year following such calendar year, and

"(B) ending on the last day of the next calendar year to which this subsection applies."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

Subtitle B—Nondeductible Tax-Free IRAs

SEC. 111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless such contribution consists of a payment or distribution out of another special individual retirement account.

"(B) COORDINATION WITH LIMIT.—A rollover contribution shall not be taken into account for purposes of paragraph (2).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(C) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred from another special individual retirement account shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the account from which transferred."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 201(c), is amended by adding at the end thereof the following new paragraph:

"(8) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A).

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A.

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE II—PENALTY-FREE DISTRIBUTIONS

SEC. 201. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—Section 72(t)(3)(A) is amended by striking "(B),".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual 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 of a first-time homebuyer who is such individual or the child or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, 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.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) 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 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—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.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

"(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in subparagraph (A), and

"(ii) by reason of a delay in the acquisition of the residence, the requirements of subparagraph (A) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) without regard to section 408(d)(3)(B), and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) 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)).

"(B) 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."

(d) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act.

BENTSEN-ROTH IRA

MAKE DEDUCTIBLE IRA'S AVAILABLE TO ALL AMERICANS

Under the Bentsen-Roth proposal, all Americans would once again be eligible for fully deductible IRAs.

Under current law, only those who are not covered by any other pension arrangement and those with incomes under $25,000 for individuals and $40,000 for married couples are allowed to fully deduct IRA contributions. Annual IRA contributions cannot exceed $2,000 per individual. The $25,000 and $40,000 income thresholds are not indexed for inflation with the result that fewer and fewer Americans are eligible for IRAs each year.

PROVIDE TAXPAYERS WITH ANOTHER IRA OPTION

Each individual would have the option of contributing $2,000 per year either to a traditional IRA or to a new type of IRA. The individual could contribute the full $2,000 to either type of account or could allocate any portion of the $2,000 limit to the different accounts (*e.g.*, $1,000 to a traditional IRA and $1,000 to the new type of IRA). The $2,000 limit would also be indexed to reflect inflation.

Contributions to the new type of IRA would not be tax deductible, but if the assets remained in the account for at least 5 years all income would be tax-free when it is withdrawn. A 10% penalty would also apply to earnings withdrawn within the first 5 years.

PENALTY-FREE IRA WITHDRAWALS FOR FIRST-TIME HOMEBUYERS, EDUCATION EXPENSES AND FINANCIALLY DEVASTATING MEDICAL EXPENSES

The Bentsen-Roth IRA proposal would provide exemptions from the 10% penalty tax for withdrawals which are used to buy a first home, to pay educational expenses or to defray financially devastating medical expenses.

Under current law, withdrawals from IRAs are generally subject to a 10% penalty if made prior to age 59½. There are no exceptions to this 10% penalty for withdrawals used for first-time home purchases, higher education expenses, or medical expenses.

Young couples, their parents or their grandparents could draw down IRAs to pay for first-time home purchases without paying the 10% penalty tax for early withdrawals.

Parents or grandparents could draw down IRAs without penalty to pay for the education of their child or grandchild. High school students with part-time jobs could put their earnings into a tax-favored IRA and withdraw the money later for college tuition without penalty. An individual wanting to go back to school after a few years in the work force could use the IRA to save for anticipated education expenses.

Individuals with medical expenses (for themselves or their dependents) in excess of 7.5% of their income could make penalty-free withdrawals to help cover those expenses.

PENALTY-FREE WITHDRAWALS FROM 401(K) AND 403(B) PLANS FOR FIRST HOME PURCHASES AND EDUCATIONAL EXPENSES

Under the Bentsen-Roth bill, employees could make penalty-free withdrawals of their own contributions to 401(k) and 403(b) plans to assist with first-home purchase or educational expenses. These rules would be similar to the expanded rules provided for IRAs. Penalty-free withdrawals from 403(b) and 401(k) plans for high medical expenses are already permitted.

Section 401(k) and 403(b) plans are employer-provided retirement plans that allow employees to make tax-free contributions out of their paychecks. Under current law, once an employee makes a contribution to a 401(k) or 403(b) plan, withdrawals are generally subject to a 10% penalty tax similar to that applied to early withdrawals from IRAs.

SUPER IRA

Mr. ROTH. Mr. President, it is, indeed, an honor and a privilege for me to join our distinguished chairman, Senator BENTSEN, today, to announce the introduction of a granddaddy of an IRA plan, with wide bipartisan support, both on the Finance Committee and in the Senate. This is a matter that has been of great interest to both of us down through the years. I think by our bipartisan approach, we have an opportunity to move this country ahead.

Mr. President, as early as the late seventies, throughout the eighties, and now into the nineties, I have realized the tremendous need for the IRA. I promoted it in 1981, tried to save it in 1986 and, indeed, am heartened by the prospect of this legislation. Bentsen-Roth is a bill that we have worked long and hard to achieve, a bill that I believe is extremely well-conceived and one that promotes the two most important concerns facing us today: the family and the future of our economy.

Never have these two concerns been more important than they are right now—at a time when the family is being recognized, once again, as the most valuable unit of our society, and when the global community is redefining the nature of superpowers, not by the strength of their arms, but by the strength of their economies.

It is clear Congress not only understands these changes, and what they represent to the future of our country, but is willing to advance—in a strong bipartisan way—this proposal that addresses the needs of the changing environment.

You see, what sets this bill apart from other efforts in other years to restore the IRA is the fact that almost everyone seems to be working together this time. The fact that 71 Senators, including 13 on the Finance Committee, have joined together makes the passage of this legislation much more likely this year.

I believe this growing consensus demonstrates that Members are in agreement concerning the fact that if America is to compete in the emerging global community—if we are to have jobs and security for our families here at home—Americans must increase their rate of savings.

Congress understands that the issue of savings in this country has reached crisis proportions. The Chairman of the Federal Reserve, Alan Greenspan, recently told the Senate Banking Committee that the single most important long-term economic issue for America is that of national savings.

I believe it is the responsibility of Congress to make the job of saving as attractive as possible for the American family. And I strongly believe that the Tax Code is the best way to increase the national savings trade.

We all know the statistics: The Japanese save at a rate approximately four times that of our countrymen, largely—I believe—because of tax incentives they enjoy that encourage savings.

Japan has the highest personal saving rate among advanced nations. Consequently, that country enjoys ample funds needed to finance capital investment in the best and most productive equipment. That country's businesses and workers have the most advanced

tools available in the global marketplace.

Meanwhile, the U.S. Government levies a heavy tax burden on saving and capital. Though the American economy has many strengths, our tax policy hampers our ability to compete with the advantages offered by Japan. Our punitive antisavings and anti-investment Tax Code is crippling our competitiveness at a turning point in economic history.

We must remember that we cannot tax ourselves into prosperity. By suppressing saving and capital investment now, we are crippling our economy for the challenges of the future.

To reverse this process, one of the most important questions we must answer is how to encourage Americans to save more. And frankly, I believe the Bentsen-Roth bill provides a significant part of that answer.

This bill has been crafted not only to encourage those who traditionally save, but to bring new savers into the act.

This bill recognizes that there are other important reasons for Americans to save long term, besides the pressing economic needs of our country and the savers' respective needs for retirement.

For example, our young people today are finding an almost impossible time scraping together a downpayment for that first home. Our families are finding it more difficult to save for their children's college education. And, our older Americans are worrying about their security as retirement approaches, not to mention the escalating costs associated with health care.

Given these basic—but most important—necessities, the best answer to meet our savings needs is a bill that allows Americans to save for what they need most. And that is the approach that Senator BENTSEN and I have taken in drafting this legislation. This legislation allows savers the chance to use the IRA to help them pay for a college education, buy their first home or pay for financially strapping health costs.

Under these three conditions, the IRA savings can be withdrawn penalty free, and the best part is that is multigenerational in approach. In other words, grandparents, parents, and children can use their IRA savings to look after each other. The grandparents can help with the education of grandchildren.

Grandchildren can withdraw penalty free to provide health care for their dependent grandparents.

Parents can help with the first-time home purchases of their children, as well as use their IRA's to pay for college.

By allowing Americans the ability to withdraw IRA savings—savings once reserved for retirement only—for these additional purposes, without a penalty for early withdrawal, we have greatly enhanced the flexibility of the IRA and strongly encouraged Americans to put more savings away.

This is what real "Empowerment" is all about—empowerment for the family—empowerment because once again Americans can save for their own, and their family's own, self-reliance.

As I mentioned earlier, this new IRA offers a renewed opportunity to increase America's competitiveness in the emerging global economy. It is an opportunity borne by the fact that savings equal investment, investment equals jobs, and jobs equal a strong, vibrant economy. It has been estimated that after the first year this legislation is enacted, IRA deposits will increase to as much as $40 billion.

This represents long-awaited capital that the U.S. needs for investment, manufacturing, education, infrastructure, and other important goals.

With a Japanese savings rate of about four times the United States rate, and a cost of capital of about one-fourth that of the United States, it is no wonder that we are lagging behind in the international race to compete in the world.

Added savings of $40 billion and more from increasing annual IRA deposits is likely to be the best solution. And do not forget the benefit to the already weakened financial infrastructure in this country. The estimated deposits in U.S. banks in the first year alone from this legislation would be about $16 billion—money needed to provide productive loans and investment in this country for years to come.

Perhaps with the added savings from IRA's we can further our own investment in the United States rather than U.S. investments by foreign countries.

In fact, in recent years, over half of net domestic investment has been financed by capital from abroad. While this foreign saving has contributed to U.S. economic growth over the years, we are beginning to see why continued reliance on these inflows is not a viable policy.

Over long periods, for advanced countries, the rate of domestic investment tracks closely the supply of domestic saving. Ultimately, the United States must move from a position of current account deficit to surplus and capital outflow, as foreigners receive the returns on their investment in the United States. If that is to happen without a relative reduction in U.S. living standards, U.S. productive capacity must be increased and so must U.S. savings.

It is clear to see why Bentsen-Roth is a bill whose time has come. However—once again—the most important reason to pass it is to meet the needs of the most basic unit of our society. It is time we get back to the family. Only by allowing American families the opportunity—and even the right—to strengthen themselves can we expect society to be strengthened as a whole.

We have tried to work around this elementary truth for years now—some thinking that Government programs can replace the basic family unit.

Fortunately, we have come full circle—back to the understanding that it was family and community values that built a strong America, and it will be those same values that ensure a bright and prosperous future.

Mr. HEINZ. Mr. President, I am pleased to join a majority of my colleagues today in cosponsoring legislation designed not only to reinstate pre-1986 tax treatment of individual retirement accounts [IRA's], but to improve them as well. This bill addresses a problem that has concerned me for some time—the continually declining savings rate in this country.

According to the Department of Commerce Bureau of Economic Analysis—national income accounts—net private domestic saving in this country, which averaged 8 percent of the gross national product [GNP] between 1960 and 1981, steadily declined in the 1980's, and dropped from 5.3 to 4.2 percent between 1986—when the Congress repealed tax-deferred IRA contribution treatment for many Americans—and 1990.

A recent study conducted by professors Steven F. Venti of Dartmouth and David A. Wise of Harvard concludes that the reinstatement of tax-deductible IRA's would lead to higher personal savings. The study also presents evidence suggesting that the majority of IRA savings from 1982–85 represented "new" savings, not a shift from one form of savings to another, but a reduction in consumption and tax burden.

The low U.S. private savings rate contributes to high real costs of capital and higher trade deficits. Increased savings will lower interest rates, increase domestic investment, reduce Federal borrowing costs, and increase productivity and growth. It is because I believe that it would be irresponsible not to act to correct the pervasive problem of our declining net savings rate, that I have joined with Senators BENTSEN and ROTH in cosponsoring this bill today. However, I believe that this bill is just a first step to achieving the important goals of an increased net savings rate, a competitive net investment rate, and a lower cost of capital in this country. That is why I plan to introduce legislation in the near future that will expand upon this legislation and encompass a plan to achieve these goals.

The initiative which we are introducing today, will reinstate the tax-deductibility of IRA contributions for all Americans, or in the alternative allow tax-free earnings to investors, providing tremendous incentive for Americans to save rather than consume. In addition to providing many with a cushion for retirement, it will allow early penalty-free withdrawal for cer-

tain expenses: education; home ownership; and, catastrophic medical costs. All of which will help provide a better quality of life for Americans investing in IRA's.

In addition to providing for an expanded IRA with early withdrawal options for these certain justifiable reasons, the bill I plan to soon introduce will also provide an additional incentive to those who invest their IRA contributions in equities, which should improve the investment rate considerably. My bill will more directly address the "cost of capital" issue as well. It will allow for indexing of one's basis for inflation, so that upon the sale of capital assets individuals will no longer be taxed on illusory or phantom gain attributable solely to inflation.

As we discuss the merits of this IRA bill—and we most certainly will over the coming weeks—I ask that my colleagues keep an open mind and consider expanding the good idea embodied in the Bentsen-Roth bill to meet all the goals I have outlined today. It is only by achieving these goals that we can ensure America's future—both in terms of offering the best quality of life for its citizens and as an economic leader in the new global marketplace; something that is of vital importance to us all.

Mr. LEVIN. Mr. President, I am pleased to join with Senator BENTSEN in introducing this legislation to expand the eligibility for tax deductible contributions to individual retirement accounts. This legislation will help to address the need from both an individual and national perspective to increase savings. In doing so, I will correct a mistake which was made in the Tax Reform Act of 1986 and which, in fact, was one of the reasons why I voted against that bill.

I am particularly gratified to see that the legislation introduced today includes in it a provision which was embodied in legislation I introduced last year dealing with the use of IRA funds by first time home buyers. I believe that IRA funds are an important pool of savings which might make the purchase of a home more affordable. At the same time, I recognize that many first time home buyers have not worked long enough to make significant contributions to their own IRA's. Therefore, last year I introduced S. 2517, which provided that penalty free withdrawals from IRA's for the first time purchase of a home could be made not only by the first time home buyers themselves, but also by their parents and grandparents on their behalf. I believe this provision will provide first time home buyers with an additional option in their efforts to make the American dream of home ownership a reality for them.

Mr. SEYMOUR. Mr. President, I rise today as an original cosponsor of the Super IRA bill introduced by my distinguished colleagues, Senators BENTSEN and ROTH.

As many of my colleagues have explained, this bill allows individuals to withdraw money, penalty-free, from their IRA accounts for first-time home purchases, college education costs, and financially devastating medical expenses. These are three very important basic needs that ensure quality-of-life of all Americans.

Quite simply, housing and education costs have priced too many families out of the American dreams of college and home ownership. And the way the laws are written now, we are, in effect, penalizing young people and middle-income families who want to save money. This bill restores the incentives for Americans to save for some of the most important investments they will ever make.

For example, in California, the Housing Affordability Index for January 1991 indicated that only 21 percent of the households in my State could qualify for a median priced single family home. For first-time home buyers, the median cost of a home is currently $160,000, requiring a downpayment of $24,000.

This measure is designed to provide new mechanisms for the first time home buyer to save for a downpayment. Under this bill, families will be able to tap into their IRA accounts for a downpayment to purchase their first home. Furthermore, parents and grandparents will be able to assist their children without penalty for early withdrawal of their retirement savings.

All Americans, particularly those of us with children, are also concerned that access to higher education remains a reality. It is a proven fact that an educated population provides for a stronger, more powerful economy, creates more jobs, and costs the States far less in welfare rolls. The Federal Government must do all that it can to assist families as they work and save to ensure that our Nation's youth can get a college education.

This year, the Regents of the University of California voted to increase the tuition at their campuses by 40 percent. Over the past decade, the cost of attending a public university in California rose approximately 45 percent, and conservative estimates suggest that costs could increase by as much as 60 percent by the year 2000. At that time, the average total cost of attending a public university in California may reach $80,000 to $100,000.

Mr. President, ensuring that young Americans are not priced out of higher education must be a top priority, and this bill represents a vital step in the right direction.

Another potential burden for families that have worked hard and saved for a home and set aside money for their chidren's education, is the risk that unexpected medical costs can destroy those savings. This bill will give families peace of mind in the knowledge that their IRA funds are available for such emergencies.

This bill is not a panacea to the problems of affordable housing, college education expenses, and catastrophic illness costs, but it does give the working men and women of America an additional tool to provide for these expenses. This measure proactively encourages our young people and their families to save for their futures with the knowledge that the Government isn't going to penalize them for making a sound investment.

Mr. President, in the California Senate, I introduced similar proposals to assist first-time home buyers and parents of college-bound children, and am proud to be a part of this valuable and timely Federal legislation.

Mr. DOMENICI. Mr. President, I am pleased to join Senator BENTSEN, Senator ROTH, and many of my other colleagues in introducing the super IRA legislation.

The bill would give all Americans the right to invest in an individual retirement account. The bill is flexibly designed to meet the needs of every American family by giving them the choice between making a tax deductible contribution to a traditional IRA; a nondeductible contribution to a back-ended IRA; or splitting a contribution between the two types of accounts.

The legislation would restore the universal availability of the pre-1986, traditional IRA. The traditional IRA allows amounts up to $2,000 to be contributed each year. The contribution is tax deductible, but the interest income would be taxed upon withdrawal after age 59½.

Under the back-ended plan, initial contributions would not be tax deductible, but if the contribution remains in the account for at least 5 years, all income would be tax-free when it is withdrawn.

There is also a "Plus" component to either IRA plan. The legislation recognizes the hopes, dreams and expensive reality of buying a first home, paying for college or meeting unexpected medical bills. The legislation allows early, penalty free withdrawals for each of these three good purposes. This is why the proposal is called "IRA Plus."

College costs a lot.

For a child born today, the day this bill is introduced, the average undergraduate college education is expected to exceed $200,000 for private universities and $60,000 for state run universities.

Financing college must be nationally recognized as a partnership among parents, students, institutions of higher education and the Federal Government. Super IRA's are important to that partnership.

Buying a first home costs a lot too.

Individuals age 25 to 34 are the group statisticians call the "principal household-forming section of the population." This is the age group some of us think of as our sons and daughters. Research shows that for these 25 to 34 year-olds the primary impediment to homeownership is saving for the down payment. Super IRA's can remove that impediment. It provides an incentive for young families to save for a first-time home. It allows parents and grandparents to withdraw funds to help with that first-time home purchase too. The proposal recognizes that families like, and need, to help each other.

It doesn't take much of an illness to have a catastrophic impact on the family budget. For this reason Super IRA's would allow penalty free withdrawals to defray financially devastating medical expenses.

IRA's are a simple and effective savings plan. They are easily understood and can be set up with a minimum amount of paperwork and red tape. It is a flexible program enabling IRA participants to exercise their own freedom of investment choice through a variety of financial institutions that offer a broad selection of investment products.

Congress knows that IRA's were popular and widely used by American families prior to 1986.

Savings in the U.S. has been declining and the experts are puzzled as to the reasons why. We do know that as the baby boom generation has matured, we have experienced a national emphasis upon consumption.

One of the baby boomers that I saw recently wore a button, "Immediate gratification is not soon enough." We need to change that attitude. We need to provide better incentives for Americans to save. And since we know that Americans like, understand, and will contribute to IRA's, Super IRA's could be the mechanism to help change the "consume it now" culture.

Changing the attitude toward savings is vital to our economic well being. A country that saves more, prospers more.

Higher rates of savings leads to greater national wealth and a higher standard of living for the future. Higher rates of savings lead to a lower cost of capital that can make us more competitive. Lower costs of capital means that the boss can build that additional factory and provide more and better jobs.

During meetings of the National Economic Commission countless economists testified that increasing America's savings rate was as important as reducing the deficit and that both were the most pressing issues facing the long term economic prosperity of this Nation.

When Americans save, they are really investing in America and our Tax Code should reflect that national priority. Our major trading partners encourage saving in their tax code, and so should we.

When Congress legislates changes in the Tax Code which create initiatives for increasing saving and investment, it unfortunately reduces revenues and results in a higher deficit. We will not increase overall saving in our country if private saving is increased at the expense of government dissaving. Economists tell us the best way to improve saving in the United States is to reduce the Federal deficit—I am not about to abandon that goal.

It's a fact of life and the law of the land that enacting "IRA Plus" would require Congress to "pay as you go." We need to find a revenue offset, and my support of this bill is contingent on finding that offset.

We do not have an estimate for the revenue loss resulting from this proposal yet. But I suspect it will be significant. I commend the Chairman and Senator ROTH for their recognition that an offset must be found before this legislation can be enacted.

I look forward to working with the committee to increase America's saving rate.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUPER IRA LEGISLATION PROVIDES

Each individual would have the option to contribute $2,000 per year to a traditional IRA or a new IRA Plus. The individual could contribute the full $2,000 to either type of account or could allocate any portion of the $2,000 limit to the different types of accounts.

Contributions to the new type of IRA would not be tax deductible, but if the assets remained in the account for at least 5 years all income would be tax-free when it is withdrawn.

A 10% penalty would apply to withdrawals within the first five years.

Provides Penalty-Free IRA Withdrawals for First-Time Homebuyers, Education Expenses and Devastating Medical Expenses.

Singles, young couples, their parents or their grandparents would be allowed to withdraw IRA funds, penalty free to pay for:

First-time home purchases for themselves, for children or grandchildren;

Education for children or grandchildren;

Taxpayers incurring medical expenses for themselves or their dependents in excess of 7.5% of their income could make penalty-free withdrawals to help cover those expenses.

Section 401(k) and 403(b) Plans are employer-provided retirement plans that allow an employee to make tax-free contributions out of their paychecks. Once an employee makes a contribution to a 401(k) or 403(b) plan, withdrawals are generally subject to a 10 percent penalty tax similar to that applied to early withdrawals from IRAs.

Employees would be allowed to make penalty-free withdrawals of their contributions to 401(k) and 403(b) plans for first-time home purchases or educational expenses. Rules would be similar to the expanded rules provided for IRSs. Penalty-free withdrawals from 403(b) and 401(k) plans for medical expenses are already permitted.

CURRENT LAW

All individuals are eligible to make IRA contributions, but only those who are not covered by any other pension plan and those with incomes under $25,000 for individuals or under $40,000 for married couples are allowed to fully deduct their IRA contributions.

Withdrawals are subject to ordinary income tax and a 10 percent penalty if the withdrawal is made prior to age 59½.

Mr. ADAMS. Mr. President, I rise today to support legislation that once again makes IRA's a vital component of our Nation's effort to increase its savings rate. I congratulate the distinguished chairman of the Senate Finance Committee for moving ahead on this issue and introducing his bill at this time.

We all recognize that in order to remain competitive in a rapidly evolving world community, we must improve our national savings rate. Savings provides the necessary capital for public and private investment, increases productivity, keeps interest rates low and enhances our competitive edge.

And yet, the United States has fallen far behind in this key economic indicator. Over the last decade, our national savings rate has been lower than anytime since World War II. In 1989, U.S. consumers saved less than 5 cents of every dollar compared to about 16 cents for the Japanese. This is simply unacceptable.

It is time for America to start saving now so we can reinvest in our future.

As a result of the 1986 Tax Reform Act, participation in an Individual Account was strictly limited. This legislation will bring back universal access to IRA's. Not only does this bill reestablish the incentives to save through an IRA, it also allows penalty free withdrawals for American families to buy their first home, pay for a child's education as well as the devastating effects of a catastrophic illness.

I am pleased that this bill addresses these key issues for middle income America.

Today, American families are being priced out of the real estate market. In Washington State alone, the average price of a home has doubled since 1980. The price has risen so fast that the average family is forced to accumulate a sizable down payment before purchasing their first home. This legislation gives young couples and their families the opportunity to use savings in IRA's to meet those needs.

Over the last 10 years, Federal assistance for students attending college has been significantly reduced. At the same time, the cost of attending a 4 year college or university has nearly doubled. By creating a savings program where a family can plan for the future, we can guarantee the dream of a college education remains a reality.

And finally, this bill enables families to use their IRA's as a security net in the event of a catastrophic illness in the family. No one can adequately pre-

pare emotionally or financially for a catastrophic illness. But by allowing penalty free withdrawal from an IRA, we can help families meet the financial burden placed upon them in times of a health crisis.

Mr. President, the bill before us today is long overdue. We must stop the consumption binge we've been on for the last 10 years. We must create incentives to save and reinvest in our future and our children's future. This bill is a step in the right direction.

By Mr. DASCHLE (for himself, Mr. BINGAMAN, Mr. BURDICK, Mr. CONRAD, Mr. HARKIN, Mr. JOHNSTON, and Mr. INOUYE):

S. 614. A bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes; to the Committee on Finance.

COVERAGE OF CERTAIN CHIROPRACTIC SERVICES

• Mr. DASCHLE. Mr. President, I rise today to reintroduce legislation to expand the range of services for which chiropractors can be reimbursed under the Medicare Program. This bill advances a couple of objectives that we all should have for the health care system in the United States. First, it addresses issues of consistency and equity by removing outdated vestiges of still-pronounced discrimination against chiropractic practitioners in the Medicare Program. Second, the bill recognizes the enormous emerging pluralism in the health care field and contributes to improving both access to care and the means for containing health care costs by affording patients greater freedom to choose less expensive forms of diagnosis and treatment.

Existing Medicare law strictly limits reimbursement for chiropractic services to manual manipulation of the spine and only to correct a subluxation. In a dramatic example of twisted logic, the law explicitly requires a diagnostic x ray before chiropractic treatments can be initiated, but denies the chiropractor reimbursement for the x ray itself. Medicare patients must either pay for the x ray out of their own pockets, a cost that many cannot afford, or pass through the "gateway" controlled by other medical providers, whose x rays, typically far more expensive, are reimbursable under the program.

My bill lends some common sense to the Medicare Program. By rectifying the inconsistency in existing law, it ensures that the program's beneficiaries enjoy equitable access to a health care service much in demand, and it permits reimbursement to chiropractors for services for which they are fully licensed throughout the country and that they routinely provide to patients: Diagnostic x rays, diagnostic, physical examinations, and manual manipulation of the spine for a subluxation and other conditions.

I grew up in a community where chiropractors perform a valuable service by providing an alternative to allopathic medicine. The nearly 200 chiropractors in South Dakota serve the State well. In rural States like mine, chiropractors are often an essential source of health care delivery. Sometimes they are the only health providers in a community. In rural States across the country the chiropractic profession plays an integral role in the health care system.

But the issue is even larger than one of correcting inequities in the law and recognizing the contributions of chiropractors alone. We are constantly searching for ways to give more Americans greater access to quality health care, and to facilitate that availability of care in the most cost effective manner. One proven way to make progress toward those goals is to exploit the talent and dedication represented in the diversity of practitioners increasingly involved in the delivery of health care services in the United States. Competition among different kinds of providers and access to less expensive forms of care have to be emphasized, if we are ever to control escalating health care costs. Yet this competition, with the beneficial choices it brings, is virtually impossible when Federal programs like Medicare deny reimbursements for services offered by whole groups of licensed professionals. This shortsighted policy limits freedom of choice for health care consumers, and may force them to settle on more expensive care than is actually required.

At a time when soaring health care costs are threatening both the quality and the economic stability of our national health care delivery system, the cost savings potential of conservative, nonhospital-based chiropractic care should be fully explored. The bill that I am introducing today will help to provide access to quality care at a reasonable cost. Beyond the particulars of Medicare reimbursement for chiropractic services, I hope that it will foster vigorous discussion of alternative health care delivery models. I urge my colleagues in the Senate to support this measure to ensure that Medicare patients have the access they desire to the benefits of chiropractic care.•

By Mr. LAUTENBERG (for himself and Mr. LIEBERMAN):

S. 615. A bill entitled the "Environment Marketing Claims Act of 1991"; to the Committee on Environment and Public Works.

ENVIRONMENTAL MARKETING CLAIMS ACT OF 1991

• Mr. LAUTENBERG. Mr. President, today I am reintroducing the Environmental Marketing Claims Act of 1991. This bill will require the EPA to establish uniform, accurate standards and definitions for environmental marketing claims. In so doing, this bill will give consumers reliable and consistent guidance to help them compare environmental marketing claims. It will prevent the use of fraudulent, deceptive, and misleading environmental marketing claims, and encourage the development of innovative technologies and practices that favor natural resource conservation and environmental protection.

Mr. President, the United States is facing growing environmental problems like global warming, lack of landfill space, and air and water pollution. Today, more than ever, people realize one of the easiest and most effective ways they can help address these problems is through their consumer choices. National surveys have shown that 90 percent of American consumers would look for environmentally preferable products and pay more for them. Surveys also show that over 50 percent of American consumers would switch supermarkets and shop at one that offered environmentally sensitive products and practices.

American businesses realize the growing consumer demand for products that don't harm or are less harmful to the environment. They have responded with a plethora of environmental claims on products and packages. Now, practically everywhere consumers look, they are bombarded with products claiming to be better for the environment. Unfortunately, not all these claims are reliable, and many of them are deceptive and misleading.

Mr. President, instead of environmental consumerism, we are getting environmental confusion. When a product claims it is "environmentally safe," what does that mean? Does that mean that it didn't use harmful materials or processes during manufacturing or that it was made from recycled materials, or that it is biodegradable? Does it mean all of these? Perhaps it means something else altogether.

There are other, more specific claims that have some meaning to consumers and have the potential to let the marketplace help in addressing environmental problems, but these claims are sometimes misused or misleading. A product labeled "biodegradable" for example, must ultimately end up in a place where there is air, water, and microorganisms to break down the material for it to biodegrade. But most of the stuff we throw away in our trash cans never gets a chance to biodegrade because it goes to landfills that lack microorganisms, circulating air, and water necessary for biodegradation to occur.

Mr. President, I commend those manufacturers that honestly want to respond to consumer demand for environmentally preferable products. They, as much as anyone, want to play by a common set of rules. The American

people want to see firms invest in equipment or processes that can back up environmental claims. But companies won't want to do it if their competitors can make the same claim without the same commitment.

Without any direction, the goodwilled consumer who wants to do something to protect our environment is being confused, misled, and sometimes deceived.

Mr. President, it is a basic role of Government to establish common standards, measures, and definitions by which competition can take place fairly in the free market. A free market depends on it.

A free market also depends on free and accurate information. Information is power. This legislation will empower consumers with the understanding about environmental claims they need to help protect the environment.

Mr. President, the Environmental Marketing Claims Act of 1990 will make sure that consumers are getting the truth about the environmental products they buy. This bill sets up an independent advisory board of environmentalists, consumer and industry representatives to advise the EPA on standards and definitions governing the use of environmental marketing claims.

The bill also sets forth criteria to be considered by the board and the EPA to ensure that environmental claims are based on the best scientific information available and that the same claims meet the same standards. When a manufacturer claims a product is made from recycled materials, consumers have the right to know whether it is made from 10- or 90-percent recycled materials and whether those materials are useful byproducts from manufacturing or whether they are postconsumer materials taken out of the waste stream.

By requiring the EPA to develop regulations based on the best available technology and the most recent scientific knowledge, this legislation will encourage the development of innovative technologies and practices to be adopted by industry in considering the environmental effects when producing products and packaging.

Mr. President, I have worked closely with State attorneys general, environmental groups, and industry representatives in developing this legislation. It builds on a recent resolution by the National Association of Attorneys General that calls on the Federal Government to establish uniform national guidelines for environmental marketing claims. A similar resolution was adopted earlier this year by the National Association of Consumer Agency Administrators. And it has the support of a variety of national environmental organizations.

Industry is ready for regulations governing environmental marketing claims that would allow industry to compete on a level playing field. Consumers are eager to get the information they need to make informed choices according to their environmental preferences. The time for Congress to act is now, before consumers get so disillusioned that they won't believe any environmental claim they see.

I urge my colleagues to support this legislation so that industry and consumers can act consistently and effectively to help protect our environment through the free and "green" marketplace.

I ask unanimous consent that a copy of the bill be printed in the RECORD as well as letters of support of the bill.

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

S. 615

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 "Environmental Marketing Claims Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States is facing growing environmental problems such as global climate change, waste disposal, and air and water pollution;

(2) environmental marketing claims convey information about products and influence purchasing decisions;

(3) national surveys have shown that over 90 percent of American consumers would pay more for environmentally preferable products;

(4) conveying accurate and reliable environmental information in environmental marketing claims will be of great use to the consumers willing to change their purchasing patterns;

(5) environmental marketing claims are largely unregulated and can be deceptive; and

(6) deceptive environmental marketing claims exploit genuine consumer concern and may confuse consumers so as to impede the effectiveness of the use of legitimate environmental marketing claims addressing environmental problems.

(b) PURPOSES.—The purposes of this Act are to—

(1) prevent the use of fraudulent, deceptive, and misleading environmental marketing claims;

(2) empower consumers with reliable and consistent guidance to facilitate value comparisons with respect to environmental marketing claims;

(3) establish uniform, accurate standards and definitions that reflect the best available manufacturing practices, products, and packaging;

(4) encourage the development of innovative technologies and practices to be adapted by manufacturers in considering the environmental effects when producing products and packages; and

(5) encourage both consumers and industry to adopt habits and practices that favor natural resource conservation and environmental protection.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "product" means any commodity, good, or item distributed for promotional use, rent, lease, or sale through retail or wholesale sales agencies or instrumentalities for consumption or use;

(2) the term "package" means the coating, covering, container, or wrapping used during a product life cycle (including any outer container, wrapping, or label used in the retail display of any product);

(3) the term "life cycle" includes the—

(A) extraction;

(B) processing and manufacturing;

(C) transportation and distribution;

(D) use; and

(E) management as waste,

of raw materials used in the manufacture of a product or package, and of the product or package, including the energy consumption associated with the activities described in subparagraphs (A) through (E);

(4) the term "environmental marketing claim" means any symbols or terms that are on a label, package, or product or that are used in promotion or advertising to inform consumers about the environmental impact or environmental attributes of a product or package during any part of its life cycle;

(5) the term "label" means any written, printed, or graphic material affixed to, appearing upon a product or package, or appearing upon a shelf or display area that refers to a product of package;

(6) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(7) the term "end product" means only those items that are designed to be used until disposal; items designed to be used in production of a subsequent item are excluded;

(8) the term "postconsumer material" means only those products or packages generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid waste except that such term shall not include wastes generated during the production of an end product;

(9) the term "preconsumer material" means waste generated during production which cannot be returned to the same production process, nor used by another company to make a product similar to the original product, nor used by the same parent company to manufacture a different product, and includes all wastes generated during the intermediate steps in producing an end product by succeeding companies;

(10) the term "secondary material" means any preconsumer material, postconsumer material, or any combination thereof.

SEC. 4. ENVIRONMENTAL LABELING REGULATORY PROGRAM.

The Administrator shall establish by regulation an environmental marketing claims regulatory program. The purpose of such a program shall be to carry out the provisions of this Act.

SEC. 5. INDEPENDENT ADVISORY BOARD.

(a) ESTABLISHMENT.—The Administrator shall establish by regulation not later than 180 days after the date of enactment of this Act, an Independent Advisory Board (hereafter in this Act referred to as the "Board") to advise and make recommendations to the Administrator, as provided in subsection (c), concerning the regulation of environmental marketing claims.

(b) MEMBERSHIP.—(1) The Board shall consist of 15 members, including 4 ex officio members, who shall be appointed by the Administrator as follows:

(A) Three members who are recognized as consumer advocates, one of which is a recognized expert in marketing or consumer perception.

(B) Five members representative of industry and manufacturing, including—

(i) One retailer;

(ii) One manufacturer;

(iii) One recognized waste management expert in the private sector; and

(iv) One end user of post-consumer materials.

(C) 3 members representative of environmental organizations, of which 1 member is a recognized expert in soil science or environmental toxicology.

(D) Two members who shall serve ex officio who are officers or employees of State government, and of which—

(i) One member is recognized expert in consumer protection; and

(ii) One member who is recognized as a waste management, pollution reduction, or pollution prevention expert.

(E) One member who is an officer or employee of a local government and is engaged in pollution prevention or waste management or a municipal recycling program or consumer protection who shall serve ex officio.

(F) One member who is an officer or employee of the National Institute of Standards and Technology, who shall serve ex officio.

(2) Members of the Board serving ex officio shall have no vote.

(3) The Chairman of the Board shall be designated by the Administrator. The Board shall meet at the call of the Administrator or the Chairman.

(c) ADMINISTRATIVE MATTERS.—(1) The Board shall conduct its business in open meetings (subject to any requirement for privacy in personal matters and review of confidential information under any provision of law), and may hold hearings to seek public comment and participation in formulating recommendations for the definitions and standards described in section 6(a).

(2) Members of the Board who are not otherwise employed by the Federal Government may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(d) ANNUAL REPORT.—Not more than 180 days after the initial meeting of the Board, and annually thereafter, the Chairman of the Board shall submit to the Administrator a report that outlines the activities and recommendations of the Board relating to the items described in section 6. The initial report shall include the recommendations described in section 6(a).

SEC. 6. REGULATION OF ENVIRONMENTAL MARKETING CLAIMS.

(a) RECOMMENDATIONS BY THE BOARD.—Recommendations by the Board to the Administrator, shall include definitions and standards to be used in regulating environmental marketing claims. In making such recommendations, the Board shall consider the requirements for final regulations described in subsections (b) and (c), and shall consider available studies, standards, and other information that the Chairman of the Board determines to be appropriate.

(b) FINAL REGULATIONS.—(1) The Administrator, after considering the recommendations of the Board described in subsection (a), shall, not later than 15 months after the date of enactment of this Act, issue proposed regulations and not later than 18 months after the date of the enactment of this Act, promulgate final regulations governing the use of environmental marketing claims, including statements to the effect that a product or package is—

(A) source reduced;

(B) refillable;

(C) reusable;

(D) recyclable;

(E) has a recycled content;

(F) compostable;

(G) ozone neutral;

(H) nontoxic; or

(I) otherwise related to an environmental impact or attribute.

(2) In promulgating the regulations described in paragraph (1), the Administrator shall ensure that an environmental marketing claim shall be related to a specific environmental impact or attribute in such a manner as to ensure that such environmental marketing claims is not false, misleading, or deceptive and meets the requirements of paragraph (c)(2); except that this shall not preclude the use of general environmental seals of approval if the administrator determines that such seals are awarded according to objective criteria that promote environmentally preferable products and packages.

(3) In promulgating the regulations described in paragraph (1), the Administrator shall ensure that an environmental marketing claim has been substantiated on the basis of the best available scientific information.

(4) In promulgating the regulations described in paragraph (1), the Administrator shall assign a product to a category or subcategory for the purpose of such regulations according to the following criteria:

(A) the composition of the product; and

(B) the packaging of the product.

(5) In establishing product categories for the purposes of the regulations, as described in paragraph (1), the Administrator may establish a category for a specific type of product, or may assign a product to a general category on the basis of the function of the product.

(6) In promulgating the regulations described in paragraph (1), the Administrator shall ensure that environmental marketing claims shall make a clear distinction between the product and any accompanying packaging unless the claim applies to both.

(7) The Administrator shall include the following requirements in the final regulations described in paragraph (1):

(A)(i) An environmental marketing claim relating to "recycled content" shall be used only in connection with a product or package containing postconsumer materials if the percentage of recycled material is specified in the claim and, except as provided in clause (ii), the post-consumer material shall be no less than 25 percent, by weight from the effective date of the regulations until the year 2000 and no less than 50 percent by weight on or after the year 2000.

(ii) Notwithstanding clause (i), an environmental marketing claim relating to "recycled content" may be used in connection with a product or package that contains a percentage of post-consumer materials that is less than the percentage specified in clause (i), if a manufacturer, retailer, or distributor, or other person responsible for the use of such environmental marketing claim includes in such claim a sentence (in which the terms described in the regulation promulgated under section 6 are displayed no more prominently than other words in the sentence) that states the percentage (by weight) of post-consumer and secondary materials used in such product or package and no symbols are used in such claim.

(B) An environmental marketing claim relating to the "recyclable" nature of a product or package shall be used only in connection with a product or package for which a manufacturer, retailer, distributor, or other person responsible for the use of such environmental marketing claim is able to demonstrate, to the satisfaction of the Administrator, that such product or package shall be recycled, at a minimum rate of 25 percent per annum from the effective date of the regulation until the year 2000, and at a minimum rate of 50 percent per annum on or after the year 2000.

(C) An environmental marketing claim relating to the "reusable" or "refillable" nature of a product or package shall be used only in connection with a product or package that is reused for the original purpose of the product or package, an average of 5 times or more.

(D) No environmental marketing claim relating to the "biodegradable", "compostable", "decomposable", "degradable", "photodegradable" nature of a product, package or material, or any like term or terms, shall be used in connection with a product, package or material unless a manufacturer, retailer, distributor or other person responsible for the use of such environmental marketing claim is able to demonstrate, to the satisfaction of the Administrator, that such product, package or material—

(i) will decompose completely and safely in such a waste management system or systems through natural chemical and biological processes into basic natural constituents, containing no synthetic or toxic residues, within an amount of time compatible with such system or systems;

(ii) will not release or produce at any time toxic or synthetic substances that may be harmful to humans, other organisms or natural ecological processes, including during the management process and any subsequent application or use of products or by-products of the process, such as use of the product or by-product of composting as a soil amendment or mulch; and

(iii) shall be managed, at a minimum rate of 25 percent per annum from the effective date of the regulation until the year 2000 and at a minimum rate of 50 percent per annum on or after the year 2000 of all such products, packages or material, in a waste management system or systems which are protective of human health and the environment, and for which the Administrator determines the claim is a relevant and environmentally desirable and significant characteristic.

Any such environmental claim shall clearly specify the applicable management system or systems and specify that such claim applies only to products, packages or material that are managed in such a system or systems.

(8) In promulgating the regulations described in paragraph (1), the Administrator may authorize the use of an environmental marketing claim to be used in a retail outlet through a point-of-purchase display for any package, product, or material for which it can be demonstrated that a recycling, reuse or composting program serves the community in which the retail outlet is located and meets the requirements of paragraph (7) for that claim. Such a claim shall not appear on the package, product or material itself and shall clearly indicate the specific program or programs which meet the requirements of paragraph (7). Such a claim shall not be used

in connection with any package, product or material distributed in commerce in any community not served by a program which meets the requirements of paragraph (7).

(c) ADDITIONAL REGULATIONS.—(1) The Administrator may, at any time after the date of the promulgation of the regulations required under subsection (b), promulgate such additional regulations or make changes in existing regulations as the Administrator determines, on the basis of the criteria described in subparagraphs (A) and (B) of paragraph (2), to be necessary to carry out the purposes of this Act.

(2) In establishing and reviewing the regulations described in subsection (b), or in any additional regulations promulgated under this subsection, the Administrator shall determine whether the regulations—

(A) reflect the best available use and the best available technology that will encourage higher performance levels in products and packaging in meeting the objectives of reducing negative environmental impacts and improving environmental attributes; and

(B) reflect the most recent scientific and practical knowledge of technological advances and improvements in manufacturing techniques and waste management.

(3) Not later than 3 years after the date of the promulgation of the final regulations described in subsection (b) or any additional regulations promulgated under this subsection, and every 3 years thereafter, the Administrator shall review such regulations.

(4)(A) An interested individual (including a representative of industry, an interested citizen, or a representative of an environmental organization), may petition the Administrator to initiate rulemaking procedures with respect to promulgating additional regulations under this section.

(B) Not later than 60 days after receiving a petition described in subparagraph (A), the Administrator shall determine whether to accept or deny the petition and shall publish the petition in the Federal Register, along with an explanation of the reasons for such determination. If the Administrator issues a decision accepting the petition, the Secretary shall issue a proposed regulation to take the action requested in the petition not later than 90 days after the date of such decision.

(d) LIMITATIONS.—An environmental marketing claim:

(1) may be made two years after the enactment of this Act only if the environmental characteristic made in the claim uses terms which are defined by regulations of the Administrator;

(2) may not state the absence of an environmental attribute unless—

(i) the attribute is a usual characteristic of the product or package, or

(ii) the Administrator by regulation permits such a statement on the basis of a finding that such a statement would assist consumers making value comparisons with respect to environmental claims among products and packages and the statement discloses that the environmental attribute is not a usual characteristic of the product or package;

(3) may not be made if the Administrator by regulation prohibits the claim because the claim is misleading in light of another environmental characteristic of the product or package.

SEC. 7. CERTIFICATION.

(a) FILING OF A CERTIFICATION.—Not later than 6 months after the date of the promulgation of any regulation under section 6, any manufacturer or any other person who intends to use an environmental marketing claim for which the Administrator has promulgated a regulation shall first submit a certification to the Administrator that the environmental marketing claim intended to be used meets the requirements of this Act. Such certification shall be in such form as the Administrator shall prescribe by regulation and shall contain such information as the Administrator determines to be appropriate.

(b) DISAPPROVAL OF CERTIFICATION.—The Administrator may, at any time, disapprove the certification provided under subsection (a) if the Administrator determines that the environmental marketing claim that the manufacturer or other person intends to use does not meet the requirements of the regulations promulgated under section 6 of this Act.

(c) RECERTIFICATION.—Any person using an environmental marketing claim shall resubmit a certification to the Administrator that the environmental marketing claim used meets the requirements of the Act if:

(1) changes have been made in the product or package that would affect its ability to meet the regulatory requirements of the environmental marketing claim previously used for such a product or package, or;

(2) new regulations have been promulgated under this Act relating to the environmental claim being used.

Such recertification shall be submitted to the Administrator within 6 months of the occurrence of either event described in paragraphs (1) and (2) of this subsection.

SEC. 8. PROHIBITION.

It shall be unlawful for any person to:

(a) fail or refuse to comply with—

(1) any regulation promulgated under section 6(b) of this Act; or

(2) any order issued by the Administrator to carry out any such regulation;

(b) use an environmental marketing claim for which the Administrator has issued a regulation under section 6 if—

(1) the person has failed to file a certification as required by section 7; or

(2) the Administrator has disapproved a certification under section 7; or

(c) use an environmental marketing claim that is inconsistent with the requirements of section 6(d).

SEC. 9. PENALTIES.

(a) CIVIL.— (1) Any person who violates a provision of section 8 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day such a violation continues shall, for the purpose of this subsection, constitute a separate violation of section 8 of this Act.

(2)(A) A civil penalty for a violation of section 8 of this Act shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and the gravity of the violation, and with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior related violations, the degree of culpability, and such other matters as the Administrator determines to be appropriate.

(3) Any person who has requested a hearing with respect to the assessment of a civil penalty in accordance with paragraph (2)(A) and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If a person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly or willfully violates any provision of section 8 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) of this section for such violation, be subject, upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than 1 year, or both.

(c)(1) The authorized fines provided in subsections (a) and (b) shall be adjusted for inflation every 5 years a provided in this subsection.

(2) Not later than December 1, 1993, and December 1 of each fifth calendar year thereafter, the Secretary shall prescribe and publish in the Federal Register a schedule of maximum authorized fines that shall apply for violations that occur after January 1 of the year immediately following such publication.

(3) The schedule of maximum authorized fines shall be prescribed by increasing the amounts in each of the subsections referred to in paragraph (1) by the cost-of-living adjustment for the preceding 5 years. Any increase determined under the preceding sentence shall be rounded to—

(A) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

(B) in the case of penalties greater than $10,000 but less than or equal to $100,000 the nearest multiple of $5,000;

(C) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

(D) in the case of penalties greater than $200,000 the nearest multiple of $25,000.

(4) For purposes of this subsection:

(A) The term "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

(B) The term "cost-of-living adjustment for the preceding 5 years" means the percentage by which—

(i) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

(ii) the Consumer Price Index for the month of June preceding the date on which the maximum authorized fine was last adjusted.

SEC. 10. STATE ENFORCEMENT.

Proceedings for the enforcement, or to restrain violations of section 8 may also be brought in the name of a State in which the product or package that is the subject matter of the proceedings is located. If a State intends to bring such a proceeding, the State shall notify the Administrator at least 30 days before such proceeding is brought.

SEC. 11. CITIZENS SUITS.

(a) IN GENERAL.—(1) Except as provided in subsection (b), any person may commence a civil action against—

(A) any person who is alleged to be in violation of this Act (including the Government of the United States, to the extent allowable by law); or

(B) the Administrator to compel the Administrator to carry out ministerial duties assigned to the Administrator under this Act.

(2) Any civil action under this subsection shall be brought in the United States district court of the district in which the alleged violation occurred or in which the defendant resides or in which the defendant's principal place of business is located. The district courts of the United States shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties. The district court shall have jurisdiction to order all necessary injunctive relief and to impose any civil penalty.

(b) LIMITATIONS.—(1) No civil action may be commenced to restrain any violation of section 8 of this Act—

(A) before the expiration of 60 days after the plaintiff has given notice of such violation to—

(i) the Administrator; and

(ii) to the person who is alleged to have committed such violation;

(B) if the Administrator has commenced a proceeding for the issuance of an order to require compliance with the regulation or requirement and is diligently pursuing such proceeding or has issued an order to carry out the regulation or requirement described in section 8 and is diligently pursuing the enforcement of such order.

(C) if the Attorney General has commenced a civil action in a court of the United States to require compliance with the regulation, requirement, or order described in subparagraph (B) and is diligently prosecuting such civil action.

(2) No civil action may be recommended against the Administrator under subsection (a)(1)(B) before the expiration of a 60-day period after the plaintiff has given notice to the Administrator of the alleged failure of the Administrator to perform an act or duty which is the basis for such action.

(c) INTERVENTION.—(1) If a proceeding or civil action described in subsection (b) is commenced by the Administrator or the Attorney General after the giving of notice by a person (other than the Administrator or Attorney General) described in subsection (a), such person may intervene as a matter of right in such proceeding or action.

(2) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) NOTICE.—Notice under this section shall be given in such a manner as the Administrator shall prescribe by regulation.

(e) ATTORNEYS FEES AND COURT COSTS.—(1) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses if the court determines that such award is appropriate.

(f) CONSOLIDATION.—When two or more civil actions brought under subsection (a) involving the same defendant and the same issues or violations are pending in two or more judicial districts, such pending actions may be consolidated and tried in accordance with section 1407 of title 28, United States Code, and the rules promulgated pursuant to such section 1407.

SEC. 12. PUBLIC INFORMATION CAMPAIGN.

The Administrator shall conduct a public information and education campaign, including public service advertising, in order to enable consumers to—

(1) recognize environmental marketing claims regulated under this Act and be able to distinguish them from other environmental marketing claims,

(2) have information about the criteria used by the Administrator in establishing standards and definitions for environmental marketing claims, and

(3) have a better understanding about the effects that products and packages can have on the environment.

SEC. 13. STATUTORY CONSTRUCTION.

(a) RIGHT TO SEEK ENFORCEMENT.—Nothing in section 10 shall restrict any right which any person (or class of persons) may have under any other statute or under common law to seek enforcement of any regulation promulgated under section 6 of this Act.

(b) ACTIONS AGAINST ADVERTISERS.—Nothing in this Act shall be construed so as to alter the right under any other provision of law or under common law of a person or government to commence an action against an advertiser related to the use of false or misleading environmental marketing claims.

(c) STANDARDS.—Nothing in this act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement with respect to the use of an environmental marketing claim that is more stringent than a standard or requirement relating to an environmental marketing claim established or promulgated under this Act.

SEC. 14. CONFORMING AMENDMENT.

Section 11 of the Fair Packaging and Labeling Act (15 U.S.C. 1460) is amended—

(1) by striking "or" at the end of subsection (b);

(2) by striking the period at the end of subsection (c) and inserting ", or"; and

(3) by adding at the end of the section the following new subsection:

"(d) the Environmental Marketing Claims Act of 1990".

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

For the purposes of carrying out the provisions of this Act, there are authorized to be appropriated $10,000,000 for fiscal years 1992, 1993, and 1994.

STATE OF MINNESOTA,
OFFICE OF THE ATTORNEY GENERAL,
October 17, 1990.

Re Environmental Marketing Claims Act of 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing on behalf of the Attorneys General of California, Massachusetts, Minnesota, Missouri and Texas to express support for the Environmental Marketing Claims Act of 1990. In December of 1989, we joined with the Attorneys General of several other states to form a Task Force to investigate the most recent marketing trend: the promotion of products as "environmentally friendly." Although we are excited about the potential of the "green revolution" to encourage the manufacture and use of products that are less harmful to the environment, we are concerned about the alarming rise in the number of confusing and misleading environmental claims.

As members of the Task Force, we have strongly advocated uniform national standards for enviornmental marketing claims. In March of this year, we joined with the other members of the Task Force to urge the National Association of Attorneys General to endorse a resolution calling on the Federal Trade Commission and the Environmental Protection Agency to work jointly with the states to develop uniform national guidelines for environmental marketing claims with input from environmental groups, consumer groups and members of the business community. The resolution was adopted unanimously.

Your proposed legislation provides a framework for this national regulation and standardization of environmental claims. We commend you for developing and sponoring this important legislation. By providing for aggressive state and federal enforcement efforts, we believe that this legislation will greatly curtail the exploitation of consumers and the environmental that results from confusing and deceptive environmental marketing claims.

Best regards,

HUBERT H. HUMPHREY III,
Attorney General.

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, October 17, 1990.

Re Environmental Marketing Claims Act of 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express my support for the Environmental Marketing Claims Act of 1990. Greenmarketing, the selling of the environment, is clearly becoming the marketing craze of the 1990's. As consumers become more conscious and concerned about the environmental impact of the products that they purchase, environmental issues drive their purchasing decisions. Unfortunately, many companies are capitalizing on this genuine consumer concern by marketing products in a deceptive manner.

My office has been actively investigating companies that are engaging in deceptive and misleading environmental advertising. In June I filed suit against Mobil Chemical Corp. for making false claims about the alleged environmental benefits of its Hefty trash bag. Just today I announced a settlement that New York, together with nine other States, reached with the manufacturer of "Bunnies Biodegradable Disposable Diapers". Our agreement will require the company to immediately cease all advertisements which misleadingly claim that the diapers benefit the environment.

It is estimated that disposable diapers comprise as much as 2 percent of all municipal waste disposed of in landfills. Bunnies, by marketing their diapers as biodegradable, tried to exploit the interests of people who want the convenience of disposable diapers but are concerned about the waste problem

they create. Although labeled "BIODEGRADABLE", Bunnies diapers, like any organic waste, will take decades to degrade in our nation's landfills. Deceptive environmental claims like this are proliferating.

Consequently, there is clearly a real need for national standards for environmental marketing claims. In March of this year I endorsed a resolution of the National Association of Attorneys General calling on the Federal Trade Commission and the Environmental Protection Agency to work jointly with the States to develop uniform national guidelines for environmental advertising with input from environmental groups, consumer groups and members of the business community. This resolution was adopted unanimously.

Your proposed legislation provides a framework for such national standards. Further, by providing for both State and Federal enforcement, I believe that this legislation can effectively put an end to deceptive environmental marketing.

Very truly yours,

ROBERT ABRAMS,
Attorney General.

ENVIRONMENTAL DEFENSE FUND,
Washington, DC, February 24, 1991.

Hon. FRANK R. LAUTENBERG,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: Consumers have a critical role to play in shifting our industrial production systems toward more environmentally benign processes and products. The resurgence of environmental awareness among American consumers is a trend that product manufacturers cannot afford to ignore.

Unfortunately, many such manufacturers appear all too willing to substitute false or misleading claims for actual environmental improvements in the products they sell. To make matters worse, in the current climate where consumers find it hard to distinguish marketing hype from genuine environmental improvements in products, many responsible manufacturers see little incentive to improve their products or advertise those improvements.

This situation threatens to transform the positive potential of green marketing into little more than another case of consumer confusion and cynicism. This is why the Environmental Defense Fund [EDF] heartily supports your efforts to provide a consistent and sound basis for environmental marketing claims that would provide a level playing field for all manufacturers and a means of accountability to consumers for such claims.

The "Environmental Marketing Claims Act of 1991" which you are introducing would require the Federal Government to develop and enforce measurable standards and definitions for the use of key terms in environmental marketing. These standards and definitions would be technology-forcing in nature, recognizing the need for manufacturers to continually seek improvements in their products and packaging. Equally important, the Act provides for both citizen enforcement and additional efforts on the part of State governments to assure responsible green marketing.

Based on a number of years of experience in this area, EDF has become convinced that only through the establishment and aggressive enforcement of clear regulatory definitions and standards will consumer interests be served and protected—interests that, in our consumer-oriented society, need to be marshalled to support environmental renovation and innovation of the products we all use.

EDF commends your efforts in this area, and hopes that the "Environmental Marketing Claims Act of 1991" will be enacted into law at the earliest possible date.

Sincerely,

RICHARD A. DENISON, Ph.D.,
Senior Scientist.

ENVIRONMENTAL ACTION, INC.,
October, 17, 1990.

Hon. FRANK LAUTENBERG,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: Environmental Action, Inc. is pleased to express its strong support for the Environmental Marketing Claims Act of 1990. This bill represents an effective, timely, and no-nonsense approach to the important issue of environmental marketing and the misuse of misleading environmental claims in advertising.

American consumers are more aware today than ever that they can make a contribution to environmental protection by exercising "environmental choice" at the supermarket check-out stand. Polls consistently find the majority of consumers willing to choose products on the basis of their environmental attributes.

Product manufacturers are racing to tap the buying power of the new American green consumer. But some have been more interested in the "green" of the dollar than the green of the Earth. The past year has seen an explosion of false or misleading environmental claims designed to cash in on this new consumer awareness. Products with negligible levels of recycled material are labeled "recycled," plastic bags are labeled "degradable," and some aerosol products announce that they are "ozone-friendly."

Such terms are meaningless in the absence of standards governing their use. The Environmental Marketing Claims Act of 1990 directs the U.S. Environmental Protection Agency to set such standards at the national level. This bill builds on efforts already underway in States around the country to regulate the use of environmental claims on product labels or in advertising.

Environmental Action, Inc. again congratulates you for taking the lead on this important issue. We strongly support passage of this bill.

Sincerely,

RUTH CAPLAN,
Executive Director.

NATURAL RESOURCES DEFENSE COUNCIL,
New York, NY, October 16, 1990.

Senator FRANK LAUTENBERG,
Senate Hart Office Building, Constitution Avenue and 2nd Street NE, Washington, DC.

DEAR SENATOR LAUTENBERG: As you are well aware, consumer products carrying misleading environmental claims have proliferated as the public interest in a clean environment has mounted. Regrettably, the Federal Government has been slow to respond to this problem. As a consequence, the American consumer has been left in the dark, forced to sort out confusing or misleading statements for him/herself. For at least these reasons, your truth in labelling initiative, the Environmental Marketing Claims Act of 1990, provides an essential tool now missing from the arsenal of consumer protection. The Earth does not benefit from public relations or other symbolic measures. Moreover, upstanding American firms that show a true respect for our environment should not have to compete with unscrupulous marketeers who proffer misleading environmental claims. The passage of this initiative will truly benefit the environment and the economy. You should be applauded for your well thought-out initiative which we strongly endorse.

Best Regards,

ALLEN HERSHKOWITZ, PH.D.
Senior Scientist.

CONSUMERS UNION,
Washington, DC, October 12, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: Consumers Union would like to thank and congratulate you on the introduction of your bill to establish a national standard for environmental marketing claims.

Increased concern with the environment has brought with it a host of confusing and sometimes misleading claims in the marketplace that products are "green" or environmentally "friendly". It is difficult and often impossible for consumers to sort out and evaluate these claims. Further, there is no official standard by which to judge the honesty and accuracy of environmental marketing claims and no specific charge to any governmental authority to prosecute those that are false, misleading or deceptive.

Your bill sets forth a proposal to establish appropriate standards that can serve both to guide marketers who would make such claims and agencies who would be responsible for preventing deception. We are happy to endorse the principles in your bill and look forward to working with you to see that these principles become law.

Sincerely,

MARK SILBERGELD,
Director,
Washington Office.

By Mr. PELL (by request):

S. 616. A bill to authorize appropriations for fiscal years 1992 and 1993 for the U.S. Information Agency, and for other purposes; to the Committee on Foreign Relations.

U.S. INFORMATION AGENCY AUTHORIZATION ACT, FISCAL YEARS 1992 AND 1993

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for fiscal years 1992 and 1993 for the U.S. Information Agency, and for other purposes.

This proposed legislation has been requested by the U.S. Information Agency, 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 letter from the Director of the U.S. Information Agency, which was received on March 5, 1991.

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

S. 616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 101. This title may be cited as the "United States Information Agency Authorization Act, Fiscal Years 1992 and 1993."

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. In addition to amounts otherwise available for such purposes, there are authorized to be appropriated for the United States Information Agency to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, as amended, the Mutual Educational and Cultural Exchange Act of 1961, as amended, Reorganization Plan No. 2 of 1977, the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, the Inspector General Act of 1978, as amended, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the National Endowment for Democracy Act, as amended, and for other purposes authorized by law:

(a) For operating and special program accounts including "Salaries and Expenses," "Educational and Cultural Exchange Programs," "Broadcasting to Cuba," "Office of the Inspector General," "East-West Center," and "National Endowment for Democracy," $960,969,000 for the fiscal year 1992 and such sums as may be necessary for the fiscal year 1993 consistent with the Budget Enforcement Act of 1990 (P.L. 101-508) (hereafter "BEA").

(b) For the capital "Radio Construction" account, $98,043,000 for the fiscal year 1992 and such sums as may be necessary for fiscal year 1993 consistent with the BEA.

CHANGES IN ADMINISTRATIVE AUTHORITIES

SEC. 103. Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended—

(1) by deleting subsection (d); and

(2) by redesignating subsection (e) as subsection (d) and amending the latter subsection to read as follows (with new language underlined):

"(d) The provisions of this section shall not apply to or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the United States Information Agency as authorized by law, or appropriations made available under continuing resolutions."

SEC. 104. Section 705 (a)(7) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477s(a)(7)) is amended by replacing "$250,000" with "$500,000."

SEC. 105. Section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471) is amended by inserting the words "and television" after the word "radio" in clause (3) of the section.

SEC. 106. Section 804(9) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1474(9)) is amended to read as follows:

"(9) pay to or for individuals, not United States Government employees, participating in activities conducted under this Act, the costs of emergency medical expenses, preparing and transporting to their former homes the remains of such participants or their dependents who die while away from their homes during such participation, health and accident insurance premiums for participants, per diem in lieu of subsistence at rates prescribed by the Director of the Agency, and such other costs as are necessary for the successful accomplishment of the purposes of this Act;

Provided, That in lieu of purchasing or providing funds for the purchase of health and accident insurance for such participants, provide health and accident insurance benefits for the participants by means of a program of self-insurance."

SEC. 107. Section 247, Part D, Pub. L. 101-246, Television Broadcasting to Cuba Act (22 U.S.C. 1465ee.) is amended by adding the following new subsection (c):

"(c) Amounts appropriated to carry out the purposes of this part are authorized to remain available until expended."

SEC. 108. Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read in relevant part as follows (with new language underlined):

"SEC. 810. USE OF CERTAIN FEES AND PAYMENTS.

"Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees and other payments received by or for the use of the United States Information Agency from or in connection with English-teaching and library services, selected advisory services rendered to foreign students regarding study in the United States, * * * are* authorized to be credited each fiscal year * * *."

SEC. 109. Section 204 of Pub. L. 100-204 is hereby repealed.

SEC. 110. It is requested that there be included in the Authorization Act a provision reading substantially as follows: "Notwithstanding the provisions of any other law or limitation of authority, the United States Information Agency and the Ministry of Foreign Affairs, Union of Soviet Socialist Republics, shall be permitted to establish, maintain and operate reciprocal cultural-information centers in Moscow and Washington, D.C., respectively, in accordance with the provisions of the document entitled 'Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Establishment of Cultural-Information Centers of the United States of America and the Union of Soviet Socialist Republics,' which was signed in Washington, D.C. on May 31, 1990, by the Director of the United States Information Agency, and Aleksey A. Obukhov, Deputy Foreign Minister of the Union of Soviet Socialist Republics."

SEC. 111. Section 804 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1474) is amended—

(1) By deleting the word "and" at the end of clause (19);

(2) By replacing the period at the end of clause (20) with a semicolon; and

(3) By adding the following new clauses:

"(21) incur expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.);

"(22) furnish living quarters as authorized by 5 U.S.C. 5912; and

"(23) provide allowances as authorized by 5 U.S.C. 5921-5928."

SEC. 112. Special Immigrant Status for Certain Employees of the United States Information Agency.

(1) The Immigration and Nationality Act is amended by adding the following new section after Section 216A (8 U.S.C. 1186b).

"Section 216B Conditional permanent resident status for certain USIA employees:

(a) Conditional Basis for Admission: Conditional immigrant visas may be issued to employees of the United States Information Agency beginning fiscal year 1992 in a number not to exceed one hundred per fiscal year. Upon enactment, one hundred fifty additional visas shall be available to present USIA employees. Such employees shall be identified by the Director of USIA, and, if otherwise admissible, shall be admitted conditionally for a period not to exceed four years. Spouses and dependent children of such employees accompanying or following to join the alien employee may also be admitted as conditional permanent residents but shall not be subject to numerical limitation.

(b) Removal of Conditional Basis: Persons admitted under this provision shall be eligible for removal of the conditional basis of their admission for permanent resident status after one year, upon certification by the Director of USIA to the Attorney General; the Attorney General shall remove the conditional basis of his or her admission, if the alien is otherwise admissible, effective as of the date of such certification.

(c) Termination of Status: At any time during such four year period, the Director of USIA may certify to the Attorney General that such conditional status with respect to any alien should be terminated. Upon receipt of such notice, the Attorney General shall terminate such status and the alien and any other family members admitted with such alien shall be subject to deportation proceedings. The conditional status of any alien, admitted under this provision who has not had the conditional basis of his or her admission removed by a date four years after such admission, shall be deemed to have been terminated.

Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by adding the following:

"(K) an immigrant who is employed by the United States Information Agency for service in the United States, and his or her accompanying spouse and children, under conditions set forth in Section 216B of this Act."

(2) Section 804(1) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1474(1)) is amended by inserting the words "or as immigrants under section 101(a)(27)(K) of that Act (8 U.S.C. 1101(a)(27)(K)" immediately after the words "as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15))."

SECTION-BY-SECTION ANALYSIS

AUTHORIZATION OF APPROPRIATIONS

(*Note:* The title "Smith-Mundt Act", as used in this analysis, means the United States Information and Educational Exchange Act of 1948, as amended, and the title "Fulbright-Hays Act" means the Mutual Educational and Cultural Exchange Act of 1961, as amended.)

Section 101—Short Title

This section is self-explanatory.

Section 102—Authorization of Appropriations for the Fiscal Years 1992 and 1993

Section 102(a) of the United States Information Agency Authorization Act, Fiscal Years 1992 and 1993, authorizes the appropriation of $960,969,000 in Fiscal Year 1992 and such sums as may be necessary consistent with the Budget Enforcement Act of 1990 in Fiscal Year 1993 for operating and special program accounts. These amounts are requested to cover Agency operating costs, in-

*(Note: The word "are" is substituted for the present word "is" simply as a grammatical correction.)

cluding Salaries and Expenses, Educational and Cultural Exchange Programs, Broadcasting to Cuba, the Office of the Inspector General, the East-West Center and the National Endowment for Democracy.

The following table compares the Agency's 1992 request for authorization with the appropriations enacted for 1991.

Appropriations	1991 estimate	1992 estimate	Increase/decrease
Salaries and expenses	$652,757	$692,275	$39,518
Educational and cultural exchange programs	163,151	172,500	9,349
Broadcasting to Cuba	31,069	38,988	7,919
Office of the Inspector General	4,023	4,206	183
East-West Center	23,000	23,000	
National Endowment for Democracy	25,000	30,000	5,000
Total, operating and special accounts	899,00	960,969	61,969

For 1993, given the worldwide uncertainties and the need for maximum flexibility, the Agency requests such sums as may be necessary.

CHANGES IN ADMINISTRATIVE AUTHORITIES

Section 103—Continuing Resolutions without Prior Authorization

Congress frequently funds ongoing government operations at the beginning of the fiscal year through short-term Continuing Resolutions (CRs), pending final passage of appropriation acts. Traditionally, Section 701 of the Smith-Mundt Act has been construed to require the prior authorization of any USIA appropriation—including CRs.

Currently, this provision of law must be explicitly waived every time Congress funds USIA under a CR when, as is frequently the case, Congress has not yet enacted authorization legislation for the Agency. The purpose of this proposed amendment is only to eliminate the need for such a waiver. We will still need authorization for regular appropriations, so that no real authorizing committee jurisdiction will be bypassed. Since the amendment will simplify the appropriations process, the appropriations committees should support it. Incidentally, the deletion of present subsection (d) is recommended solely because it has long since been obsolete.

Section 104—Increase in Smith-Mundt Act Reprogramming Threshold

For years, the Agency has had to report any resource shift between elements (reprogramming) in excess of the lesser of $250,000 or 10 percent of an element's resources to the Authorizing and Appropriations Subcommittees. Last year, the Appropriations Subcommittees raised this limit to $500,000. We propose to make the authorization and appropriation requirements uniform by amending section 705(a)(7).

Section 105—Extending Administrative Authorities to the Television Operations at USIA

The purpose of this proposed amendment is to give the Agency the same express authority to purchase, rent, construct, improve, maintain, and operate facilities for television transmission and reception as the Agency now has with respect to radio transmission and reception facilities.

Section 106—Health and Accident Insurance and Related Benefits for Participants in Activities under Smith-Mundt and Fulbright-Hays Acts

Agency American Participant Speakers (AMPARTS) travel under the authority of either the Smith-Mundt or the Fulbright-Hays Act, depending largely on whether the purpose of their trips is to explain government policies or to participate in exchanges of information or ideas. However, because of differing language in the two Acts—i.e., Section 804(9) of Smith-Mundt and Section 104(e)(1) of Fulbright-Hays—AMPARTS traveling under the authority of the Fulbright-Hays Act are entitled to health and accident insurance and related benefits not provided to AMPARTS traveling under Smith-Mundt. This amendment would correct this disparity.

In addition, the amendment would give the Agency flexibility to choose between (1) the purchase of commercial health and accident insurance, the premiums for which have been constantly and sharply increasing or (2) the provision of health and accident insurance as a self insurer. AID has had a similar self-insurance program in effect for over ten years, and the Agency is advised that it has been very satisfactory and cost-effective.

Incidentally, it should be noted that while the amendment expressly authorizes a self-insurance program only for Smith-Mundt AMPARTS, the Agency would also be authorized to establish such a program for Fulbright-Hays AMPARTS because of the derivative authority contained in Section 108(d) of the Fulbright-Hays Act.

Section 107—Television Broadcasting to Cuba Act: Availability of No-year Funds

This is essentially a technical amendment in that the Agency's current appropriations Act (Pub.L. 101-515) already provides that funds appropriated for TV Marti are authorized to remain available until expended—i.e., "no-year" funds. However, this is not specifically authorized by the TV Marti Act itself. The amendment would simply make the authority for TV Marti expressly parallel the authority for Radio Marti appropriations, as well as the no-year funding authority provided under both the Smith-Mundt Act and the Fulbright-Hays Act.

Section 108—Recycling of Fees Received from Selected Educational Advisory Services

Currently, Section 810 of the Smith-Mundt Act permits the Agency to receive and recycle payments received by or for the use of USIA from or in connection with publications, English teaching, library, motion pictures and television programs. This amendment would give the Agency authority to receive and recycle fees for certain selected services relating to advising foreign students about studying in the U.S. Such fees would be used in support of related advisory needs.

We also urge that the words "and other payments" be inserted immediately after the word "fees" in Section 810. The word "payments" had always appeared in the section prior to its amendment by the Authorization Act for FY 90-91 (Pub. L. 101-246), and even in both the House and Senate bills underlying that Act. Inclusion of only the word "fees" is much too restrictive and, for example, might cast doubt on the Agency's right to reuse money received from the sale of publications.

Section 109—Repeal of Section 204 of Pub. L. 100-204 (USIA Posts and Personnel Overseas)

This provision prohibits the closing of overseas posts, except in certain limited circumstances, and prohibits the elimination of American positions overseas until the ratio between USIA American positions in the U.S. and overseas is the same as that existing in 1981. Because of the staff increases in the U.S. that took place in the 1980's related to the modernization of the Voice of America, the expansion of television and exchanges, and the establishment of radio and TV broadcasting to Cuba, compliance with this provision is impossible.

As the world situation changes, we may well decide that certain branch posts may no longer serve a useful purpose. This may become a more pressing alternative as our resource base shrinks. Finally, and perhaps most important, closing or opening overseas posts is—and should remain—an Executive Branch authority.

Section 110—Reciprocal U.S. and Soviet Union Cultural-Information Centers

This provision is essentially self-explanatory. It would, in effect, create an exception to current U.S. legislation that bans the opening of any new Soviet office in this country pending resolution of the problem of the new U.S. Embassy in Moscow. We believe that the matter of allowing the Soviet Union to establish a cultural-information center in the United States should be treated separately from the U.S. Embassy controversy.

Section 111—Additional Basic Authorities under Smith-Mundt Act

These amendments are technical changes urged by Appropriations Committee staffs. At present, the authority to pay certain expenses and allowances covered by the amendments is repeated each year in our appropriation acts. The amendments would make such authority permanent, simplifying the annual appropriations process. The amendments would provide permanent authority for payment of certain allowances and expenses authorized by the Foreign Service Act of 1980 and other legislation.

Section 112—Special Immigrant Status for Certain Employees of United States Information Agency

This special immigrant status would: (1) allow affected employees to travel freely in and outside the United States; (2) allow spouses and children to work, because they are immigrants; (3) allow employees to fulfill residency requirements regarding in-state tuition; (4) allow dependent children to remain in the U.S. after age 21, without changing status; and (5) guarantee retirement coverage for the employees. Furthermore, the Agency would be relieved of the necessity of filing for Third Preference.

The Director of the Agency would be authorized to make certifications and would communicate these certifications to the Attorney General who would remove the conditional status of the visa. The Director would be completely free to make or withhold such certifications.

It should also be noted that if the Agency did not want or need to bring a person into the United States as a special immigrant, it could bring him or her in under the H-visa or, pursuant to a bona fide training program, the J-visa.

U.S. INFORMATION AGENCY,
Washington, DC, March 4, 1991.

Hon. DAN QUAYLE,
President of the Senate.

DEAR MR. PRESIDENT: Pursuant to the United States Information and Educational Exchange Act of 1948, as amended, the Mutual Educational and Cultural Exchange Act of 1961, as amended, Reorganization Plan No. 2 of 1977, the Radio Broadcasting to Cuba Act, the Inspector General Act of 1978, as amended, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the National Endowment for Democracy Act, as amended, I am submitting the enclosed proposed legislation to authorize appropriations for the United States Information Agency for Fiscal Years 1992 and 1993 to enable the Agency to carry out international information and educational and

cultural exchange programs. A section-by-section analysis further explaining the proposed legislation is also enclosed.

The Office of Management and Budget advises that there is no objection to the submission of this proposed legislation to Congress and that its enactment would be in accord with the program of the President.

Sincerely,

BRUCE S. GELB,
Director.●

By Mr. HATCH (for himself, Mr. SPECTER, Mr. SIMPSON, Mr. DOMENICI, Mr. INOUYE, Mr. COCHRAN, Mr. D'AMATO, Mr. MCCAIN, Mr. BOND, and Mr. GORTON):

S. 617. A bill to reauthorize the Commission on Civil Rights; to the Committee on the Judiciary.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT

Mr. HATCH. Mr. President, I, along with nine of my colleagues, am introducing the U.S. Commission on Civil Rights Reauthorization Act of 1991. This bill reauthorizes the U.S. Commission on Civil Rights for 10 years. Presently, the Commission's authorization expires on September 30, 1991.

The Commission was originally established in 1957 and reauthorized for short periods thereafter. In 1983, the Commission was reconstituted, with four members appointed by the President, and two each appointed by the President pro tempore of the Senate and by the Speaker of the House. Senate confirmation is not required (42 U.S.C. 1975 et seq.).

The Commission's general mission has remained the same: to investigate allegations of discriminatory denial of voting rights; to study and collect information concerning legal developments constituting discrimination; appraise Federal laws and policies regarding discrimination, and serve as a national clearinghouse of information on discrimination.

I have not always agreed with the Commission's position on issues over the years, but I believe it has the potential to play a role in the Nation's continuing commitment to eradicate discrimination in American life. In my view, Congress should reauthorize the commission for a lengthy time—10 years—and allow it to do its work unimpeded by periodic fear that it may not be reauthorized.

● Mr. MCCAIN. Mr. President, I am proud to be an original cosponsor of the U.S. Commission on Civil Rights Reauthorization Act of 1991. Quick passage of this measure will help our Nation eliminate all forms of discrimination.

The Commission on Civil Rights has performed a valuable service for our citizens, and the Commission must be allowed to continue its important work. Since its creation in 1957, the Commission on Civil Rights has been tasked to collect and study information on discrimination or denials of equal protection of the laws due to race, color, religion, sex, age, disability, and national origin. The Commission also studies and makes findings of fact on the administration of justice in such areas as voting rights, enforcement of Federal civil rights laws, and equality of opportunity in education, employment, and housing. The Commission then reports its findings to the President and Congress so that the lawmaking and executive branches may act on them.

The job that the Commission on Civil Rights performs is not an easy one, and one that is not always popular. I, myself, have not always agreed with the Commisson's findings on issues. I believe, however, that the Commission has proved extremely important in eradicating discrimination from the American landscape, and that it should be allowed to continue its mission without constant and continual congressional intervention.

Last year the Congress passed—with my strong support—and the President signed, the landmark Americans With Disabilities Act. This year, the Congress will likely debate additional civil rights legislation. The effectiveness of these measures and their successful implementation is not always easy to discern, and the Commission can play a vital role in monitoring the effects of laws enacted by the Congress to promote equal opportunity.

Mr. President, equality of opportunity is one of the cornerstones our Nation was built upon. However, this principle that makes our country so great is also very tenuous. We must be vigilant in our protection of equal opportunity, and the Commission on Civil Rights will help us do exactly that. Mr. President, the Commission should be reauthorized, and I urge my colleagues to support this measure.●

By Mr. BIDEN (for himself and Mr. DECONCINI):

S. 618. A bill to control and reduce violent crime; to the Committee on the Judiciary.

VIOLENT CRIME CONTROL ACT OF 1991

Mr. BIDEN. Mr. President, I rise today to introduce the Violent Crime Control Act of 1991, the most comprehensive anticrime initiative I have ever proposed. It is my belief that this legislation would make tremendous strides toward restoring safety and sanity to our Nation's dangerous streets.

America needs a crime bill and it can have one in 100 days. But it must be a crime bill that is tougher than the one the President proposed yesterday, in at least two important respects:

First, it must ban the killer assault weapons used by drug-dealers and terrorists.

Second, it must do more to add new police officers to the front lines of the war on crime.

If anyone doubts that such action is needed, I urge them to take a look at a report that the Judiciary Committee majority staff is releasing today.

This report, entitled "Fighting Crime in America: An Agenda for the 1990's," contains new data that illustrates how horrible the crime problem has become.

Among the report's findings:

The year 1990 set a national record for murders, a national record for rapes, a national record for assaults, and a national record for robberies. Last year's increase in murder and rape was the largest 1-year jump in more than a decade. And every American—every American—is four times more likely to be victimized by a violent crime today than he or she was in 1960. The fact is this: more Americans were killed on our streets over the past 8 weeks than were killed by enemy soldiers during Operation Desert Storm.

Yet if the report we are releasing today contains some depressing, stark facts, it also contains some rather simple—but important—solutions for meeting this crisis.

And these solutions form the core of the legislation I am proposing today: a bill, I am proud to say, that was endorsed last month by my colleagues in the Senate Democratic Conference.

Before I discuss our bill, I want to say a few things about the President's 100 days.

I have little doubt that Congress can pass a crime bill in 100 days. In fact, we could have passed a crime bill last year had the special interests in the gun lobby not worked to stall, delay, and ultimately kill the bill because of its ban on deadly assault weapons.

Simply put: If the President would join the Congress in banning the murderous weapons that are killing police officers, children and countless innocent bystanders, we could easily pass a crime bill within the next 100 days.

The report we are releasing today makes clear what America must do to end its rapidly rising crime rates:

First, we must get the people who commit crimes out of the community, and we must punish them severely for their actions;

Second, we must stop people from committing crimes before they happen; and

Third, we must get the deadly weapons off the streets.

On the first of these goals, our bill has little difference from the President. We disagree not in what the President proposes—but what he opposes—not in what he includes but in what he excludes.

Like the President's bill, our bill:

Imposes the death penalty for the largest number of offenses in U.S. history—indeed, our bill covers even more capital offenses than does the President's.

It extends the death penalty for drug killers, terrorists, and the murderers of law enforcement officers.

It shortens the appeals process for capital offenders.

And, it increases penalties for criminals who commit gun offenses.

We have no disagreement with the President over whether we must punish criminals severely. On this point, both proposals are in agreement. Our differences with the President start with the second goal, the question of whether more must be done to prevent crimes in the first place.

Here, we think that much more must be done—not just to punish criminals—but also to make our streets safer from mayhem in the first place.

On this point, the findings of our new staff report are worth noting. It shows:

In 1950, America had three police officers per violent crime. Yet today, the ratio is just the reverse—three violent crimes per officer.

After 18 months of the administration's war on drugs, the number of police officers on our streets today is only 1 percent higher than it was when the President's effort was launched.

And the administration's 1992 budget actually proposes a cut in Federal aid sent to local law enforcement agencies.

Our streets are unsafe because our police forces are undermanned and overwhelmed. They can never be safe again until we reverse this imbalance.

That's why our bill, unlike the President's, includes funding for thousands of new police officers, FBI agents, DEA agents, and other law enforcement officers. We don't want to just punish murderers, we want to prevent murders.

And it's why our bill includes three new initiatives that the President's plan ignores: a comprehensive new program to combat juvenile gangs; more help for rural areas that are suffering rising crime rates; and emergency aid to the places hardest hit by drugs.

And it is why we are pushing an important initiative called the Violence Against Women Act, which would tackle the escalating problems of rape, domestic violence, and sexual assault.

The Violence Against Women Act, along with Senator DECONCINI's motorcycle gang bill are further aspects of our anticrime agenda that are not adequately addressed by the President's plan.

Finally, and again, unlike the President's bill, our bill addresses a third goal of any substantial crime legislation; getting killer assault weapons off the streets.

Our bill includes the so-called DeConcini amendment, a measure adopted by the Senate last year to ban the manufacture and sale of 14 deadly assault weapons.

These guns are the weapons of choice for drug dealers and international terrorists. They have no legitimate purpose and they must be controlled before they kill any more of our law-abiding citizens.

Unfortunately, the President's bill is silent in this respect. Instead of controlling assault weapons, the President proposes to increase the penalties on those who use such guns to commit crimes.

Mr. President, I say this in response: We agree that gun criminals should face stiffer punishments, but we also think that we should get the most deadly weapons off the streets before they are used to kill or maim anyone else.

In sum: The President wants to punish crime—and so do we—but we also want to do more to prevent crime, and make our cities and towns safer for all Americans.

Can the Congress meet the challenge to pass a crime bill in 100 days? I am convinced that if the President works with us, this ambitious goal can be achieved.

But for this goal to be a meaningful one, the crime bill we pass must be a meaningful one. Our goal should not be to pass just any crime bill within 100 days, but rather, to enact a comprehensive, valuable piece of crime-fighting legislation in that period.

To achieve that end, the President must help us in two ways: First, he must prevent his allies in the gun lobby from blocking this bill, and indeed, he should join us in coming up with an agreeable proposal to limit these weapons; and second, he must work with us putting aside the rhetoric of partisanship on crime to reach an accord on a bill that we can all support.

None of us here in Congress or at the White House, Republican or Democrat—can afford to wait any longer to start to tackle this crisis.

Hopefully, if we all work together, we can make progress to combat death and violent aggression on this home front as swiftly and decisively as we achieved this same end in the gulf.

I urge my colleagues to review our new majority staff report and join me in supporting the Violent Crime Control Act.

I ask unanimous consent that the full text of my bill, along with a side-by-side comparison of it to the President's bill, and some summary materials, be printed in the RECORD.

Mr. President, I rise today to introduce a voluminous piece of legislation, but I think an important one—I hope my colleagues see it that way—the Violent Crime Control Act of 1991. This is the most comprehensive anticrime initiative I have ever introduced in the 18 years I have been here, and it is my belief that this legislation would make tremendous strides toward restoring safety and sanity to our Nation's streets and neighborhoods.

Mr. President, before I say my little piece here, let me point out that the President announced yesterday that violent crime is going to be his No. 1 domestic initiative. I hope that doesn't mean we are going to back off on the fight against drugs. The President laid out a crime bill, a crime bill all of which we passed last year here in the Senate. It ultimately failed because of a Presidential threat of a veto because we in the Senate included a provision eliminating 14 assault-style weapons—the so-called DeConcini bill.

Mr. President, I want to say at the outset about the death penalty that I do not think many of us in here—I know the Senator from Florida, because he knows so much about this area and has worked so hard in it so long when he was a Governor and since he has been here—disagree. Few of us disagree—at least I do not, nor does the Senator from Florida—on reinstating the death penalty.

Our bill last year provided for the death penalty. And the bill this year provides for a dealth penalty—total of 44 offenses for which you can recieve death as the penalty. That is more than what the President is proposing.

There is also a proposal the President has to change the habeas corpus law. The Senator, as an attorney and former attorney general, knows full well what that means. It means that there are people who have been put on death row, and who are filing frivolous and successive petitions that are taking up the courts' time and everyone's time.

But we can change habeas corpus tomorrow, and it will have no effect on the crime rate; zero. Those folks on death row are not shooting people. Yet, if you listen to some of my colleagues talk, they will tell you: "If we get the death penalty and we get a change in habeas corpus, well, we will change the world. Our streets will be safer."

Now, I support the death penalty. I am going to try to pass it again through this legislation. We passed it here in the Senate, and passed it in the House, and we are going to pass it again. That is not a big problem.

But with the Federal death penalty, Mr. President, if you add up all the potential people who will be put to death and convicted for all the crimes we include, you are not talking about more than a dozen folks a year. Heck, there are far more murders right here in the city of Washington. We are not talking about a lot of people.

The point I wanted to make is this: It is not what the President has proposed in his legislation that I oppose; it is what he does not propose. We will change the habeas corpus law to provide for only one appeal, one bite out of the apple. We have some disagreement among ourselves and with the President over the nuances. We will settle that. And we will pass a death penalty.

As I said, I spoke to a group of attorneys general this morning—and you

spoke to them just prior to my speaking to them, Mr. President—Republicans and Democrats alike. And the attorneys general all nodded like you did when I said the following: Assuming what the President proposed on the exclusionary rule is constitutional, which it is not; and assuming we allow people to go in and knock down people's doors without a search warrant, and say: "Golly, I made mistake;" and assuming they can prove they made a mistake, it is all right. Assume that is the case. Add up all the cases where a conviction has been overturned because the evidence was illegally seized, or where the prosecutor did not go forward because the evidence that he had at his disposal or her disposal was tainted because it was illegally seized. Add it all up. What does it add up to? 1 percent, 2 percent, 5 percent; an outrageous 15 percent of all the crimes committed? That would be bizarre, but let us say it is that.

The combination, Mr. President, of habeas corpus, restoration of the death penalty, and exclusionary rule, on the best day, would account for a very small percentage of the violent crime that is committed out there.

Mr. President, I am going to put in the RECORD "Fighting Crime in America; Agenda for the Nineties," a majority staff report. I am proud to say, Mr. President, that every staff report we have put out in the Judiciary Committee in recent years has been met with universal approval by conservatives, liberals, Democrats, Republicans, good guys, and bad guys. No one has disputed thus far, that I am aware of, the credibility of the reports we file.

Mr. President, we do not need, really, more studies and reports. We know the problem. The problem is that the streets are not safe.

There are three pieces to the problem. One, once you convict these folks, what do you do with them? The President and JOE BIDEN are in full agreement: You give death if it is a crime that warrants death. You radically limit the habeas corpus appeals. And you also allow the police some more flexibility relative to seized evidence. So far, so good.

Now, Mr. President, comes the hard part: Doing something about crime. The hard part, now. The hard part is, Mr. President, you have to deal with what this report and every other report shows. The murder rate is the highest it has ever been in the history of America—the highest ever. And although I have been wrong about many things—and if you stick around longer, I will be wrong again—there is one thing I was right about: last year I said that we were going to have the highest murder rate in history and we did. It did not take a genius to figure it out.

We have a higher rate merely because more people are shooting other people. As the head of the Trauma Division at Einstein Medical Center—one of the best trauma hospitals and emergency hospitals in the world—testified before my committee, she said, "Senator, 5, 7, 12, 15 years ago, when my trauma team had somebody, when that little blue light goes on, we had someone with a 22-caliber bullet in the skull somewhere, we had a chance to save them, or there may have been a 22-caliber slug in the shoulder or a Saturday night special in the leg. Senator, we do not get those anymore. When that little blue light goes on—I guess it varies from hospital to hospital what color light—when the light goes on, my trauma team heads down to meet the ambulance. Instead of a 22-caliber bullet lodged in the lung, the lung has been blown out of the body of the person because it is a 38-caliber gun that had done it." Or, "Senator, we don't get one-shot victims anymore. There are shots from their groin to their ears. So I have to worry about saving the leg, the intestines, the heart, and then the brain, all in one patient because they are the victims of semiautomatic weapons. When they fire those things, the bullets just scatter."

It does not take a genius to figure it out. Guns, guns, new guns, powerful guns, nonsporting guns are responsible for these murders. So I reintroduced the DeConcini assault weapon provision in this bill. Now, I tell you, Mr. President, that is not going to stop the murder rate. I am going to hear from my colleagues and the president of the NRA that people kill people, guns do not kill people. Well, let us assume that is true. I accept that. All I want to do, Mr. President, is to make it a little bit harder, a little bit harder for these guns to find their way into the hands of young people, drug lords, nondrug lords, local corner bosses.

I was asked, I say to my friend from Florida, to go to a small dinner with the President of Colombia. I do not often stay in Washington to go to those dinners, but there were six people or eight people invited. I sat with him. Do you know what he said to me? He said, "Can you do anything to help? The Medellin cartel boys fly into Florida, walk into a gun store, and they buy these things."

Now, those who have a second amendment argument, I just say to them, if you think people should not have Abrams tanks in their backyards, you have already crossed the constitutional line. If you can ban any weapon from anyone, you can ban any other weapon. So, Mr. President, we must deal with guns.

The second important thing in this legislation, Mr. President, is the only thing that is going to affect crime: More personnel, more police officers on the street for State and local governments, and the Federal Government. The President does not propose adding any new police officers. I want to fight crime. We need police officers to fight crime. Since the President has been President and his major new effort is under way, there has been a 1 percent increase in the number of police officers on the street. In the year 1960, if my recollection serves me correctly, we had as many police officers. It is a different world. The President proposes nothing for this.

The President also proposed nothing to deal with another obvious crime problem, violence against women. Mr. President, rape and violent assault are growing at record rates. I have introduced an entire crime bill just to address violence against women. The President has refused to support it as if it is not a problem. I know he is concerned. But violent assaults against young men, Mr. President, have decreased 12 percent in the last 15 years, while against women, they are up 50 percent.

Now what is this about? Mr. President, I heard my distinguished friend, the Republican leader, talk about the civil rights bill, asking whether it is politics or not. Well, Mr. President, we can have a crime bill in 15 minutes, 15 days, not 100 days, if the administration is willing to deal with what is not in this bill—assault weapons, more police officers, and violence against women.

Mr. President, when the first drug bill was introduced by the President of the United States, it banned the sale of assault weapons manufactured abroad. The President ultimately backed off his position. He is incredibly popular now. He has political capital that he is spending and he should spend to make his point relative to the Democrats, as he should. By the way, I am not complaining about that; he should use that capital. But I respectfully suggest that he consider using some of that political capital with the NRA. Over 85 percent of the people in this country, Mr. President, think we should do something about those 14 assault weapons—Uzis and Streetsweepers, and I will not go through all of them. Now is the time to expend a little bit of that capital.

So, Mr. President, I stand ready as chairman of the Judiciary Committee, and I am sure all my colleagues in the Senate and the House stand ready, to work with the President today, tomorrow, until it is done, to move on establishing the death penalty and reforming habeas corpus. But we must also provide more police, more protection, fewer assault weapons, and more help to women who are victims of crime.

I thank the Chair.

I ask unanimous consent that, along with the bill, a copy of "Fighting Crime in America, An American Agenda," and also a side-by-side comparison of this bill that I am sending to the desk be printed in the RECORD.

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

S. 618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFER STREETS AND NEIGHBORHOODS

Sec. 101. Short title.
Sec. 102. Grants to State and local agencies.

TITLE II—DEATH PENALTY

Sec. 201. Short title.
Sec. 202. Constitutional procedures for the imposition of the sentence of death.
Sec. 203. Specific offenses for which death penalty is authorized.
Sec. 204. Applicability to uniform code of military justice.
Sec. 205. Death penalty for murder by a Federal prisoner.
Sec. 206. Death penalty for civil rights murders.
Sec. 207. Racial Justice Act of 1991.

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT.

Sec. 301. Death penalty for the murder of Federal law enforcement officials.
Sec. 302. Death penalty for the murder of State officials assisting Federal law enforcement officials.

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

Sec. 401. Short title.
Sec. 402. Death penalty for certain drug criminals.
Sec. 403. Drug distribution conspiracies.
Sec. 404. Drug import and export conspiracies.
Sec. 405. Drug distribution to minors or by employing minors.
Sec. 406. Export and import of major drug quantities.
Sec. 407. Distribution of major drug quantities.

TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS

Sec. 501. Short title.

Subtitle A—Punishing Domestic and International Terrorist Acts

PART I—TERRORIST DEATH PENALTY ACT OF 1991

Sec. 511. Short title.
Sec. 512. Terrorist death penalty offense: terrorist acts abroad.

PART II—TERRORIST ACTS COMMITTED IN THE UNITED STATES

Sec. 521. Criminal offense for domestic terrorist acts.

PART III—INCREASING PENALTIES FOR INTERNATIONAL TERRORIST ACTS

Sec. 531. Penalties for international terrorist acts.
Sec. 532. Clerical amendments.

Subtitle B—Preventing Domestic and International Terrorist Acts

PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS

Sec. 541. Providing material support to terrorists.
Sec. 542. Forfeiture of assets used to support terrorists.

PART II—ELECTRONIC COMMUNICATIONS

Sec. 545. Cooperation of telecommunications providers with law enforcement.

PART III—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS

Sec. 551. Short title.
Sec. 552. Alien witness cooperation.
Sec. 553. Conforming amendment.

Subtitle C—Preventing Aviation Terrorism

Sec. 561. Preventing acts of terrorism against civilian aviation.

Subtitle D—Preventing Economic Terrorism

Sec. 571. Counterfeiting U.S. currency abroad.
Sec. 572. Economic Terrorism Task Force.

Subtitle E—Authorizations to Expand Counter-Terrorist Operations by Federal Agencies

Sec. 581. Authorization of appropriations.

TITLE VI—DRIVE-BY-SHOOTING ACT

Sec. 601. Short title.
Sec. 602. New offense for the indiscriminate use of weapons to further drug conspiracies.

TITLE VII—ASSAULT WEAPONS

Sec. 701. Short title.
Sec. 702. Unlawful acts.
Sec. 703. Definitions.
Sec. 704. Secretary to recommend designation as assault weapon.
Sec. 705. Enhanced penalties.
Sec. 706. Disability.
Sec. 707. Study by Attorney General.
Sec. 708. Sunset provision.

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Establishment of office of the police corps and law enforcement education.
Sec. 804. Designation of lead agency and submission of State plan.

Subtitle A—Police Corps Program

Sec. 811. Definitions.
Sec. 812. Scholarship assistance.
Sec. 813. Selection of participants.
Sec. 814. Police corps training.
Sec. 815. Service obligation.
Sec. 816. State plan requirements.
Sec. 817. Authorization of appropriations.

Subtitle B—Law Enforcement Scholarship Program

Sec. 821. Definitions.
Sec. 822. Allotment.
Sec. 823. Program established.
Sec. 824. Scholarships.
Sec. 825. Eligibility.
Sec. 826. State plan requirements.
Sec. 827. Local application.
Sec. 828. Scholarship agreement.
Sec. 829. Authorization of appropriations.

Subtitle C—Reports

Sec. 831. Reports to Congress.

TITLE IX—FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 901. Short title.
Sec. 902. Authorization for Federal law enforcement agencies.

TITLE X—HABEAS CORPUS REFORM ACT

Sec. 1001. Short title.
Sec. 1002. Special habeas corpus procedures in capital cases.
Sec. 1003. Law controlling in Federal habeas corpus proceedings.

TITLE XI—PUNISHMENT OF GUN CRIMINALS

Sec. 1101. Short title.
Sec. 1102. Death penalty for gun murders.
Sec. 1103. Increased penalties for violent gun crimes.
Sec. 1104. Sentencing guidelines for new penalties.
Sec. 1105. Possession of an explosive during the commission of a felony.
Sec. 1106. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 1107. Clarification of penalty enhancement.
Sec. 1108. Penalties for improper transfer, stealing firearms, or smuggling a firearm in drug-related offense.
Sec. 1109. Theft of firearms and explosives.
Sec. 1110. Bar on sale of firearms and explosives to or possession of firearms and explosives by persons convicted of a violent or serious drug misdemeanor.
Sec. 1111. Permitting consideration of pretrial detention for certain firearms and explosives offenses.
Sec. 1112. Disposition of forfeited firearms.
Sec. 1113. Clarification of "burglary" under the armed career criminal statute.
Sec. 1114. Clarification of definition of conviction.

TITLE XII—PRISON FOR VIOLENT DRUG OFFENDERS

Sec. 1201. Regional prisons.

TITLE XIII—BOOT CAMPS

Sec. 1301. Boot camps.

TITLE XIV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds.

Sec. 1401. Strengthening Federal penalties.

Subtitle B—Anti-gang Grants

Sec. 1411. Grant program.
Sec. 1412. Conforming amendments.
Sec. 1413. Treatment of violent juveniles as adults.
Sec. 1414. Serious drug offenses by juveniles as Armed Career Criminal Act predicates.

TITLE XV—RURAL CRIME AND DRUG CONTROL ACT

Subtitle A—Fighting Drug Trafficking in Rural Areas

Sec. 1501. Authorizations for rural law enforcement agencies.
Sec. 1502. Rural drug enforcement task forces.
Sec. 1503. Cross-designation of Federal officers.
Sec. 1504. Rural drug enforcement training.

Subtitle B—Increasing Penalties for Certain Drug Trafficking Offenses

Sec. 1511. Short title.
Sec. 1512. Strengthening Federal penalties.

Subtitle C—Rural Drug Prevention and Treatment

Sec. 1521. Rural substance abuse treatment and education grants.
Sec. 1522. Clearinghouse program.

Subtitle D—Rural Land Recovery Act
Sec. 1531. Director of rural land recovery.
Sec. 1532. Assets forfeiture.
Sec. 1533. Prosecution of clandestine laboratory operators.
TITLE XVI—DRUG EMERGENCY AREAS ACT OF 1991
Sec. 1601. Short title.
Sec. 1602. Drug emergency areas.
TITLE XVII—DRUNK DRIVING CHILD PROTECTION ACT
Sec. 1701. Short title.
Sec. 1702. State laws applied in areas of Federal jurisdiction.
Sec. 1703. Common carriers.
TITLE XVIII—COMMISSION ON CRIME AND VIOLENCE
Sec. 1801. Establishment of commission.
Sec. 1802. Purpose.
Sec. 1803. Responsibilities of the commission.
Sec. 1804. Commission members.
Sec. 1805. Administrative provisions.
Sec. 1806. Report.
Sec. 1807. Termination.
TITLE XIX—PROTECTION OF CRIME VICTIMS
Sec. 1901. Short title.
Sec. 1902. Victims' rights.
Sec. 1903. Services to victims.
Sec. 1904. Amendment of restitution provisions.
Sec. 1905. Amendment of bankruptcy code.
TITLE XX—CRACK HOUSE EVICTION ACT
Sec. 2001. Eviction from places maintained for manufacturing, distributing, or using controlled substances.
Sec. 2002. Use of civil injunctive remedies, forfeiture sanctions, and other remedies against drug offenders.
TITLE XXI—ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION
Subtitle A—Establishment of an Organized Crime and Dangerous Drugs Division in the Department of Justice
Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Purposes.
Sec. 2104. Establishment of organized crime and dangerous drugs division.
Sec. 2105. Assistant Attorney General for organized crime and dangerous drugs.
Sec. 2106. Deputy Assistant Attorney General.
Sec. 2107. Administrative organization of the division.
Sec. 2108. Coordination and enhancement of field activities.
Subtitle B—International Prosecution Teams
Sec. 2111. International prosecution teams.
TITLE XXII—EXCLUSIONARY RULE
Sec. 2201. Searches and seizures pursuant to an invalid warrant.
TITLE XXIII—DRUG TESTING
Sec. 2301. Federal prisoner drug testing.

TITLE I—SAFER STREETS AND NEIGHBORHOODS

SEC. 101. SHORT TITLE.

This title may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 103. CONTINUATION OF FEDERAL STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting in lieu thereof "1992".

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§ 3591. Sentence of death authorized

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORESEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) YOUTH.—The defendant was youthful, although not under the age of 18.

"(6) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal record.

"(7) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(8) OTHER DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(9) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(10) OTHER FACTORS.—Other factors in the defendant's background or character that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (3), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(4) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(5) HEINOUS, CRUEL, OR DEPRAVED.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(6) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(9) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(12) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 405 of such Act.

"(13) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, subject to the Federal Rules of Evidence and Federal Rules of Criminal Procedure. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur with the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) other legal error requires reversal of the sentence of death,

the court shall remand the case for reconsideration under section 3593 or impose a sentence other than death. In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENTS TO CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as provided in the following sections:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 207. RACIAL JUSTICE ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Racial Justice Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) section 5 of the fourteenth amendment of the United States Constitution calls upon Congress to enforce the Constitution's promise of equality under law;

(2) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the determination of whether and when to administer the ultimate penalty of death;

(3) the death penalty is being administered in a pattern that evidences a significant risk that the race of the defendant, or the race of the victim against whom the crime was committed, influences the likelihood that the defendant will be sentenced to death;

(4) the Constitution's guarantee of equal justice for all is jeopardized when the death penalty is imposed in a pattern in which the likelihood of a death sentence is affected by the race of the perpetrator or of the victim;

(5) the United States Supreme Court has concluded that the Federal judiciary is institutionally unable to eliminate this jeopardy to equal justice in the absence of proof that a legislature, prosecutor, judge, or jury acted with racially invidious and discriminatory motives in the case of a particular defendant;

(6) the interest in ensuring equal justice under law may be harmed, not only by decisions motivated by explicit racial bias, but also by government rules, policies, and practices that operate to reinforce the subordinate status to which racial minorities were relegated in our society;

(7) the institutional need of courts to identify invidiously motivated perpetrators is not shared by Congress, which is empowered by section 5 of the fourteenth amendment to take system-wide, preventive measures not only to eliminate adjudicated instances of official race discrimination but also to eradicate wide-scale patterns and practices that entail an intolerable danger that persons of different races would be treated differently; and

(8) the persistent racial problems pervading the implementation of the death penalty in many parts of this Nation require the Government of the United States to counteract the lingering effects of racial prejudice in order to enforce the constitutional guarantee of equal justice for all Americans.

(c) AMENDMENT TO TITLE 28.—

(1) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"2921. Definitions.
"2922. Prohibition on the imposition or execution of the death penalty in a racially discriminatory pattern.
"2923. Data on death penalty cases.
"2924. Enforcement of the chapter.
"2925. Construction of chapter.

"§ 2921. Definitions

"For purposes of the chapter—

"(1) the term 'a racially discriminatory pattern' means a situation in which sentences of death are imposed more frequently—

"(A) upon persons of one race than upon persons of another race; or

"(B) as punishment for crimes against persons of one race than as punishment for crimes against persons of another race,

and the greater frequency is not explained by pertinent nonracial circumstances;

"(2) the term 'death-eligible crime' means a crime for which death is a punishment that is authorized by law to be imposed under any circumstances upon a conviction of that crime;

"(3) the term 'case of death-eligible crime' means a case in which the complaint, indictment, information, or any other initial or subsequent charging paper charges any person with a death-eligible crime; and

"(4) the term 'State or Federal entity' means any State, the District of Columbia, the United States, any territory thereof, and any subdivision or authority of any of these entities that is empowered to provide by law that death be imposed as punishment for crime.

"§ 2922. Prohibition on the imposition or execution of the death penalty in a racially discriminatory pattern

"(a) PROHIBITION.—It is unlawful to impose or execute sentences of death under color of State or Federal law in a racially discriminatory pattern. No person shall be put to death in the execution of a sentence imposed pursuant to any law if that person's death sentence furthers a racially discriminatory pattern.

"(b) ESTABLISHMENT OF A PATTERN.—To establish that a racially discriminatory pattern exists for purposes of this chapter—

"(1) ordinary methods of statistical proof shall suffice; and

"(2) it shall not be necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution.

"(c) PRIMA FACIE SHOWING.—(1) To establish a prima facie showing of a racially dis-

criminatory pattern for purposes of this chapter, it shall suffice that death sentences are being imposed or executed—

"(A) upon persons of one race with a frequency that is disproportionate to their representation among the numbers of persons arrested for, charged with, or convicted of, death-eligible crimes; or

"(B) as punishment for crimes against persons of one race with a frequency that is disproportionate to their representation among persons against whom death-eligible crimes have been committed.

"(2) To rebut a prima facie showing of a racially discriminatory pattern, a State or Federal entity must establish by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern.

"§ 2923. Data on death penalty cases

"(a) DESIGNATION OF AGENCY.—Any State or Federal entity that provides by law for death to be imposed as a punishment for any crime shall designate a central agency to collect and maintain pertinent data on the charging, disposition, and sentencing patterns for all cases of death-eligible crimes.

"(b) RESPONSIBILITIES OF CENTRAL AGENCY.—Each central agency designated pursuant to subsection (a) shall—

"(1) affirmatively monitor compliance with this chapter by local officials and agencies;

"(2) devise and distribute to every local official or agency responsible for the investigation or prosecution of death-eligible crimes a standard form to collect pertinent data;

"(3) maintain all standard forms, compile and index all information contained in the forms, and make both the forms and the compiled information publicly available;

"(4) maintain a centralized, alphabetically indexed file of all police and investigative reports transmitted to it by local officials or agencies in every case of death-eligible crime; and

"(5) allow access to its file of police and investigative reports to the counsel of record for any person charged with any death-eligible crime or sentenced to death who has made or intends to make a claim under section 2922 and it may also allow access to this file to other persons.

"(c) RESPONSIBILITY OF LOCAL OFFICIAL.—(1) Each local official responsible for the investigation or prosecution of death-eligible crimes shall—

"(A) complete the standard form developed pursuant to subsection (b)(2) on every case of death-eligible crime; and

"(B) transmit the standard form to the central agency no later than 3 months after the disposition of each such case whether that disposition is by dismissal of charges, reduction of charges, acceptance of a plea of guilty to the death-eligible crime or to another crime, acquittal, conviction, or any decision not to proceed with prosecution.

"(2) In addition to the standard form, the local official or agency shall transmit to the central agency one copy of all police and investigative reports made in connection with each case of death-eligible crime.

"(d) PERTINENT DATA.—The pertinent data required in the standard form shall be designated by the central agency but shall include, at a minimum, the following information:

"(1) pertinent demographic information on all persons charged with the crime and all victims (including race, sex, age, and national origin);

"(2) information on the principal features of the crime;

"(3) information on the aggravating and mitigating factors of the crime, including the background and character of every person charged with the crime; and

"(4) a narrative summary of the crime.

"§ 2924. Enforcement of the Chapter

"(a) ACTION UNDER SECTIONS 2241, 2254, OR 2255 OF THIS TITLE.—In any action brought in a court of the United States within the jurisdiction conferred by sections 2241, 2254, or 2255, in which any person raises a claim under section 2922—

"(1) the court shall appoint counsel for any such person who is financially unable to retain counsel; and

"(2) the court shall furnish investigative, expert or other services necessary for the adequate development of the claim to any such person who is financially unable to obtain such services.

"(b) DETERMINATION BY A STATE COURT.—Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2922 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2923;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim which were substantially equivalent to those provided by subsection (a); and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§ 2925. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 2922.".

(2) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing ..... 2921.".

(d) ACTIONS PRIOR TO THE DATE OF ENACTMENT.—No person shall be barred from raising any claim under section 2922 of title 28, United States Code, as added by this section, on the ground of having failed to raise or to prosecute the same or a similar claim prior to enactment of the section nor by reason of any adjudication rendered prior to its enactment.

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT

SEC. 301. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of first degree murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, as provided under section 1112 of this title,".

SEC. 302. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it; shall be subject to the death penalty under chapter 228 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Death Penalty for Drug Criminals Act of 1991".

SEC. 402. DEATH PENALTY FOR CERTAIN DRUG CRIMINALS.

The Controlled Substances Act (21 U.S.C. sec. 401 et seq.) is amended by adding after section 408 the following:

"SEC. 409. DEATH PENALTY AUTHORIZED FOR CERTAIN DRUG CRIMINALS."

SEC. 403. DRUG DISTRIBUTION CONSPIRACIES.

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (a) as follows:

"(a) DRUG DISTRIBUTION CONSPIRACIES.—Whoever, during the course of a conspiracy prohibited by section 406 of the Controlled Substances Act, (21 U.S.C. 846), commits a murder in the first degree, shall be punished according to the terms of section 1111 of title 18, including by sentence of death or by imprisonment for life.".

SEC. 404. DRUG IMPORT AND EXPORT CONSPIRACIES.

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (b) as follows:

"(b) DRUG IMPORT AND EXPORT CONSPIRACIES.—Whoever, during the course of a conspiracy prohibited by section 1013 of the Controlled Substances Import and Export Act, (21 U.S.C. 963), commits a murder in the first degree, shall be punished according to the terms of section 1111 of title 18, including by sentence of death or by imprisonment for life.".

SEC. 405. DRUG DISTRIBUTION TO MINORS, NEAR SCHOOLS, OR BY EMPLOYING MINORS.

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (c) as follows:

"(c) DRUG DISTRIBUTION TO MINORS, NEAR SCHOOLS, OR WHILE EMPLOYING PERSONS UNDER 18 YEARS OF AGE.—Whoever, during the course of an offense punishable under section 405 of the Controlled Substances Act (21 U.S.C. 845), section 405A of the Controlled Substances Act (21 U.S.C. 845A), or section 405B of the Controlled Substances Act (21 U.S.C. 845B), commits a murder in the first degree, shall be punished according to the terms of section 1111 of title 18, including by sentence of death or imprisonment for life.".

SEC. 406. EXPORT AND IMPORT OF MAJOR DRUG QUANTITIES.

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (d) as follows:

"(d) DRUG IMPORT AND EXPORT.—Whoever, during an offense prohibited by section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)), commits a murder in the first degree, shall be punished according to the terms of section 1111 of title 18, including by sentence of death or by imprisonment for life.".

SEC. 407. DISTRIBUTION OF MAJOR DRUG QUANTITIES.

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (e) as follows:

"(e) DRUG DISTRIBUTION.—Whoever, during the course of an offense punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)), commits a murder in the first degree, shall be punished according to the terms of section 1111 of title 18, including by sentence of death or by imprisonment for life.".

TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS

SEC. 501. SHORT TITLE.

This Act may be cited as the "Comprehensive Counter-Terrorism Act of 1991".

Subtitle A—Punishing Domestic and International Terrorist Acts

PART I—TERRORIST DEATH PENALTY ACT OF 1991

SEC. 511. SHORT TITLE.

This part may be cited as the "Terrorist Death Penalty Act of 1991".

SEC. 512. TERRORIST DEATH PENALTY OFFENSE: TERRORIST ACTS ABROAD.

Paragraph (1) of subsection 2331(a) of title 18, United States Code, is amended to read as follows:

"(1) if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both;".

PART II—TERRORIST ACTS COMMITTED IN THE UNITED STATES

SEC. 521. CRIMINAL OFFENSE FOR DOMESTIC TERRORIST ACTS.

Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter 113B:

"CHAPTER 113B—TERRORIST ACTS COMMITTED IN THE UNITED STATES

"Sec. 2336. Terrorist acts committed in the United States.

"Sec. 2337. Providing material support to terrorists.

"§ 2336. Terrorist acts committed in the United States

"(a) HOMICIDE.—Whoever, acting as an agent of a foreign power, kills another person, with the intent specified in subsection (d) of this section, shall

"(1) if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or life, or both; or

"(B) is a murder other than a first degree murder as defined in subsection 1111(a) of this title,

be fined under this title, imprisoned for any term of years or for life, or both;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned for not more than twenty years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever, acting as an agent of a foreign power, with the intent specified in subsection (d) of this section, attempts to kill, or engages in a conspiracy to kill—

"(1) in the case of an attempt to commit a killing that is a murder as defined in section 1111(a) of this title, shall be fined under this title, imprisoned for any term of years or life, or both; and

"(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, shall be fined under this title or imprisoned for any term of years or for life, or both.

"(c) OTHER VIOLENT TERRORIST ACTS.—Whoever, acting as an agent of a foreign power, with the intent specified in subsection (d) of this section, engages in physical violence that results in serious bodily injury shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) INTENT TO COMMIT TERRORIST ACTS.—For the purposes of this section, a person possesses an intent to commit a terrorist act, if such person intends—

"(1) to intimidate or coerce a civilian population;

"(2) to influence the policy of a government by intimidation or coercion; or

"(3) to affect the conduct of a government by assassination, kidnapping, or other violent act.

"(e) DEFINITION.—For purposes of this section and section 2337 of this title, the term 'agent of a foreign power' shall have the same meaning as in section 101(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)).".

PART III—INCREASING PENALTIES FOR INTERNATIONAL TERRORIST ACTS

SEC. 531. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2331 of title 18, United States Code, as amended by subtitle A of this title, is further amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "twenty"; and

(B) in paragraph (3) by striking "three" and inserting "ten".

(2) in subsection (c) by striking "five" and inserting "ten".

SEC. 532. CLERICAL AMENDMENTS.

The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Terrorist Acts Committed in the United States ..... 2336".

Subtitle B—Preventing Domestic and International Terrorist Acts

PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS

SEC. 541. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

Part I of title 18, United States Code, as amended by title I of this Act, is further amended by adding a new section 2337 as follows:

"§ 2337. Providing material support to terrorists

"Whoever knowingly, acting as an agent of a foreign power, with the intent to further a violation of section 1203, 2331, or 2336 of this title—

"(1) provides material support or resources; or

"(2) conceals or disguises the nature, location, source or ownership of material support or resources,

that are used or intended to be used to violate section 1203, 2331, or 2336 of this title shall be fined under this title or imprisoned for not more than ten years, or both. For the purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, communications equipment, facilities, weapons, personnel and other physical assets.".

SEC. 542. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(a)(1) by inserting at the end thereof the following:

"(D) Any property, real or personal, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of section 1203, 2331, 2332, 2336, or 2337 of this title."; and

(2) in section 982(a) by inserting at the end thereof the following:

"(3) Any property, real or personal, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of section 1203, 2331, 2336, or 2337 of this title.".

PART II—ELECTRONIC COMMUNICATIONS

SEC. 545. COOPERATION OF TELECOMMUNICATIONS PROVIDERS WITH LAW ENFORCEMENT.

It is the sense of Congress that providers of electronic communications services and manufacturers of electronic communications service equipment shall ensure that communications systems permit the government to obtain the plain text contents of voice, data, and other communications when appropriately authorized by law.

PART III—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS

SEC. 551. SHORT TITLE.

This part may be cited as the "Alien Witness Cooperation Act of 1991".

SEC. 552. ALIEN WITNESS COOPERATION.

Chapter 224 of title 18, United States Code, is amended by—

(1) redesignating section 3528 as 3529;

(2) adding at the end of section 3529, as redesignated, the following new paragraph:

"As used in section 3528, the terms 'alien' and 'United States' shall have the same meanings given to them in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).";

and

(3) inserting after section 3527 the following new section 3528:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide such alien with appropriate immigration visas and allow such alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of perma-

nent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provisions of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of two years. Upon a showing that the alien is still being provided protection, or such protection remains available to the alien in accordance with provisions of this chapter, or such alien is still cooperating with the government, and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to a alien who would be excluded because of felony convictions, unless the Attorney General determines, pursuant to regulations which shall be prescribed by him, that granting permanent residence status to such alien is necessary in the interests of justice, and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.".

SEC. 553. CONFORMING AMENDMENT.

The analysis for chapter 224 of title 18, United States Code, is amended by—

(1) redesignating the item for section 3528 as section 3529; and

(2) adding after the item for section 3527 the following:

"3528. Aliens; waiver of admission requirements.".

Subtitle C—Preventing Aviation Terrorism

SEC. 561. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violations of Federal aviation security regulations.

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violation of Federal aviation security regulations.

Subtitle D—Preventing Economic Terrorism

SEC. 571. COUNTERFEITING U.S. CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States.

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery ..... 470".

SEC. 572. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

Subtitle E—Authorizations To Expand Counter-Terrorist Operations by Federal Agencies

SEC. 581. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated in each of the fiscal years 1992, 1993 and 1994, in addition to any other amounts specified in appropriations Acts, for counter-terrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

TITLE VI—DRIVE-BY-SHOOTING ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Drive-By-Shooting Prevention Act of 1991".

SEC. 602. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by-shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons causing grave risk to human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who kills one of those persons shall be sentenced according to the terms of section 1111 of this title, including a sentence of death or life imprisonment without release.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by-shooting.".

TITLE VII—ASSAULT WEAPONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1991".

SEC. 702. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 703. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 704. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 705. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 706. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 707. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 708. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for section 407, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for section 407, shall be repealed.

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the

event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SEC. 821. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 822. ALLOTMENT.

From amounts appropriated under the authority of section 829, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. 823. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 822 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 824. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 825. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 826. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 823.

SEC. 827. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 828. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 829. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $30,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

TITLE IX—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 901. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 902. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

TITLE X—HABEAS CORPUS REFORM ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1002. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

Part VI of title 28 of the United States Code is amended by inserting following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Counsel in capital cases; trial and post-conviction; standards.

"2262. Law controlling in Federal habeas corpus proceedings; retroactivity.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2261 of this title.

"(c)(1) Upon receipt of notice that counsel has been appointed to represent a prisoner under sentence of death after the prisoner's conviction and sentence have been upheld on direct review in a State court of last resort or in the Supreme Court of the United States if application is made to that court, the State court of last resort shall enter an order confirming the appointment and shall direct its clerk to forward the record of the case to the attorney appointed.

"(2) Upon receipt of notice that counsel has been offered to, but declined by, a prisoner described in paragraph (1), the State court of last resort shall direct an appropriate court or judge to hold a hearing, at which the prisoner and the attorney offered to the prisoner shall be present, to determine whether the prisoner is competent to decide whether to accept or reject the appointment of counsel and whether, if competent, the prisoner knowingly and intelligently waives the appointment of counsel. The court or judge shall report its determinations to the State court of last resort, which shall review the determinations for error. If the State court of last resort concludes that the prisoner is incompetent and does not waive counsel, the court shall enter an order confirming the appointment of the attorney assigned to the prisoner by the appointing authority and shall direct the clerk to forward the record to the attorney appointed. If the court concludes that the prisoner is competent and waives counsel, the court shall enter an order that counsel need not be appointed and shall direct the clerk to forward the record to the prisoner.

"(3) Nothing in this section requires the appointment of counsel to a prisoner who is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner in State collateral proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the State court of last resort of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in the State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence;

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed; or

"(3) a stay and consideration of the requested relief are necessary to prevent a miscarriage of justice.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction and if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

Upon the development of a complete evidentiary record under this subsection, the district court shall rule on the merits of the claims properly before it.

"(b)(1) Except as provided in paragraph (2), a district court may refuse to consider a claim under this section if—

"(A) the prisoner previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused or would refuse to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the United States Supreme Court.

"(2) A district court shall consider a claim under this section if the prisoner shows that the failure to raise the claim in a State court was due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Counsel in capital cases; trial and post-conviction; standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2256(b) of this title shall provide for counsel to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State's courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

SEC. 1003. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

TITLE XI—PUNISHMENT OF GUN CRIMINALS

SEC. 1101. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

SEC. 1102. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

(3) designating the third and fourth sentences as subparagraph (D); and

(4) inserting before subparagraph (D) the following:

"(C) Whoever violates the terms of subparagraph (A) and, with the intent to kill, discharges a firearm that kills another person, shall be sentenced to death or life imprisonment without release.".

SEC. 1103. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking subparagraph (A) and inserting the following:

"(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) carries, possesses, or discharges a firearm, with the intent to injure another person, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) carries, possesses or discharges a firearm that is an assault weapon, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) carries, possesses or discharges a firearm that is a machine gun, an explosive device, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years."; and

(2) striking subparagraph (B), as designated by section 1102 of this Act, and inserting the following:

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and, if the firearm is an assault weapon, a machinegun, an explosive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment.".

"(b) SENTENCING GUIDELINES FOR NEW PENALTIES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1)(A) of section 924 of title 18, United States Code.".

SEC. 1104. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) POSSESSION OF EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by striking "carries an explosive during" and inserting "carries or otherwise possesses an explosive during".

(b) PENALTY.—Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

SEC. 1105. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B), by striking "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 1106. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c)(1)(D) of title 18, United States Code, is amended by striking "convicted of a violation of" and inserting "sentenced pursuant to".

SEC. 1107. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 1108. THEFT OF FIREARMS AND EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 20 years, or fined under this title, or both.".

SEC. 1109. BAR ON SALE OF FIREARMS AND EXPLOSIVES TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) FIREARMS.—Sections 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence involving use of a firearm or destructive device or misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)) for which the penalty imposed was greater than 6 months (it is a bar to a prosecution under this paragraph that the conviction for a misdemeanor drug or narcotic offense oc-

curred prior to the date of enactment of the Violent Crime Control Act of 1991)" after "crime punishable by imprisonment for a term exceeding one year";

(b) EXPLOSIVES.—Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence involving use of a firearm or destructive device or misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)) for which the maximum penalty is greater than 6 months (it is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of the Violent Crime Control Act of 1991)" after "crime punishable by imprisonment for a term exceeding one year";

SEC. 1110. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking "or" after the semicolon in subparagraph (C);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting after subparagraph (C) the following:

"(D) an offense under section 844(a) that is a violation of subsection (d), (h), or (i) of section 842 or an offense under section 924(a) that is a violation of subsection (d), (g), (h), (i), (j), (o), (q), or (s) of section 922; or".

SEC. 1111. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 (26 U.S.C. 5872(b)), is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) If the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 1112. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding at the end thereof the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1113. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, or expunction of the original conviction.".

TITLE XII—PRISON FOR VIOLENT DRUG OFFENDERS

SEC. 1201. REGIONAL PRISONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of National Drug Control Policy, after consulting with the Director of the Bureau of Prisons, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at anytime. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

TITLE XIII—BOOT CAMPS

SEC. 1301. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of National Drug Control Policy, after consultation with the Director of the Bureau of Prisons, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for partici-

pation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 9 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by counsel for the applicant that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 14 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Each State that refers a prisoner to a boot camp shall reimburse the Bureau of Prisons for—

(A) 80 percent of the cost incurred by the Bureau of Prisons for incarceration and treatment and other services to such prisoner that successfully completes the program; and

(B) 100 percent of such costs for each prisoner that enters a boot camp but does not successfully complete the program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992 of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

TITLE XIV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 1401. STRENGTHENING FEDERAL PENALTIES.

(a) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

Subtitle B—Anti-gang Grants

SEC. 1411. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

(1) the formation or continuation of juvenile gangs; and

(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement pro-

grams, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1412. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

Subtitle C—Juvenile Penalties

SEC. 1421. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(b) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(c) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 1422. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

TITLE XV—RURAL CRIME AND DRUG CONTROL ACT

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 1502. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated

$1,000,000 in each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Increasing Penalties for Certain Drug Trafficking Offenses

SEC. 1511. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 1512. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

Subtitle C—Rural Drug Prevention and Treatment

SEC. 1521. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1522. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle D—Rural Land Recovery Act

SEC. 1531. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 1502(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities outlined under this subtitle.

SEC. 1532. ASSET FORFEITURE.

(a) The assets seized from rural clandestine methamphetamine and other dangerous drugs laboratory operations and their operators shall be used primarily to fund the decontamination of the property and immediate environment chemically fouled by the operations or operators.

(b) Any assets that remain after the execution of provisions contained in subsection (a) shall be used to decontaminate properties chemically fouled by other such clandestine laboratory operations and operators throughout the jurisdiction of the task force.

SEC. 1533. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health related damages caused by the operators in their manufacture of illicit substances.

TITLE XVI—DRUG EMERGENCY AREAS ACT OF 1991

SEC. 1601. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1991".

SEC. 1602. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and

as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and/or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, 1994, 1995, and 1996, $300,000,000 to carry out the purposes of this subsection.".

TITLE XVII—DRUNK DRIVING CHILD PROTECTION ACT

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1702. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to the provisions of paragraph (2) and for purposes"; and

(2) adding at the end thereof the following:

"(2) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if—

"(A) a non-driving minor was present in the motor vehicle when the offense was committed; and

"(B) the law of the State, territory, possession, or district applicable to the offense does not provide an additional term of imprisonment for an act described in subparagraph (A).".

SEC. 1703. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following:

"(b) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such offense shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if a non-driving minor was present in the common carrier when the offense was committed.".

TITLE XVIII—COMMISSION ON CRIME AND VIOLENCE

SEC. 1801. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

SEC. 1802. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State and Federal crime control efforts.

SEC. 1803. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(4) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(5) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(6) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

SEC. 1804. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

SEC. 1805. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the

annual rate of base pay for GS–18 of the General Schedule.

SEC. 1806. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1807. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1806.

TITLE XIX—PROTECTION OF CRIME VICTIMS

SEC. 1901. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 1901A. Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respectively; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows

"(A) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants provided in section 10603 of this title.

"(B) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under subsection 10603(a) of this title.

"(E) The next $2,200,000 deposited in the Fund in a particular fiscal year shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(F) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (E) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.

SEC. 1902. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 1903. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 1902(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. 1904. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defend-

ant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 1905. AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

(b) AMENDMENT OF CHAPTER 13.—Section 1322(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims that are nondischargeable under section 523(a)(11).".

TITLE XX—CRACK HOUSE EVICTION ACT

SEC. 2001. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end thereof the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence,

and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 2002. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

TITLE XXI—ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION

Subtitle A—Establishment of an Organized Crime and Dangerous Drugs Division in the Department of Justice

SEC. 2101. SHORT TITLE.

This title may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1991".

SEC. 2102. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives significant weight to—

(A) the prosecution of drug related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and groups;

(3) the structure of the Department of Justice Criminal Division is inadequate to address such drug-related problems; and

(4) the prosecutorial resources devoted to such problems have been inadequately organized.

SEC. 2103. PURPOSES.

The purposes of this title are to—

(1) establish a new division in the Department of Justice by combining the resources of the Criminal Division and the United States Attorneys offices used for the eradication of organized crime, narcotics, and dangerous drugs with additional resources needed to pursue civil sanctions;

(2) enhance the ability of the Department of Justice to deal with international criminal activity;

(3) enhance the ability of the Department of Justice to maintain a vigorous criminal and equally important civil assault upon organized criminal groups and narcotics traffickers both domestic and international;

(4) enhance the ability of the Department of Justice to attack money laundering activities, both domestic and international; and

(5) maintain the level of effort of the Department of Justice against traditional organized crime activity through the maintenance of independent strike forces.

SEC. 2104. ESTABLISHMENT OF ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.

(a) ESTABLISHMENT.—There is established within the Department of Justice, the Organized Crime and Dangerous Drugs Division, which shall consist initially of the following units and programs of the Department of Justice as they were organized and were functioning on September 30, 1989:

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program.

(b) TRANSFER.—(1) There are transferred to the Organized Crime and Dangerous Drugs Division—

(A) all functions of each office and program described under subsection (a) (1), (2), (3), and (4) exercised on September 30, 1989; and

(B) all personnel and available funds of each such office and program.

(2) For the purposes of paragraph (1)(A) the term "functions" means all duties, obligations, powers, authorities, responsibilities, rights, privileges, activities, and programs.

SEC. 2105. ASSISTANT ATTORNEY GENERAL FOR ORGANIZED CRIME AND DANGEROUS DRUGS.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Organized Crime and Dangerous Drugs Division established by this title, an Assistant Attorney General of the Department of Justice for the Organized Crime and Dangerous Drugs Division, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) coordinate all activities and policies of the Division with the Director of National Drug Control Policy; and

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of organized criminal and narcotics enterprises.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

"Assistant Attorneys General (10)."

and inserting in lieu thereof:

"Assistant Attorneys General (11).".

(2) The Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 2106. DEPUTY ASSISTANT ATTORNEY GENERAL.

(a) ESTABLISHMENT.—There is established the position of Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division, who shall report directly and be responsible to the Assistant Attorney General of the Organized Crime and Dangerous Drugs Division.

(b) COMPENSATION.—The Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid the rate of basic pay payable for level V of the Executive Schedule.

SEC. 2107. ADMINISTRATIVE ORGANIZATION OF THE DIVISION.

There shall be established within the Organized Crime and Dangerous Drugs Division such sections and offices as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the following areas:

(1) Criminal Racketeering (including of all activities and personnel transferred from the Organized Crime and Racketeering Section dealing with criminal investigation and prosecution of traditional organized crime, other than civil proceedings or forfeiture);

(2) Criminal Narcotics Trafficking (including all activities and personnel transferred from the Criminal Division and the Organized Crime Drug Enforcement Task Force Program dealing with large scale drug trafficking);

(3) Money laundering (including all activities transferred from the Criminal Division and Organized Crime Drug Enforcement Task Force Program dealing with money laundering investigations and the negotiation of international agreements on financial crimes);

(4) Asset Forfeiture (including all activities and personnel transferred from the Criminal Division dealing with asset forfeiture);

(5) International Crime (indicating the activities and functions set forth in Subtitle B of this title); and

(6) Civil Enforcement (including activities and personnel currently engaged in civil enforcement of the drug and racketeering laws and such additional personnel as may be added pursuant to this Act).

SEC. 2108. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.—The Attorney General shall establish no fewer than 20 field offices of the Organized Crime and Dangerous Drug Division. All such field offices of the Division shall be known as Organized Crime and Dangerous Drug Strike Forces.

(b) OFFICES IN SAME AREA.—If two or more sections of the Division establish field offices in the same metropolitan area, such offices shall—

(A) be in the same location;

(B) coordinate activities; and

(C) be organized as separate sections of a strike force.

(c) TRANSITION.—(1) Consistent with the provisions of this title—

(A) the Organized Crime and Racketeering Section of the Criminal Division is redesignated as the Criminal Racketeering Section of the Organized Crime and Dangerous Drug Division; and

(B) the Organized Crime Strike Forces are redesignated as the field offices of the Division.

(2) Not later than 180 days after the date of the enactment of this subtitle, the Attorney General shall transfer all attorneys and support staff assigned to the Organized Crime Drug Enforcement Task Forces before such date to the Organized Crime and Dangerous Drug Division and designated the Criminal Narcotics Section. The Assistant Attorney General for such Division shall assign such personnel to the field offices of the Division, with the initial assignments being made to the cities where units of such Task Forces were located before the date of enactment of this subtitle.

(3)(A) Consistent with the provisions of this title, the Asset Forfeiture Office of the Criminal Division is redesignated as the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division.

(B) Not later than 180 days after the date of the enactment of this subtitle, the Assistant Attorney General shall establish field offices of the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division which shall include—

(i) agents from the United States Drug Enforcement Administration, the Federal Bu-

reau of Investigation, the Internal Revenue Service, and United States Marshals Office; and

(ii) other individuals experienced, trained and expert in complex financial transactions involving cash, notes, securities, and similar negotiable instruments, with a special expertise in banking matters and business dealings.

(d) DIFFERENT ORGANIZATIONAL STRUCTURE.—Nothing in subsection (c) shall prevent the Attorney General, consistent with the purposes of this title and the provisions of section 2107, from instituting a different organizational structure within the Organized Crime and Dangerous Drug Division as the Attorney General shall deem appropriate following a period of transition.

(e) STRIKE FORCES PLANS.—(1) The agents assigned to the Organized Crime and Dangerous Drug Strike Forces (including all agents assigned to the Organized Crime Drug Enforcement Task Forces program before the date of enactment of this title) shall be dedicated exclusively to and located with the Strike Forces so that the Strike Forces personnel may develop expertise and function as a working unit.

(2) The agents assigned to the Strike Forces from the various participating agencies shall be given credit for the work of the Strike Forces, regardless of the statutory authority used to prosecute Strike Forces cases.

(f) REPORT.—Not later than 1 year after the date of the enactment of this title, the Assistant Attorney General for Organized Crime and Dangerous Drugs in consultation with the Director of National Drug Control Policy, shall report to the Congress on the areas of the United States (especially the southwest border of the United States) that may require increased assistance from the Department of Justice through the establishment of additional strike forces.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $45,000,000 for salaries and expenses of the Organized Crime and Dangerous Drug Division of the Department of Justice for fiscal year 1992.

(2) Any appropriation of funds authorized under paragraph (1) shall be—

(A) in addition to any appropriations requested by the President in the 1992 fiscal year budget submitted by the President to the Congress for fiscal year 1992, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1992; and

(B) used to increase the number of field attorneys and related support staff by no fewer than 100 full-time equivalent positions over such personnel levels employed at the Department of Justice on September 30, 1989, assigned to the Organized Crime and Racketeering Section Strike Forces and Organized Crime Drug Task Forces.

Subtitle B—International Prosecution Teams

SEC. 2111. INTERNATIONAL PROSECUTION TEAMS.

(a) FINDINGS.—The Congress finds that—

(1) Drug trafficking, organized crime, and money laundering are problems that are international in scope.

(2) The traditional focus of United States law enforcement agencies on domestic criminal activity has restricted the development of the necessary expertise and coordination to address the international aspects of these problems adequately.

(3) The Justice Department must expand its resources and reorganize its component to engage in new responsibilities and activities involving international crime.

(4) Other agencies, particularly those involved in intelligence gathering, international banking, foreign policy, and national defense, must coordinate their activities with the Justice Department to support its effort to combat international crime.

(b) INTERNATIONAL DRUG ENFORCEMENT TEAMS.—In addition to the components and functions otherwise specified in this chapter, the Organized Crime and Dangerous Drug Division shall include no fewer than 10 International Drug Enforcement Teams devoted exclusively to investigating prosecuting and supporting the investigation and prosecution of international drug cases. Such teams shall be responsible for developing expertise in handling civil and criminal cases involving extradition, money laundering, drug-related corruption, and other complex cases relating to international drug trafficking.

(c) RELATIONSHIP OF TEAM MEMBERS.—Organized Crime and Dangerous Drug Division personnel assigned to the International Drug Enforcement Teams shall work closely with, and where practical be co-located with, agents and liaison personnel of the various law enforcement, diplomatic, intelligence, and military agencies who shall be assigned as necessary to the enforcement teams.

(d) GOALS.—The teams shall be organized to—

(1) increase the expertise of the Department of Justice in matters relating to international law enforcement and foreign policy;

(2) direct intelligence efforts toward gathering information and evidence that can be used by civilian authorities in criminal and civil cases while protecting the assets and methods of United States agencies;

(3) improve coordination among United States and foreign agencies responsible for law enforcement, foreign policy, and international banking;

(4) target resources toward cases with maximum impact on international narcotics trafficking;

(5) gain the cooperation of private entities in the United States and foreign countries whose cooperation in cases involving money laundering and other drug-related financial crimes is essential; and

(6) assist other countries to enact laws and negotiate treaties to assist in the suppression of international money laundering and narcotics trafficking.

TITLE XXII—EXCLUSIONARY RULE

SEC. 2201. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE XXIII—DRUG TESTING

SEC. 2301. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This section may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence; and

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance"; and

(4) by adding at the end thereof the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the commencement of service of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

(d) CONDITIONS ON PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance with the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of

the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

FIGHTING CRIME IN AMERICA: AN AGENDA FOR THE 1990'S

(A Majority Staff Report Prepared for the Use of the Committee on the Judiciary, U.S. Senate, March 12, 1991)

INTRODUCTION BY SENATOR JOSEPH R. BIDEN, JR., CHAIRMAN, SENATE COMMITTEE ON THE JUDICIARY

A few days ago, Attorney General Dick Thornburgh convened a "Summit on Law Enforcement Responses to Violent Crime: Public Safety in the Nineties," a meeting of federal, state and local law enforcement officials. As the findings in this report dramatically illustrate, the summit could not have come at a more important time. The nation's law enforcement community faces tougher challenges than at any point in our nation's history:

1990 was the bloodiest year in modern U.S. history, with the murder toll jumping to an all-time record of 23,200.

FBI data indicate that in 1990, the nation saw more rapes, more robberies and more assaults than in any year in the nation's history.

Since 1960, the violent crime total grew more than 12 times faster than the U.S. population.

In 1950, the nation had more than three police officers to respond to every one violent crime committed. In 1990, the nation had fewer than one police officer for every three violent crimes.

The number of police officers on the streets of the 10 largest U.S. cities is barely one percent higher than it was when the Administration's first drug strategy was released in September 1989—more than 18 months ago.

The epidemic of violent crime has swept the entire nation. No region, state, city or town has been spared the enormous outbreak. Even those living in rural America, just as those from suburban and urban areas, are seeing the deadly rise of violent crime.

The President has just announced a new crime bill that does not do nearly enough to combat this epidemic. The Administration's proposal does nothing to reverse the fundamental fact that state and local law enforcement officers on the front lines of the fight against violent crime and drug trafficking are increasingly out-gunned, undermanned and ill-equipped for the new challenges of law enforcement in the 1990s.

The Administration's current policies would continue many of these dangerous trends and, in some cases, actually make the problem far worse.

Equipping the nation's law enforcement community to meet the challenges of the 1990s is a daunting task. It will require more than a "Summit" with an agenda dictated by federal officials. Instead, charting an ambitious new course for the law enforcement in the 1990s will require a truly national consensus among federal, state and local officials on the tough issues confronting our nation's police officers.

Politically sensitive issues, such as the deadly flow of military-style assault weapons and inadequate funding for state and local law enforcement agencies, must be confronted directly. And state and local law enforcement officials—the front-line of our defense against violent crime and drug trafficking—must have a meaningful opportunity to present their views on the nature of the problems and their suggestions on how to better structure our attack.

Although a national response to the violent crime and drug trafficking problems will require a comprehensive attack on a wide variety of fronts, any credible response must include a number of fundamental proposals. At a minimum, I believe an effective Law Enforcement Agenda for the 1990s should include:

Banning the manufacture and sale of deadly, military-style assault weapons;

Boosting federal aid to state and local law enforcement agencies to $1 billion for police, prosecutors, and prisons, while rejecting Administration mandates on states that would require state and local agencies to fire thousands of police officers.

Expanding the use of joint federal-state asset forfeiture operations to strike at the underpinnings of drug trafficking rings, reversing Justice Department proposal for 15 percent "tax" on state-local forfeiture proceeds;

Creating a new $100 million initiative to fight violent juvenile gangs;

Easing the state prison crisis by establishing regional prisons for federal and state drug offenders and creating highly-disciplined boot camps on closed military bases.

Reforming federal criminal law by enacting the death penalty, exclusionary rule and habeas corpus provisions passed by the Senate in S. 1970 during the 101st Congress.

No one person or agency has all the answers to solving the violent crime and drug trafficking problems. However, we do know that certain initiatives work, and that with adequate funding and support, we can equip our nation's law enforcement officers with the weapons and tools they need to meet the challenges of the 1990s.

I am releasing this report today in response to the dramatic findings of the majority staff of the Senate Judiciary Committee on the entent of the violent crime problem in America and the wholly inadequate effort we are waging to curtail this crisis. As we focus our attention on the President's bill and our competing proposal, I hope we will take a hard look at the ever-increasing rate of violent crime, the Administration's current response, and the fundamental choices we must make if we are to reverse these deadly trends and end the epidemic of violence gripping this country.

FACTUAL FINDINGS REPORTED IN: FIGHTING CRIME IN AMERICA

1990 was the bloodiest in United States history, with the murder toll jumping to an all time record of 23,200.

FBI data indicate that in 1990 the nation saw more rapes, more robberies, and more assaults than any year in the nation's history.

The 1989-90 murder increase was the largest one-year increase in the murder toll in more than ten years; the 1989-90 rape increase was the largest one-year increase in the rape total since 1978-79.

Every American is more than four times more likely to be the victim of violent crime today than in 1960.

Since 1960, the violent crime total has grown more than 12 times faster than the population.

In 1950, the nation had more than three police officers for every one violent crime. In 1990, the nation had fewer than one police officer for every three violent crimes.

The number of police officers on the streets of the 10 largest U.S. cities is only one percent higher than it was when the Administration's first drug strategy was released in September 1989.

The Administration's 1992 budget proposal actually cuts federal aid to state and local law enforcement.

If the Administration's proposed mandates become law, state and local law enforcement agency would have to fire more than 5,000 police officers to pay for the Administration's programs.

If every dollar in aid to state and local law enforcement proposed by the Administration was used to train and hire police officers, not more than 13,000 officers could be added—only a 2% increase.

CHAPTER I—THE DEADLY RISE OF VIOLENT CRIME

American streets and neighborhoods are under seige. Violent crime has leapt to levels never seen in our nation's history. The record murder toll of 1990 left more than 23,200 Americans killed. The most recent FBI data indicate that 1990 also set bloody records for every other violent crime—rape, robbery and assault. All told, a record total of nearly two million Americans were the victims of a violent crime last year.

The epidemic of violent crime has swept the entire nation—no region, state, city or town has been spared the enormous outbreak. Even those living in rural America, as well as those from suburban and urban areas, are seeing the deadly rise of violent crime.

The rise in violent crime is sped by the rise of new dangerous criminals. First, youths in organized, sophisticated and violent drug trafficking activities: what were once loosely-knit groups of juveniles involved in petty crimes have become powerful, organized gangs intent on killing to gain and keep control over the lucrative drug trade. Second, as FBI experts detailed at a Senate Judiciary Committee hearing this past fall, the rise of new Asian gangs, or "Tongs."

The sudden, shocking rise in violent crime can be blamed on at least three other factors—drugs, deadly weapons, and demographic trends. Drug violence is on the rise, as the quality of cocaine drops and drug gangs battle for turf. Military-style assault weapons are turning many neighborhoods into battlefields. And a boom in the teenaged population makes for record numbers of teen criminals—and teen victims.

1990's record-setting crime totals

A Senate Judiciary Committee majority staff report, "1990 Murder Toll—Initial Projections," first predicted the grim murder record in July. Unfortunately, FBI reports completed in October also noted the record pace of the deadly carnage. And the final tallies from cities and states around the country confirm the worst expectations: more Americans were murdered in 1990 than in any single year in our history.

Today, based on the initial reports from several localities and FBI crime data released in October, it is clear that all other violent crimes—rape, robbery and assault—hit record levels in 1990. This means that more than 1.8 million Americans were murdered, raped, robbed or assaulted in 1990. "This total means that more than 200 Americans were attacked by a violent criminal in every hour of every day of 1990."

Just as the total number of violent crimes committed rose to a new record in 1990, the violent crime rate was the highest the nation has ever suffered. This rate, 715.7 per 100,000 Americans, means that "Americans are more likely than ever before to be the victims of a violent crime." This record rate also means that America's rising crime rate

is not merely the result of this country's escalating population.

The FBI's October report indicated a 10% increase in the number of rapes over the first six months of 1989. Final crime tallies provided by several localities and states support the view that the nation suffered a record number of rapes last year.

Last year also saw a record number of robberies—a total of about 630,000. This total, based on FBI information from the first six months of 1990, represents a 9% increase over the 1989 total. And based on the Department of Justice publication, "Criminal Victimization in the United States, 1988," these 630,000 robberies resulted in economic loss totaling more than $1.2 billion. Of course, the dollar loss of a violent crime is only a tiny portion of the losses suffered by the victim.

The only other category of violent crime—aggravated assaults—reached a new record in 1990—nearly 1,050,000. The 10% increase in aggravated assaults sets another grim record: the rate of assaults (413.8 per 100,000 Americans) is now higher than at any time in our nation's history. "This means that we and our loved ones are at greater risk of being beaten by a violent criminal than ever before."

1990's record carnage—The shocking historical context

The increase in 1990's murder toll—1,700 more Americans were murdered in 1990 than in 1989—is the largest one-year increase in more than a decade. Not since 1979, has the nation seen such a sudden and terrifying rise in the number of murders. One also has to look back more than a decade to match the current rise in the number of rapes.

Of course, even 1990's record increases in murders, rapes and all violent crimes represent only an incremental change from the previous year. The horror of the nation's record levels of violent crime is more properly seen when one compares the America of 1990 with the America of 1960. The comparison reveals the brutal changes that the American people are enduring. In those 30 years, violent crime increased more than 12-times faster than the population.[1] Murder grew nearly 4-times faster. Rape grew more than 12-times faster. And assault grew 13-times faster.

These figures plainly show an America that has grown vastly more dangerous in just three decades. Just how much more dangerous? Every American is more than four times more likely to be the victim of a violent crime today than in 1960. And, as noted above, in 1990 every hour saw 200 Americans become the victim of a violent criminal; while in 1960 fewer than 35 Americans were victimized every hour. This is the shocking historical context for 1990's record violence.

America's record violence—the most violent nation

The enormous increases in violent crime in the United States are setting records not just at home, but also abroad. We are the most violent and self-destructive nation on earth.

In 1990, the United States led the world with its murder, rape, and robbery rates.[2] When viewed from the national perspective, these crime rates are sobering. When viewed from the international perspective, they are truly embarrassing.

In 1990, no nation had a higher murder rate than the United States. What is worse, no nation was even close. For example, our murder rate quadrupled Europe's.

In 1990, we doubled (and more) the murder rate in Northern Ireland, which is in the midst of a civil war.

Last year, our murder rate was 11 times that of Japan, nearly nine times that of England, over four times that of Italy, and nine times that of Egypt and Greece.

In 1990, no nation had a higher rape rate than the United States. Worse still, the gap in rape rates is even wider than the gap in murder rates.

Last year, American women were eight times more likely to be raped than European women.

In 1990, the rape rate in the United States was 20 times higher than it was in Portugal, 26 times higher than in Japan, 15 times higher than in England, eight times higher than in France, 23 times higher than in Italy, and 46 times higher than in Greece.

In 1990, no nation had a higher robbery rate than the United States. In fact, the magnitude of difference between our robbery rate and those of other countries is unparalleled.

In 1990, the U.S. robbery rate was nearly 150 times higher than in Japan.

Last year, the robbery rate in the United States was over 10 times higher than in Switzerland, nearly six times higher than in England, over seven times higher than in Italy, 17 times higher than in New Zealand, 47 times higher than in Ireland, and over 100 times higher than in Greece.

These figures are stunning. We expect the United States to lead the world in industrial production, arts and sciences, and standard of living. We do not expect this country to lead the world in violent crime as well. Just think:

If we had England's murder rate, the number of homicides in this country would be around 2,500 instead of 23,200.

If we had Italy's rape rate, the number of women who suffered known sexual assaults in this country would be about 4,500 instead of more than 100,000.

If we had Japan's robbery rate, the number of robberies in this country would be 4,500 instead of 630,000.

The comparisons detailed above give us a new perspective; they help us locate ourselves in world. It is obvious that we cannot like what we see—and that to remedy the situation we will need, among other things, greatly enhanced law enforcement efforts.

New criminal agents—Growing threats

Today, as never before, cities and neighborhoods, even those without long histories of youth gang activity, have been literally overrun by drug-fueled gang violence. In other words, while youth gangs are not new, today's level of youth gang violence, organization and sophistication is unprecedented.

Los Angeles County presents us with one of the best documented cases of the rise of youth gangs and their attendant violence. After several decades of slow growth in gangs and gang activity, Los Angeles County had an estimated 400 gangs and 45,000 gang members in 1985. Five years later, the number of gangs had exploded to 800, with more than 90,000 members.

With a doubling of gang membership, gang-related murders have increased even faster—tripling from 1985 to 1990.

Another startling trend is youth gang activity is its sudden emergence in cities that do not have a long history of gang involvement. Cities and neighborhoods from Washington to Florida—and many states in between—are finding it difficult to cope with the unprecedented and unexpected gang presence.

At a Senate Judiciary Committee hearing convened this fall, FBI agents and experts detailed the recent rise of new Asian gangs, or "Tongs." While the leaders of these gangs are usually young men in their twenties, the rank and file members of the gangs are as young as 14. The new gangs are made more dangerous by the fact that they prey on their fellow immigrants—many of whom are not comfortable with, or unable to communicate with, local law enforcement.

Drugs, deadly weapons and demographic changes—Other causes of the record carnage

Law enforcement officials, medical doctors, and leading academic researchers identified three major causes of the sudden rise of criminal violence at a Senate Judiciary Committee hearing conducted in July. These three major factors—drugs, deadly weapons and demographic changes—signal that, unless action is taken today, 1990 will be only the first of several more record-breaking years.

The DEA's intelligence reports from around the country indicate that cocaine is becoming more scarce—street buys were revealing less pure cocaine selling at higher prices.[3] The Senate Judiciary Committee heard testimony that while this pressure on the cocaine dealers was good news, more violence was also likely to erupt:

As hardcore addicts seek scarcer drugs;

As buyers grow dissatisfied with low-purity cocaine; and

As drug dealers and drug gangs fight over smaller turf.

Another cause of the record-breaking violence is the presence of deadly, highpowered weapons on the streets. Compared to the .22 caliber "Saturday Night Special" once common in the hands of criminals, the military-style assault weapons now found on America's streets cause much greater carnage.

Drug gangs and drug dollars are putting assault weapons in the hands of teen criminals—contributing to a teen murder rate that is rising four times faster than the adult murder rate.[4]

The nation's leading police organizations—including the Fraternal Order of Police, the International Association of Chiefs of Police, and the National Association of Police Organizations—all have called for a ban on military-style assault weapons. Many of the most respected law enforcement professionals have pointed out the deadly violence caused by these weapons and the national need for a ban on military-style assault weapons. Below are two examples:

[1] According to the U.S. Census Bureau the population grew by about 41 percent from 1960 to 1990. According to the FBI's Uniform Crime Reporting program, the violent crime total grew by about 516 percent from 1960 to 1990.

[2] United States Department of Justice, Bureau of Justice Statistics Special Report, *International Crime Rates*, May 1988. (This section's discussion reports on all four violent crimes except one, assault, because the BJS publication includes data only on murder, rape, and robbery.) The international data is compared to figures described in the FBI's Uniform Crime Reports.

[3] According to the Drug Enforcement Administration, from 1989 to 1990, the purity of retail-level cocaine dropped 20% while the base price for a retail-level gram rose 43%. The purity data compares the 1989 year-end average with the average purity of cocaine through November of 1990. The price data compares the 1989 year-end base price with the base price of the third quarter (July through September) of 1990—the latest data available.

[4] Federal Bureau of Investigation figures show a 16% rise in the murder rate among 15-19 year-olds, compared to a 4% increase in the overall murder rate between 1988 and 1989.

"[L]aw enforcement is suffering because of these guns."—Jack Lawn, Former Administrator, Drug Enforcement Administration.

"It's time we put an end to the carnage and havoc that occurs whenever an assault weapon gets in the hands of the wrong people."—Charles Reynolds, President, International Association of Chiefs of Police.

One other cause of the record surge of violent crime involves demographic trends. Leading researchers have pointed out that the boom in the teenaged population leads to record levels of violent teen criminals, and teen victims.

The boom in violent crime in the 1960's and 1970's—the violent crime rate in 1975 was more than double the rate in 1965[5]—coincided with the baby-boom generation entering the "high-crime" years of their late teens and early adulthood. The dip in violent crime rates in the early 1980's coincides with the decline in the number of Americans in the "high-crime" age group.

Thus, it is ominous that 1990 marks the beginning of a new crime wave, as the children of the baby-boomers enter their "high-crime" years. The so-called "baby-boomerang" may mean that 1990 was just the first of many record-setting years of violent crime.[6]

CHAPTER II—THE CHALLENGES CONFRONTING AMERICA'S "WAR ON CRIME"

The nation's state and local law enforcement officers on the front lines against violent criminals and drug traffickers are outgunned, under-manned and ill-equipped for the new challenges of law enforcement in the 1990's. Indeed, all elements of our criminal justice system are approaching collapse. The backlog of criminal cases before the nation's courts is crippling the nation's ability to fairly and effectively administer justice. And, our nations' prisons and jails are filled well-beyond the capacity they are designed and staffed to handle.

The pending collapse of our nations' criminal justice system sets in motion a disastrous upward spiral of violent crime. Recent increases in violent crime are overwhelming the criminal justice systems ability to arrest, adjudicate and punish violent criminals. This means that each violent criminal faces a lower risk of being arrested, convicted and punished. This may allow violent criminals to actually remain on the street committing ever more heinous crimes, and even give some non-violent offenders the time to become violent criminals—further overwhelming the nation's criminal justice system.

Challenges facing State and local law enforcement

Out-gunned:

The deadly flow of military-style assault weapons onto America's streets and into the hands of violent criminals means that all too frequently the superior firepower belongs to criminals, not law enforcement. The nation's law enforcement officials are unified in their demand to get these deadly weapons off our streets. The nation can no longer afford to allow its law enforcement officials to be outgunned by vicious criminals.

The lethal mixture of drugs, youth gangs and military-style assault weapons is seen in an ever-increasing number of cities and neighborhoods. Drug dollars have brought high-powered weaponry into the hands of teenaged gang members, and the shrinking supply of cocaine pits the drug dealers and drug gangs against each other in deadly combat. In the past year, few law enforcement departments did not see an innocent victim of gang- or drug-related crossfire.

And, just as no citizen is safe, no law enforcement officer is safe when criminals are armed with high-powered weaponry capable of ripping through steel or concrete. The nation's law enforcement officers who daily risk their lives to protect all of us deserve the most protection we can offer them.

Under-manned:

America's law enforcement officials are at a great disadvantage in their battle against crime than ever before. Senator Arlen Specter pointed out just how extreme this disadvantage has become when he cited the research of two Northwestern University criminologists[7]: In 1950, the nation had more than three sworn police officers for every one violent crime. But, in 1990, the nation had fewer than one sworn police officer for every three violent crimes.

This fact illustrates just how much the balance has tipped—from one favoring law enforcement to one favoring violent criminals. This reversal parallels the huge rise of all violent crimes from 1960 to 1990 (as was pointed out above), as well as the fact that, violent crime has increased 12-times faster than the population.

This broad historical trend is confirmed by the disturbing trends in the number of state and local law enforcement official protecting the nation's ten largest cities. Overall, the number of police officers on the streets of the ten largest U.S. cities is only one percent higher than it was when the Administration's first drug strategy was released in September 1989. The state of law enforcement in some of these cities is even more disturbing.

[5] Federal Bureau of Investigation reports indicate a violent crime rate of 203 per 100,000 Americans in 1965, and a rate of 490.7 per 100,000 Americans in 1975—2.4-times the 1965 rate.

[6] Professor James A. Fox is one of the leading researchers to have noted the impact of demographic trends on crime. His *Forecasting Crime Data* (Lexington, Massachusetts: Lexington Books, D.C. Heath, 1978) is one of the seminal works on the phenomenon.

[7] Herbert Jacob and Robert Lineberry, "Government Response to Crime" (Northwestern University Center for Urban Affairs and Public Policy Research) January, 1982, p. 23.

THE NUMBER OF POLICE OFFICERS IN AMERICA'S 10 LARGEST CITIES

City	1988	1989	1990	Percent 1988–89	Percent 1989–90
New York	26,723	26,858	25,649	−3.24	−.81
Los Angeles	7,553	7,893	8,395	4.50	6.36
Chicago	12,163	11,828	11,975	−2.75	1.24
Houston	4,270	4,088	4,115	−4.26	.66
Philadelphia	6,063	6,263	6,500	3.30	3.87
San Diego	1,783	1,857	1,846	6.85	−.59
Detroit	3,572	4,756	4,562	33.15	−4.08
Phoenix	1,801	1,917	2,019	6.44	5.32
San Antonio	1,415	1,486	1,580	2.41	6.33
Dallas	2,381	2,472	2,649	3.82	7.16
Total	67,715	68,418	69,290	1.04	1.27

It is evident from this table that largest cities all across the country have experienced only minor increases—if they experienced increases at all—in the number of sworn officers on their streets. To expect so few police to keep the peace in increasingly troubled times is simply unreasonable.

These ten largest American cities span the country—from East Coast to West and from North to South. And still, the problem is more widespread than even this chart would lead one to believe. Second tier cities, the ones that round out the "top 20" of America's largest metropolitan areas, experienced similarly slow growth in their police forces while their crime rates soared. To take just two examples: Baltimore and Milwaukee now have fewer sworn police officers than they did when President Bush first announced his national drug strategy.

Something is wrong when troop strength is reduced during a "war." To be sure, police officers are not the only "soldiers" in the "war on drugs." There are the thousands of teachers and health care providers and community leaders and others that are helping America fight the drug epidemic. But putting fewer state and local police on the street—particularly when the bulk of the President's strategy concerns law enforcement programs—is not only unexpected, it is unconscionable.

Obviously, there is a great deal of room for federal law enforcement efforts in the "drug war." Federal agents are productively at work on our country's borders and in our towns, but state and local police remain the "front line troops." It is these people who have the greatest contact with, and influence over, America's citizenry. Again, the way to put the current drug epidemic behind us has little to do with the Administration's current policies of limited direct funding to state and local governments that has helped bring about the current, unfortunate trend toward barely increased—and sometimes decreased—law enforcement presence in America's cities and towns.

Ill-prepared for the new challenges of the 1990s

The national epidemic of violent crime is exacerbated by the new challenges facing the law enforcement officers on the front lines. New criminal elements are growing in every area of the country—the sudden shift of youth gangs into highly organized and violent drug-dealing organizations and the emerging presence of Asian gangs, or "Tongs," as noted by the FBI are but two of new challenges facing law enforcement today.

There are other challenges taxing our already overwhelmed state and local enforcement agencies. One such problem is the recently recognized toll of drugs and crime in rural America. Drugs have indeed infected all areas of the nation, bringing all their attendant crime and, in particular, violent crime to neighborhoods once thought to be safe havens from the crime problem.

Much of the recent outbreak of violent crime in rural America is the direct result of the burgeoning epidemic of methamphetamine, particularly in its highly-addictive smokable form called "ice." For several reasons, while urban areas are the center of the cocaine and heroin distribution networks, rural areas are the center of methamphetamine and "ice" trafficking. The two most important reasons for the spread of "ice" in rural areas are, first, methamphetamine manufacturing is safest in rural areas because the chemical process has such a strong signature odor. And, second, the major distributors of methamphetamine are motorcycle gangs—historically and today most active in rural America.

All these factors have recently come together to yield what may be the origins of an epidemic—not only of "ice," but also of drug-fueled violent crime. Already, local law enforcement agencies are seeing the spread of violent crime into America's rural communities.

Challenges facing prosecutors and judges

The flood of violent crime, as well as that of drug-related crime, is clogging the nation's courtrooms. Prosecutors and judges must make and accept plea bargains with even serious, violent offenders. Criminal cases drag on for years. In sum, these bottlenecks rob the nation of an effective criminal justice system.

Information provided by the Administrative Office of the United States Courts indicates the vast backlog of federal criminal cases and illustrates the problems facing every state and municipal courtroom. The Administrative Office projected a 31 percent increase in the number of criminal drug cases filed in federal District Courts from 1989 to 1990. Thus, even if there was no increase in non-drug criminal cases, the number of criminal case filings in 1990 would have increased nearly 10 percent over 1989 due to the drug crime caseload. And, of course, all criminal filings are increasing, though perhaps not as dramatically as are criminal drug cases.

The impact on state and municipal courtrooms is even more extreme. Indeed, the backlog in the federal criminal justice system has increased the backlog in state courts. In many districts, U.S. attorneys have established formal or informal guidelines that establish minimum thresholds for drug cases—drug traffickers caught with less than these pre-determined minimums are often transferred to already over-burdened state prosecutors.

Another indicator of the backlog in state and local courtrooms is the number of arrests. According to the FBI Crime Reporting Program, the number of arrests for violent crimes increased even faster than the number of violent crimes. The most recent FBI information on arrests exhibits a 9.5 percent increase in the number of arrests for a violent crime between 1988 and 1989. During the same period, violent crime increased by about 5 percent. Because the violent crime total increased by 10 percent from 1989 and 1990, the flood of criminal cases into federal, state and municipal courtrooms will surely increase.

Challenges for the corrections system

The nation's prisons and jails are in crisis. More than any other element of our criminal justice system, the nation's ability to punish violent criminals effectively has been degraded by the epidemic of violent crime. Overcrowding in jails and prisons means that corrections officers can neither treat nor rehabilitate the nation's offenders. The overwhelmed courts have too little time to determine which low-level, non-violent offenders could be given less expensive alternative sanctions. And, the juvenile corrections system is falling apart.

According to the U.S. Department of Justice, the nation's prisons are operating at between 109 percent and 125 percent of capacity.[8] More than 40 states are under court order to reduce prison overcrowding and improve prison conditions. Swift and certain punishment is the only way to keep our streets and neighborhoods safe from America's most violent criminals. Unfortunately, as the Justice Department reports, "many States have provisions for sentence reductions, rollbacks, early releases, and other mechanisms to reduce prison populations."[9] Even if, as is likely, it is only minor offenders who are released, the corrections system is clearly losing chances to stop criminal careers before they progress into violent pathologies.

Unfortunately, most inmates are drug addicts when they enter our corrections system. Almost all inmates will be released to return to our streets and neighborhoods. Thus, it is particularly frightening reality that about six of every seven of these addicts will leave prison or jail without receiving drug treatment. The absolute numbers are even more frightening—for out of the nearly 10 million offenders who enter the nation's prisons or jails in the past year, nearly 3.6 million criminals who entered prison or jail as a drug addict left without having been treated for their addiction.[10]

Prison cells are among the most expensive elements in the criminal justice system. Because they are so expensive, prison cells must be used sparingly—reserved for the violent criminals who present a clear danger to the community. This fact should also guide our criminal justice system to punish non-serious, non-violent offenders with intermediate sanctions. Such intermediate sanctions can, for these non-serious, nonviolent offenders, fulfill the goals of our justice system—punishment, incapacitation, and rehabilitation.

The list of proven intermediate, or alternative, sanctions includes home detention, often monitored with electronic bracelets, and intensive supervision of offenders released on probation or parole. Military-style boot camp prisons have been effective for non-violent and first-time drug offenders. Boot camp prisons require inmates to follow rigorous regime of physical exercise, job training and drug treatment programs.

Juvenile corrections

The nation's juvenile corrections system if falling apart. Juvenile detention centers are vastly overcrowded, and scarce juvenile court resources, and growing caseloads for counselors and social workers have created a "revolving door" juvenile justice system. Serious juvenile offenders are often returned to the streets just days after arrest. First-time offenders are lost in the system, never receiving the counselling and guidance that might reverse the slide towards a violent

[8] U.S. Bureau of Justice Statistics, "BJS Data Report, 1989." December, 1990.

[9] Ibid, page 79.

[10] Prison and jail population, drug use and drug treatment information provided by U.S. Bureau of Prisons, Bureau of Justice Statistics, National Institute of Justice and from the American Jail Association.

criminal career. Plainly, the system is nearly bankrupt of promise or punishment.

Helping victims

The costs of violent crime on victims is staggering. The economic costs alone—in the form of medical bills, lost wages and property loss—reached almost $4 billion in 1987. When non-violent crimes are added, the cost reached almost $15 billion.

Tragically, crime victims receive little assistance in their interaction with the justice system. Only 11 percent of violent crime victims in the United States received any victim advice, assistance or compensation from authorities.

Conclusion

The nation's state and local law enforcement officers—our front lines in the "war" against violent criminals and drug traffickers—are out-gunned, under-manned and ill-equipped for the new challenges of law enforcement in the 1990s. Law enforcement is out-gunned because of the deadly flow of military-style assault weapons to the streets and to vicious criminals. Law enforcement is under-manned—relative to violent crime the nation has fewer law enforcement officers than ever before. And, law enforcement is ill-prepared to meet the new challenges offered by violent youth and drug gangs, as well the challenge of crime in rural America.

Indeed, all elements of the criminal justice system are suffering from the epidemic of violent crime sweeping the nation. Bottlenecks in the nation's state and municipal courtrooms delay the swift and equitable delivery of justice. And, the nation's adult and juvenile corrections systems are plagued by chronic overcrowding of the prisons and jails intended for the most dangerous offenders, and too few intermediate sanctions, such as military-style boot camp prisons, for non-violent offenders. In sum, our criminal justice system is nearing collapse under the strain of the record violent crime totals.

CHAPTER III—AN ALTERNATIVE LAW ENFORCEMENT AGENDA FOR THE 1990S

As the preceding chapters demonstrate, the nation faces greater challenges today to its public safety than at any time in U.S. history. Unfortunately, the Administration's response to these challenges will do little to reverse these dangerous trends. In some cases, the Administration's response will actually make the problems far worse.

The course that the Administration has charted to address these challenges, however, is not the only one available. Numerous sound proposals have been offered to reverse the current trends in violent crime, proposals that the Administration has either ignored or rejected outright. Outlined below are ten critical areas where the Administration's response is inadequate, followed by proposals that should reverse the current trends in violent crime by equipping us with the tools we need to meet the challenges of the 1990s and beyond.

1. The "Thin Blue Line:" State and Local Law Enforcement

State and local law enforcement agencies have been called the "thin blue line" that separates peaceful, law-abiding neighborhoods from the violence-plagued streets of many U.S. cities, much of it drug related. However, despite the Administration's claim that it will make fighting street crime a high priority, America's "thin blue line" is stretched to the breaking point.

The number of police officers on the streets of the ten largest U.S. cities is barely one percent higher today than when this Administration took office.

And, even this meager increase would be reversed under the Department of Justice's proposals. Although the Justice Department has requested $490 million in fiscal 1992 in funding for the state and local law enforcement block grant program—the same amount Congress appropriated last year—several other initiatives will cost state and local agencies millions of dollars in federal aid.

The Department is attempting to cut federal aid to state and local agencies by more than $50 million by requiring that several separate programs—including the RISS projects (regional criminal intelligence systems) and the expansion of the FBI's National Crime Information Center—be funded through these grants.[11]

The Administration has also short-changed state and local agencies by shifting $20 million that Congress had earmarked for state and local drug-fighting agencies to increase the budgets of federal agencies, a move that the Justice Department's Inspector General recently found to be a violation of law.[12]

Finally, the Administration is proposing to cut federal aid to state and local jurisdictions which do not institute costly new criminal justice drug testing programs. These federal mandates will cost at least $250 million according to Administration estimates, a move which could force state and local law enforcement agencies to fire up to 5,000 police officers.[13]

Any effective response to the violent crime problem must provide more police officers to protect our communities and take back our streets. Accordingly, federal aid to state and local law enforcement agencies should be increased to $1 billion—a rough doubling of the existing federal commitment. This additional funding could be used to hire up to 5,000 additional police officers and 5,000 additional prosecutors at the state and local level. These resources could also be used to improve every component of the criminal justice system, including, police, prosecutors, courts and corrections.

Moreover, Congress should reject the Administration's attempts to cut tens of millions of dollars in federal aid to state and local enforcement through costly new mandates, program "consolidations" that—in reality—cut aid to state and lcoal agencies, and budget tricks that seek to augment the budgets of federal agencies at the expense of state and local law enforcment.

2. Killer Assault Weapons

The single most serious challenge facing the nation's law enforcement community is the proliferation of deadly, military-style assault weapons in the hands of violent gangs, drug traffickers and other organized criminal rings. Unfortunately, the Administration's response to this threat has been guided more by special interest politics, than by concern for police officers in the streets.

The Administration has steadfastly opposed a ban on the manufacture and sale of military-style assault weapons. Even when the Administration has attempted to take a strong stand against assault weapons, it has quickly reversed itself:

Despite the Administration's high-profile announcement in early 1989 that banned the importation of several types of assault weapons, the Administration later reversed itself, permitting the importation of seven types of highly dangerous military-style weapons that had previously been banned.

The White House balked at the recommendations of senior officials from the Bureau of Alcohol, Tobacco and Firearms (BATF) to close a loophole in an earlier Administration order that banned the importation of five types of assault rifles. The loophole allowed the importation of 25 other types of assault weapons—five times the number that were banned.

In 1989, the Administration initially announced that it would support a 15-round limit on the ammunition capacity of military-style assault weapons. A year later, the Administration reversed itself.

Congress should pass and the President should sign the DeConcini Assault Weapons Control Act, which passed the Senate in the 101st Congress. This legislation has been endorsed by virtually every major law enforcement organization in the country, including the Fraternal Order of Police, International Association of Chiefs of Police, National Troopers Coalition, National Sheriffs Association, National Association of Police Organizations, National Organization of Black Law Enforcement Executives, Police Executive Research Forum and the Federal Law Enforcement Officers Association.

The DeConcini bill would ban the possession, sale, importation and manufacture of 14 of the most deadly assault weapons. The bill would not apply to weapons owned by private citizens, but it would require record-keeping for all future transfers of such weapons to assist law enforcement officials in keeping them out of the hands of youths, drug dealers and dangerous criminals.

3. Gang and Drug Violence

The rise of violent gangs has fueled much of the increase in violent crime and homicide recently. What were once loosely-knit groups of juveniles involved in petty crimes have become powerful, organized gangs intent on controlling the lucrative drug trade through intimidation and murder. In addition, FBI agents and other experts have begun to detail the rise of new Asian gangs, including the "Tongs" and "Triads." Many of the leaders of these gangs are young men in their late teens or early twenties, while gang members are as young as 14. Like the violent youth gangs in Los Angeles and other U.S. cities, the emerging Asian gangs are actively engaged in the drug trade.

The Administration's response to these problems would actually increase the dangerous rise in gang violence and drug trafficking. First, the Administration has tried to cripple the federal agency devoted exclusively to reducing juvenile drug, gang and other criminal activity—the Office of Juvenile Justice and Delinquency Prevention. The Administration has targeted the office for an 85 percent cut in funding.

Recently, the Administration unveiled a major "new" initiative to combat organized crime, including emerging juvenile and Asian drug gangs. The centerpiece of the plan is to increase the number of FBI agents and U.S. prosecutors assigned to organized crime cases. More FBI resources are certainly needed: Despite repeated Administration pledges to boost FBI resources devoted to organized crime and drug cases, budget short-falls forced the Bureau to cut 42 agents

[11] The programs targeted for elimination or "consolidation" include: Regional Information Sharing System ($14 million), the FBI's National Crime Information Center ($22 million), National Institute of Corrections Technical Assistance Grants ($3 million); and the State Justice Institute ($12 million).

[12] *Inspection Report I-91-01: Office of Justice Programs*, Office of the Inspector General, Department of Justice, January 1991, pp. 8-11.

[13] Letter to Chairman Joseph R. Biden, Jr., from Joseph H. McHugh, Director of Congressional Relations, Office of National Drug Control Policy, January 18, 1991.

from its drug enforcement efforts and 16 agents from its commitment to the Organized Crime-Drug Enforcement Task Forces since January 1990.

The Administration's new-found interest in a crackdown on organized crime and gang activities is ironic. Less than 12 months ago, the Administration lobbied aggressively against provisions in S. 1972, introduced by Senator Joseph R. Biden, Jr., which would have boosted the drug and organized-crime fighting budgets of the FBI and U.S. Attorneys' offices by $57 million and $24 million, respectively.[14]

The Federal government must adopt an aggressive program to reverse the current trends in violent gang and juvenile drug activities. First, Congress should enact a $100 million initiative to fight violence and drug activities by youth gangs. Since the majority of juvenile gang and drug activities falls within the jurisdiction of state and local agencies, the bulk of this new funding should go directly to state and local police, sheriffs, prosecutors and juvenile enforcement agencies. Second, Congress should boost funding for the FBI by $98 million to add 1,000 new agents to the Bureau's drug and organized crime program.

Finally, Congress should enact a series of legislative proposals to strengthen federal criminal laws relating to gang violence. These proposals include a new federal offense for "drive by shootings" committed in furtherance of drug conspiracies, along with the "Outlaw Street and Motorcycle Gang Control Act of 1991" introduced by Senator DeConcini. The legislation would establish a national tracking system for violent gangs and boost federal firearms penalties, including making it illegal to transfer a firearm if the seller had reason to know that it would be used in drug trafficking or violent crime.

4. Federal-State Forfeiture Operations

Asset forfeiture laws—which empower law enforcement agencies to freeze and seize the profits of drug dealing and other criminal activities—have become a powerful law enforcement weapon in the fight against drug traffickers and organized crime rings. These laws have also become an important avenue for federal-state cooperative investigations. Under the "equitable sharing" provisions of the Comprehensive Crime Control Act of 1984, state agencies that participate in forfeiture operations prosecuted in federal court are entitled to a share of any monies recovered, based on the level of the state or local agencies involvement. More than $177 million was transferred to state and local agencies in 1990 through the equitable sharing law.

Recent Justice Department proposals, however, could reverse the trend toward federal-state cooperative efforts. The department has proposed a 15 percent "tax" on state-local forfeiture cases to cover "administrative expenses" for cases processed in federal courts. The "15-percent off-the-top" proposal, however, ignores the fact that many of these cases are developed, investigated and prepared almost entirely by state and local authorities, with only nominal involvement of federal posecutors.

Congress should reject the 15 percent tax on joint federal-state forfeiture proceeds. In fact, Congress should consider legislation to expand cooperative forfeiture operations, including efforts to end the lengthy delays in the transfer of equitable sharing proceeds to state and local agencies.

5. Addressing the Corrections Crisis

The Administration's response to the overcrowding problem in the federal prison system has been one of its most successful law enforcement initiatives. The Department of Justice has won consistent funding increases to expand the federal prison capacity—a direction supported by Congress at every step.

At the same time, the department has failed to launch any new initiatives to address the prison crisis at the state level. In fact, the department has largely ignored recent congressional directives to ease the state prison crisis by transferring surplus federal property to state corrections agencies for use as prisons and military-style boot camps. Congress conferred the authority to transfer surplus federal property to state agencies in the 1984 Comprehensive Crime Control Act and re-affirmed this mandate in the Anti-Drug Abuse Act of 1986.

However, only one property—a water storage site on the North Bend National Guard Station in Oregon—was selected and conveyed to a state corrections agency in a recent 12-month period.[15]

If the Federal government is serious about reversing the dangerous trends in murder, robbery, rape and other serious crimes, it must address the state prison crisis. Although the Federal government alone cannot solve the problem, it can move forward on a number of promising initiatives to help remedy the situation. First, the Administration can move aggressively to transfer federal properties—including closed military bases—to state corrections agencies—a move that could save state agencies tens of millions of dollars at little or no cost to U.S. taxpayers.

Second, the Administration should launch a major new effort to identify cost-effective "intermediate sanctions" for low-level, nonviolent offenders, particularly drug offenders. Intermediate sanctions—including military-style boot camps, home detention, and supervised drug testing programs—can provide punishments that are more than a slap on the wrist, but less severe and less expensive than lengthy prison terms.

Finally, the federal government should create 10 regional prisons to house federal, state and local drug offenders, as originally proposed by Senator Biden in S. 2650, the National Drug Strategy Act. The recidivism rate for criminals with drug problems can be significantly reduced by providing effective drug treatment to inmates before their release. Such a policy is not based on misguided notions of rehabilitation, but rather on the practical knowledge that even a 50 percent effective treatment rate can reduce repeat criminal behavior, thus decreasing drug-related violent crime and reducing the ever-increasing cost of incarcerating state and federal prisoners.[16]

6. Violent Crime and Drug Trafficking in Rural America

Violent crime and drug trafficking is tearing apart the social fabric in rural America. Admittedly, the bulk of traditional crime and drug activities in rural areas has occurred outside the jurisdiction of federal agencies. However, with the rise of sophisticated regional and interstate drug trafficking networks in rural locales, particularly large-scale methamphetamine operations, rural enforcement agencies have neither the manpower nor the equipment to respond adequately.

By focusing its law enforcement efforts in major cities, the Administration has neglected its responsibilities to the nation's rural communities. In fact, the Department of Justice has consistently fought congressional initiatives that could help reverse the alarming rates of violent crime and drug trafficking in rural areas, including efforts to boost DEA agents in rural areas, increase federal aid to rural law enforcement agencies and expand training opportunities for rural police officers and drug investigators.[17]

The Federal government must undertake an ambitious program to tackle the rural crime and drug problems. First, Congress and the President should provide $50 million in federal aid to boost police, prosecutors and other law enforcement officials in rural areas. Second, federal law enforcement agencies—particularly the Drug Enforcement Administration and the Federal Bureau of Investigation—should increase their presence in rural areas. The Attorney General should coordinate these additional resources through the creation of Rural Drug Enforcement Task Forces in every federal judicial district that includes significant rural areas. These task forces would be headed by the local U.S. attorney and include personnel from the DEA, FBI, U.S. Park Police, Bureau of Land Management, and state and local law enforcement agencies. Fourth, the Federal Law Enforcement Training Center in Glynco, Georgia, should develop a specialized course tailored to the needs and challenges of rural law enforcement officials and expand the number of rural officers that receive training.

7. Protecting the Rights of Crime Victims

All too often, the criminal justice system ignores the rights of crime victims, attaching more importance to the rights of criminals and the need for speedy prosecutions than to the concerns of the victims of crime.

The Administration has devoted much rhetoric to the rights of crime victims, yet it has done little to advance their rights in the form of legislative or executive branch initiatives. As detailed in chapter II, only 11 percent of the victims of violent crimes receive any assistance or advice from victims assistance officials; the number actually receiving comprensation is much smaller still.

Congress should take the lead in responding to the needs of crime victims. First, Congress should consider removing the "cap" on the Crime Victims Fund, or at the very least, significantly increasing the amount of the cap. In addition, Congress should enact legislation to require *mandatory* restitution to the victims of federal crimes. A similar provision passed the Senate during the 101st Congress.

8. Federal Criminal Law Reform

The centerpiece of the Administration's violent crime program is the reform of federal criminal law with respect to the death penalty, exclusionary rule and habeas corpus. The Administration's proposals—particularly the death penalty—sound "tough" on crime, but their toughness is more apparent than real.

Since November 1988, the Attorney General has had the authority to seek the death pen-

[14] Letter to Chairman Joseph R. Biden, Jr., from Bruce C. Navarro, Acting Assistant Attorney General, U.S. Department of Justice, March 19, 1990.

[15] *See The President's Drug Strategy: One Year Later*, Staff Report of the Majority Staffs of the Senate Judiciary Committee and International Narcotics Control Caucus, Septembr 1990, pp. 47-8.

[16] Among several studies which make the same point, the Treatment Outcomes Prospectives—the so-called "TOPS" study—confirms that drug treatment reduces criminality significantly.

[17] *See* Letter to Chairman Joseph R. Biden, Jr., from Bruce C. Navarro, Acting Assistant Attorney General, U.S. Department of Justice, March 19, 1990.

alty in any case where a drug kingpin commits or orders a murder. During the 28 months the law has been in effect, no drug kingpin has yet been given a death sentence. In fact, there are currently only four cases underway where the Justice Department is seeking the death penalty.

Three potential death sentences during a period in which more than 50,000 Americans were killed. This cannot be considered a serious solution to America's crime problem.

The promises of exclusionary rule and habeas corpus reform as the answers to violent crime in America are similarly misleading. The Administration's exclusionary rule proposals would apply only to federal cases. And habeas corpus reform would have little impact on crime in the streets: habeas petitions, by definition, are filed by prisoners who are already incarcerated and who seek review of their state court convictions.

Nonetheless, enactment of the federal death penalty, and reform of the exclusionary rule and habeas corpus procedures, will have some impact. Both Houses of Congress passed legislation in the 101st Congress to accomplish such reform; unfortunately, final language could not be resolved in the final hours of the session.

Congress should expand the federal death penalty, and reform the exclusionary rule and habeas corpus procedures; legislation to accomplish these goals should be enacted in the 102nd Congress.

But the promise of such reform should not be overstated. Severe penalties for the most heinous violent crimes are necessary to deter and punish such acts. But stiff laws on the books are no substitute for catching and prosecuting criminals. Without the necessary resources to put violent criminals behind bars, expanding the federal death penalty amounts to little more than a symbolic gesture that diverts our attention from what we can do effectively to reduce the dangerous trends in violent crime.

9. National Commission on Crime and Violence in America

The Attorney General's law enforcement summit was held amidst the backdrop of the nation's bloodiest year in history, with a record murder toll and sharp increases in the rate of robbery, assault, rape and other violent crimes.

The Attorney General could have seized upon this moment to chart a new direction for the law enforcement community in the 1990s, building a national consensus among federal, state and local elected leaders, law enforcement professionals and other experts on how to reverse the alarming trends in violent crime. Unfortunately, the agenda of the summit was dictated by federal officials, allowing little opportunity for state and local law enforcement officials to offer their suggestions on how to address the violent crime problem. Moreover, the carefully scripted agenda side-stepped the tough issues confronting the nation's law enforcement community, including the deadly flow of assault weapons into the hands of violent criminals and inadequate federal aid to address the crises in our courts and corrections systems.

Many of the current success stories in the fight against crime and drug trafficking can be traced to the President's Commission on Law Enforcement and the Administration of Justice, created by President Lyndon Johnson in the late 1960s. Responding to the rising tide of violent crime in the streets of America, the President's Commission charted an ambitious new course that attacked the crime problem on a number of fronts. For example, the Commission drafted the early versions of the Omnibus Crime Control and Safe Streets Act of 1968, which overhauled federal crime and drug trafficking laws, authorized court-approved wiretaps and committed the federal government to support state and local law enforcement agencies.

The President should convene a National Commission on Crime and Violence in America to chart a course for the nation to respond to the violent crime and drug trafficking problems into the 21st century. The Commission's agenda should not be dictated by federal officials, but rather should be developed by members of the Commission. The membership should include law enforcement officials from federal, state and local agencies, elected officials from all levels of government, and experts from a wide variety of academic and professional disciplines, including the medical, business, military, religious and entertainment fields.

10. The Emerging Threats

Much of the violent crime problem in America is fueled by drug trafficking. To prevent future increases in violent crime, we must respond to the emerging drug threats in this country. In particular, there is substantial evidence that crystalline methamphetamine—commonly called "ice"—and cheap, extremely-pure Southeast Asian heroin, including new forms of smokable heroin, may trigger new drug epidemics in the 1990s, bringing with them an inevitable increase in drug-related violent crime.

The Administration has taken a complacent approach to these emerging drug crises. The January 1991 National Drug Control Strategy dismisses these threats, arguing that "there is no solid evidence that any recent increase in heroin use has occurred" and that "ice continues to be used primarily in Hawaii and the Far West." After downplaying the threat, the strategy simply calls for lengthy studies and research of the problems.

The story of our failure to foresee—and prevent—the crack cocaine epidemic is one of the most significant public policy mistakes in modern history. Though U.S. officials had several years notice that the outbreak was coming, they took little action until it was too late. If we endorse the folly of the Administration's current complacency, history may repeat itself.

Congress must take steps to respond to the emerging threats of methamphetamine and heroin before they reach epidemic proportions. The DEA should increase the number of agents stationed in Pacific Rim countries, where much of the heroin and methamphetamine is produced and transported. Federal laws should be strengthened to better control the sale of ephedrine and other precursor chemicals used to produce methamphetamine. And Federal law enforcement officials should initiate prosecutions of clandestine methamphetamine laboratories under the criminal and civil provisions of federal environmental laws, particularly in cases where there is insufficient evidence to bring criminal charges under traditional drug laws.[18]

[18] For a complete list of initiatives to combat the emerging methamphetamine and heroin problems, see *Fighting Drug Abuse: New Directions for Our National Strategy*, Staff Report by the Majority Staffs of the Senate Judiciary Committee and International Narcotics Control Caucus, February 1991, pp. 126-67.

APPENDIX I—SUMMARY OF PROPOSALS

Violent Crime Control Act of 1991

Title I. Safer Streets and Neighborhoods Act: Authorizes $1 billion in aid to state and local law enforcement agencies.

Title II. Federal Death Penalty Act: Authorizes the death penalty for 30 offenses (includes the Racial Justice Act).

Title III. Death Penalty for Murder of Law Enforcement Officer Act: Authorizes the death penalty for the murder of federal law enforcement agents and state law enforcement agents working with the federal government.

Title IV. Death Penalty for Drug Criminals Act: Authorizes the death penalty for drug offenders who murder.

Title V. Anti-Terrorist Crime Act: Authorizes the death penalty for terrorist murders committed at home or abroad, boosts penalties, and creates new offenses to counter terrorism.

Title VI. Drive-by-Shooting Act: Increases penalties for drive-by-shootings in furtherance of drug conspiracies; authorizes the death penalty for drive-by-shootings that result in murder.

Title VII. Assault Weapons: Bans the manufacture and assembly of 14 domestic assault weapons (the "DeConcini bill").

Title VIII. Police Corps: Grants college scholarships to students who commit to 4 years service as police officers and provides educational opportunities for in-service police officers (based on the Sasser-Specter-Graham amendment to S. 1970, 101st Congress).

Title IX. Federal Law Enforcement Act: Boosts funding for DEA, FBI, and INS agents.

Title X. Habeas Corpus Reform: Limits death-row prisoners to one habeas corpus petition.

Title XI. Punishment of Gun Criminals: Toughens penalties for use of a firearm during any violent or drug crime.

Title XII. Prison for Violent Drug Offenders Act: 10 regional prisons to treat 8,000 state and federal prisoners addicted to drugs.

Title XIII. Boot Camps: Authorizes the Attorney General to create 10 military style boot camps for young drug offenders.

Title XIV. Youth Violence Act: Provides $100 million in grants to fight juvenile gangs and the use of illegal drugs by juveniles.

Title XV. Rural Crime and Drug Control Act: Provides $50 million and other measures to control the supply of drugs in rural America and $25 million for drug treatment and prevention efforts targeting rural America.

Title XVI. Drug Emergency Areas Act: Provides $300 million in federal aid to those cities and communities hardest hit by the drug crisis (based on Biden-Specter-Kennedy bill).

Title XVII. Drunk Driving Child Protection Act: Boosts penalties for drunk driving when a child is present in the vehicle.

Title XVIII. The Commission on Violence in America: Creates a national commission to establish a plan for combatting violence in American society.

Title XIX. Victims of Crime Act: Creates a victim "bill of rights" and mandates victim restitution.

Title XX. Crack House Eviction Act: Beefs up Attorney General's authority to shut down crack houses (based on Kennedy amendment to S. 1970, 101st Congress).

Title XXI. Organized Crime Division: Establishes an organized crime and dangerous drug division within the Department of Justice.

Title XXII. Exclusionary Rule: Codifies existing law on the exclusionary rule.

Title XXIII. Drug Testing: Requires drug tests for all federal prisoners on parole, probation, or supervised release.

APPENDIX II—COMMISSION ON VIOLENCE IN AMERICA

TITLE —COMMISSION ON CRIME AND VIOLENCE

SEC. 1801. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

SEC. 1802. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State and Federal crime control efforts.

SEC. 1803. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(4) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(5) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(6) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

SEC. 1804. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

SEC. 1805. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the Commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS-18 of the General Schedule.

SEC. 1806. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1807. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1806.

CRIME BILL SIDE-BY-SIDE

Provision	Biden bill	Bush bill
1. Safe Streets.	Authorizes $1 billion in aid to State and local law enforcement agencies.	No provision, and Bush's budget cuts aid to State and local agencies by almost $100 million (down to $450 million).
2. Death Penalty.	Authorizes the death penalty for 30 Federal offenses.	Authorizes the death penalty for 30 Federal offenses.
3. Murder of Law Enforcement Agents.	Authorizes the death penalty for the murder of Federal law enforcement agents and State law agents working with the Federal Government.	Authorizes the death penalty for the murder of Federal law enforcement agents only.
4. Death Penalty (Drug Crimes).	Authorizes the death penalty for murderous drug offenses.	Authorizes the death penalty for "drug kingpins."
5. Anti-Terrorism.	Authorizes the death penalty for murderous terrorist acts and boosts other terrorist-related penalties.	Authorizes the death penalty for murderous terrorist acts.
6. Drive-by-Shooting.	Increases penalties for drug-related drive-by-shootings, including death penalty provisions.	No provision.
7. Assault Weapons.	Bans the manufacture and assembly of 14 domestic assault weapons. (DeConcini bill).	Bans only foreign-made assault weapons.
8. Police Corps.	Grants college scholarships to students who commit to 4 years service as police officers and provides in-service educational opportunities. (Sasser-Specter-Graham Proposal).	No provision.
9. Federal Law Enforcement.	Boosts funding for DEA, FBI, and INS agents.	Proposes modest increases for the DEA, FBI, and other agencies.

CRIME BILL SIDE-BY-SIDE—Continued

Provision	Biden bill	Bush bill
10. Habeas Corpus.	Limits death-row prisoners to one habeas corpus petition, if prisoners are given adequate counsel.	Effectively eliminates federal court review of state criminal convictions.
11. Gun-Related Penalties.	Toughens penalties for gun use during any violent or drug-related crime.	Adds to current penalties for gun-related offenses.
12. Violent Drug-Crime Prison.	Establishes 10 regional prisons to treat State and Federal drug-addicted prisoners.	No provision.
13. Boot Camps.	Expands Federal funding for State "boot camp" programs.	Do.
14. Violent Youths.	Provides $100 million to combat juvenile gangs and drug abuse among youths and increases penalties for most serious offenses.	Increases some penalties for serious juvenile offenses.
15. Rural Crime and Drugs.	Provides, for rural areas, $50 million for anti-drug law enforcement and $25 million for drug treatment and prevention.	No provision.
16. Drug Emergency Areas.	Provides $300 million to cities hardest hit by the drug crisis.	Do.
17. Drunk Driving.	Boosts penalties for drunk driving when a child is present in the vehicle.	Do.
18. Anti-Violence Commission.	Creates a national commission to plan against violence in America.	Do.
19. Victims of Crime.	Creates a victim "bill of rights," mandates victim restitution, and removes cap on victim's fund.	Do.
20. Crack House Eviction.	Expands the Attorney General's authority to close crack houses.	Do.
21. Organized Crime Division.	Establishes an Organized Crime and Dangerous Drugs Division within the Department of Justice.	Do.
22. Exclusionary Rule.	Codifies existing law on the exclusionary rule.	Creates a "good faith exception" that even applies in cases when no search warrant is obtained.
23. Drug Testing.	Requires drug tests for all Federal prisoners on parole, probation, and supervised release. (Simon bill).	Similar provision.

Violent Crime Control Act of 1991

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Title V. Anti-terrorist Crime Act: Authorizes the death penalty for terrorist murders committed at home or abroad, boosts penalties, and creates new offenses to counter terrorism.

Title VI. Drive-by-Shooting Act: Increases penalties for drive-by-shootings in furtherance of drug conspiracies; authorizes the death penalty for drive-by-shootings that result in murder.

Title VII. Assault weapons: Bans the manufacture and assembly of 14 domestic assault weapons (the "DeConcini bill").

Title VIII. Peace Corps: Grants college scholarships to students who commit to 4 years service as police officers and provides educational opportunities for in-service police officers (based on the Sasser-Specter-Graham amendment to S. 1970, 101st Congress).

Title IX. Federal Law Enforcement Act: Boosts funding for DEA, FBI, and INS agents.

Title X. Habeas Corpus reform: Limits death-row prisoners to one habeas corpus petition.

Title XI. Punishment of gun criminals: Toughens penalties for use of a firearm during any violent or drug crime.

Title XII. Prison for Violent Drug Offenders Act: 10 regional prisons to treat 8,000 state and federal prisoners addicted to drugs.

Title XIII. Boot camps: Authorizes the Attorney General to create 10 military style boot camps for young drug offenders.

Title XIV. Youth Violence Act: Provides $100 million in grants to fight juvenile gangs and the use of illegal drugs by juveniles.

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Title XIX. Victims of Crime Act: Creates a victim "bill of rights" and mandates victim restitution.

Title XX. Crack House Eviction Act: Beefs up Attorney General's authority to shut down crack houses (based on Kennedy amendment to S. 1970, 101st Congress).

Title XXI. Organized Crime Division: Establishes an organized crime and dangerous drug division within the Department of Justice.

Title XXII. Exclusionary Rule: Codifies existing law on the exclusionary rule.

Title XXIII. Drug Testing: Requires drug tests for all federal prisoners on parole, probation, or supervised release.

Detailed Summary of Biden Crime Bill

Title I—Safer Streets and Neighborhoods Act

Title I authorizes $1 billion in aid to state and local law enforcement agencies for fiscal year 1992.

Title II—Federal Death Penalty Act

Title II authorizes the death penalty for the same 30 federal offenses proposed by Senator Thurmond last year in S. 32, and passed by the Senate in S. 1970. Four offenses have been added for civil rights murders. Like S. 1970, Title II bars the execution of persons under the age of 18 and the mentally retarded. This title also includes Senator Kennedy's Racial Justice Act.

Title III—Death Penalty for Murder of Law Enforcement Officer Act

Title III authorizes the death penalty for the murder of federal law enforcement officers. It also creates a new death penalty offense for the murder of state law enforcement officers working with federal agents.

Title IV—Death Penalty for Drug Criminals Act

Title IV authorizes the death penalty for drug criminals who murder, creating 5 new death penalty offenses. These new offenses cover murders committed during drug conspiracies, during the sale of large drug quantities, or during drug sales to minors.

Title V—Anti-Terrorist Crime Act

Title V is a comprehensive anti-terrorism initiative. It allows the FBI to go after criminals who finance and arm terrorist groups; and provides $75 million to significantly boost the number of FBI agents and other federal state and local law enforcement agents devoted to counter-terrrorism efforts.

Title VI—Drive-by-Shooting Act

Title VI attacks the increasing threat posed by drug-related drive-by-shootings. Federal law punishes murders and gun crimes but provides no separate penalties for indiscriminately spraying bullets into a crowded car or playground. This title creates a special offense for drug-related drive-by-shootings, punishable for up to 25 years, and authorizes the death penalty if the shooting results in murder.

Title VII—Assault Weapons

Title VII is the "assault weapon" ban authored by Senator DeConcini and passed last year by the Senate in S. 1970. It bans 14 specific weapons, barring all domestic manufacture and assembly of those 14 weapons.

Title VIII—Police Corps

Title VIII is identical to the Sasser-Specter-Graham "Police Corps" amendment that passed the Senate as part of S. 1970. It contains two major parts: Subtitle A authorizes $400 million to create a "police corps" by funding $10,000/year scholarships for those college students who commit to 4 years' service as police officers; Subtitle B provides $30 million in scholarships for officers already serving in state and local police departments.

Title IX—Federal Law Enforcement Act

Title IX substantially increases the number of federal agents handling drug and violent crime cases. It authorizes funds for 1000 more FBI agents, 400 more DEA agents, 500 more border patrol agents, 400 more INS agents investigating drug crimes, and 350 more federal prosecutors. Additional sums are also provided for public defenders, the marshal's service, and the courts.

Title X—Habeas Corpus Reform

Title X limits death row prisoners to one habeas corpus petition. Prisoners have one year to file that petition. In return, States must provide competent counsel in capital cases. Title X was authored by Senator Biden and introduced last session in S. 1757.

Title XI—Punishment of Gun Criminals

Title XI stiffens penalties for use of a firearm during any violent or drug crime. Possession or discharge of a firearm would yield a penalty up to 10 years; possession or discharge of an assault weapon would yield a penalty up to 15 years. In addition, this title includes several other technical provisions amending current gun laws that were originally proposed last year by the Administration in S. 1225.

Title XII—Prison for Violent Drug Offenders Act

Title XII creates 10 regional prisons, each accommodating 8,000 state and federal prisoners addicted to drugs. These new facilities will ease prison overcrowding and, at the same time, separate prisoners with drug problems from the general prison population. Prisoners will receive in-prison drug treatment and preparation for their eventual return to the community. States will reimburse the Federal Bureau of Prisons for the cost of the program, but will receive partial reimbursement for prisoners who successfully complete the program.

Title XIII—Boot Camps

Title XIII authorizes $150 million for the conversion and operation of 10 closed military bases as boot camps. Each boot camp will accommodate up to 300 inmates under the age of 25, for a 3-4 month program similar to military basic training, including strict discipline, physical training, work, and drills.

Title XIV—Youth Violence Act

Title XIV targets youth offenders and youth gangs. It creates a new $100 million anti-drug anti-gang initiative in the Justice Department to combat drug and gang activitiy by juveniles, funding ten local programs that focus their efforts both on stopping juvenile drug crime and offering better alternatives to youth gangs. In addition, this title provides further protection for youth by stepping up penalties for drug dealers who use young persons to evade current laws restricting the sale of drugs 1000 feet from a school. And, finally, this title expands prosecutors' reach to certain serious juvenile offenders involved in gun offenses.

Title XV—Rural Crime and Drug Control Act

Title XV is a comprehensive rural drug initiative. It focuses federal law enforcement efforts on rural areas by creating rural anti-drug task forces in every area with a significant rural population and provides additional manpower by authorizing the Attorney General to assign hundreds of federal law enforcement agents for use in rural areas. This title also expands drug abuse treatment and prevention efforts for rural America, based on proposals authored by Senators Baucus and Pryor.

Title XVI—Drug Emergency Areas Act

Title XVI creates a new $300 million program to provide emergency assistance to state and local areas beset by intransigent drug and crime problems. Modeled on the federal disaster relief program, it authorizes the President to declare "drug emergency areas" and send aid directly to those areas. A bipartisan alternative to the President's "high intensity" drug trafficking plan, this proposal helps more places with more money and gets the aid directly to those who need it most.

Title XVII—Drunk Driving Child Protection Act

Title XVII increases existing penalties for drunk driving where a child is in the car. Offenders would be subject to an additional year in jail and a $1,000 fine on top of existing penalties if minors were in the vehicle.

Title XVIII—The Commission on Violence in America

Title XVIII creates a national commission to establish a plan for combatting violence in American society. The resulting strategy will help guide law enforcement's fight against crime into the 21st century.

Title XIX—Victims of Crime Act

Title XIX boosts aid to crime victims by eliminating the cap on the crime victims fund. In addition, this title includes a victim "bill of rights" and requires that defendants pay crime victims' expenses. This "mandatory" restitution law, authored by Senator Nickles and passed last year in S. 1970, strengthens current law which leaves victims payments up to judges' discretion.

Title XX—Crack House Eviction Act

Title XX adds one more weapon in the Attorney General's arsenal to shut down crack houses and shooting galleries. Authored by Senator Kennedy and passed as part of S. 1970, it authorizes a new civil remedy to

evict drug offenders from crack houses and allows civil penalties of up to $100,000.

Title XXI—Organized Crime Division

Title XXI establishes an organized crime and dangerous drug division within the Department of Justice. The proposal will centralize and expand the federal law enforcement effort against high-level drug traffickers, organized crime, and international drug cartels.

Title XXII—Exclusionary Rule

Title XXII codifies existing law on the exclusionary rule. Taken from the Supreme Court's decision in United States v. Leon, this title provides that evidence will not be excluded from criminal trials if the officer reasonably believed "in good faith" that the warrant he obtained complied with the law.

Title XXIII—Federal Prisoner Drug Testing

Title XXIII requires drug tests for all federal prisoners who have been released from prison but are on parole, probation, or supervised release. This title was authored by Senator Simon and passed by the Senate as part of S. 1970.

Crimes where death penalty would be reinstated

Destruction of aircraft.
Destruction of motor vehicle.
Murder of family member of Federal Official.
Murder of Member of Congress, Cabinet, or Supreme Court.
Espionage.
Transporting explosives with intent to kill.
Arson of Federal property.
Arson of property in Interstate Commerce.
Murder of nuclear regulatory inspector.
Murder in territorial jurisdiction of the U.S.
Murder of Federal official.
Mailing of injurious articles.
Assassination of the President.
Wrecking a train.
Bank robbery.
Treason.
Aircraft hijacking.
Murder of Agriculture Department official.
Murder of Federal witness.
Murder of horse inspector.
Murder of poultry inspector.
Murder of egg products inspector.

New crimes punishable by death (proposed last year)

Genocide.
Murder of foreign official.
Kidnapping.
Hostage taking.
Murder-for-hire.
Murder in aid of racketeering.
Murder by prisoners serving life sentences.

Additional crimes punishable by death (newly proposed)

1. Civil rights conspiracy.
2. Deprivation of rights by States.
3. Deprivation of federal rights.
4. Deprivation of religious rights.
5. Murder of state official assisting federal officials.
6. Drive-by-shooting murder.
7. Terrorist murder abroad.
8. Terrorist murder in this country.
9. Conspiracy to distribute drugs.
10. Conspiracy to import/export drugs.
11. Drug sales to or use of minors.
12. Sale of major drug quantities.
13. Import/export of major drug quantities.
14. Murder by firearm.

Note: In each case, the death penalty would apply only where death results from the criminal act.

By Mr. BRADLEY (for himself and Mr. KENNEDY):

S. 619. A bill to establish a Link-up for Learning demonstration grant program to provide coordinated services to at-risk youth; to the Committee on Labor and Human Resources.

LINK-UP FOR LEARNING DEMONSTRATION GRANT ACT

Mr. BRADLEY. Mr. President, I rise today to introduce the Link-Up for Learning Act. I'm very pleased to announce also that Senator KENNEDY, the able chairman of the Senate Committee on Labor and Human Resources, joins me as a cosponsor of this bill.

Mr. President, the poverty, hunger, illness, and family breakdown that is the tragic condition of too many American children has placed tremendous stresses on our educational system. When we look at the failures of American education, at declining test scores, at the difficulty businesses have in finding young workers with basic skills, we have to face up to the fact that many youngsters come to school unready to learn.

An empty stomach, pregnancy, homelessness, chronic illness, sleepless nights spent listening to a domestic fight in the next room or a gunfight in the street can make it impossible to focus the mind on reading, spelling, and multiplication tables. America's teachers know this, and they work hard to help each student overcome the barriers to learning. In any circumstances, this is a daunting proposition. But with class sizes of 30 students or more, inadequate facilities and stressful classroom settings, this can be a nearly impossible task. The Link-Up for Learning Act will help schools, families and teachers connect students with the social services that will help them come to school ready to learn.

Link-Up for Learning recognizes that in every region of the country, services for children are available from many private and local government agencies. But too often neither parents nor teachers are aware of all the possibilities, so children's needs go unmet. Bringing together families, teachers, school personnel, and community social-service providers will make it possible to see all of a child's needs so that all the adults involved can work together to help that child reach his or her fullest potential.

There is no single model for connecting schools, families and social-service providers. The Link-Up for Learning bill, by establishing a $50 million demonstration grant program in the Department of Education, will help various localities explore what works to meet the learning needs of at-risk kids in their schools. The common thread to all the projects will be that the districts must already be eligible to receive chapter I funds for disadvantaged students.

I expect that some of the projects funded will draw on New Jersey's School Based Youth Services Programs [SBYSP], which offer one of the most successful models for connecting schools with social services. The 29 centers established by this program offers a one-stop approach for students or dropouts between the ages of 13 and 19 who want an opportunity to complete their education or obtain other services. Many new projects will look at other ways to make the whole array of social services available to a particular young person or family.

Other programs, I expect, will link educational programs designed to address or prevent a particular problem with community-based programs in the same area. The Healthy Mothers/Healthy Babies Initiative underway in 10 New Jersey cities offers a good example of this approach. Schools, prenatal care providers, social service agencies, and community and church groups work together to educate young mothers and to keep both mother and infant healthy. A successful program can help the mother complete her schooling and help her child grow up ready to learn, thus preventing two human tragedies.

I mention these models only as examples of how connecting schools, families, and community resources can help save children. The purpose of this bill is to unleash the creativity in our schools and communities to come up with new and better ways to make this connection.

Before closing, I need to acknowledge the enormous contribution made by the Nation's school boards and their National Association to this effort. These community-minded individuals have always been at the forefront of creating an effective school program. Their development and support for this Link-Up for Learning is proof of their commitment, and I thank them for it.

Mr. President, if we fail to educate the children who are poor in America today, we will consign one in five Americans to a future of failure and low productivity. The millions of children who are victims of abuse and neglect each year, the 100,000 who are homeless, the millions who come from single-parent families bring enormous new problems to our schools. Teachers know that if they can find a way to address these problems, the process of learning can begin and succeed. Link-Up for Learning will help those kids find a way out of their problems so they can concentrate on learning and achieving the full potential of their minds and bodies.

I ask unanimous consent that the text of the bill and a brief summary be printed following my remarks.

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

S. 619

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 "Link-up for Learning Demonstration Grant Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) growing numbers of children live in an environment of social and economic conditions that greatly increase the risk of academic failure when such children become students;

(2) more than 20 percent of the Nation's children live in poverty while at the same time the Nation's infrastructure of social support for such children has greatly eroded, for example, 40 percent of eligible children do not receive free or reduced price lunches or benefit from food stamps, 25 percent of such children are not covered by health insurance, and only 20 percent of such children are accommodated in public housing;

(3) many at-risk students suffer the effects of inadequate nutrition and health care, overcrowded and unsafe living conditions and homelessness, family and gang violence, substance abuse, sexual abuse, child abuse, involuntary migration, and limited English proficiency that often create severe barriers to learning the knowledge and skills needed to become literate, independent, and productive citizens;

(4) almost half of all children and youth live in a single parent family for some period of their lives, resulting in greatly reduced parental involvement in their education;

(5) high proportions of disadvantaged and minority children live with never married mothers or teenage mothers who have extremely limited resources available for early childhood development and education;

(6) large numbers of children and youth are recent immigrants or children of recent immigrants with limited English proficiency and significant unmet educational needs;

(7) services for at-risk students are fragmented, expensive, overregulated, often ineffective and duplicative, and focused on narrow problems and not the needs of the whole child and family;

(8) school personnel and other support service providers often lack knowledge of and access to available services for at-risk students and their family in the community, are constrained by bureaucratic obstacles from providing the services most needed, and have few resources or incentives to coordinate services;

(9) service providers for at-risk students such as teachers, social workers, health care givers, juvenile justice workers and others are trained in separate institutions, practice in separate agencies, and pursue separate professional activities that provide little support for coordination and integration of services;

(10) coordination and integration of services for at-risk students emphasizing prevention and early intervention offers a great opportunity to break the cycle of poverty that leads to academic failure, teenage parenthood, leaving school, low skill levels, unemployment, and low income; and

(11) coordination of services is more cost effective for schools and support agencies because it reduces duplication, improves quality of services, and substitutes prevention for expensive crisis intervention.

SEC. 3. PURPOSES.

(a) IN GENERAL.—It is the purpose of this Act to make demonstration grants to eligible entities to improve the educational performance of at-risk students by—

(1) removing barriers to such student's learning;

(2) coordinating and enhancing the effectiveness of educational support services;

(3) replicating and disseminating programs of high quality coordinated support services;

(4) increasing parental educational involvement;

(5) improving the capacity of school and support services personnel to collaborate educational services;

(6) integrating services, regulations, data bases, eligibility procedures and funding sources whenever possible; and

(7) focusing school and community resources on prevention and early intervention strategies to address student needs holistically.

(b) ADDITIONAL PURPOSES.—It is also the purpose of this Act to foster planning, coordination, and collaboration among local, county, State, and Federal educational and other student support service agencies and levels of government, nonprofit organizations, and the private sector to improve the educational performance of at-risk students by—

(1) identifying and removing unnecessary regulations, duplication of services, and obstacles to coordination;

(2) improving communication and information exchange;

(3) creating joint funding pools or resource banks;

(4) providing cross-training of agency personnel; and

(5) increasing parental and community involvement in education.

SEC. 4. GRANTS AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 7.

(b) SPECIAL CONSIDERATION.—In awarding grants under this Act, the Secretary shall give special consideration to—

(1) providing an equitable geographic distribution of such grants;

(2) providing grants to eligible recipients serving urban and rural districts with high proportions of at-risk students;

(3) awarding grants for programs involving interagency teams of collaborators providing case management services; and

(4) providing grants to eligible recipients serving areas that experience a significant increase in the number of at-risk students.

(c) DURATION.—Grants made under this Act may be awarded for a period of not more than 3 years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application submitted pursuant to section 8.

SEC. 5. ELIGIBILITY.

(a) IN GENERAL.—For the purposes of this Act the term "eligible entity" means—

(1) at least one local educational agency in partnership with at least one public agency;

(2) at least one nonprofit organization, institution of higher education, or private enterprise in partnership with at least one local educational agency; or

(3) a local educational agency that is receiving assistance under the Head Start Transition Project Act in partnership with any agency designated as a Head Start agency under the Head Start Act.

(b) SPECIAL RULE.—An eligible entity shall only be eligible for a grant under this Act if at least one local educational agency participating in the partnership is eligible to receive financial assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 6. TARGET POPULATION.

In order to receive a grant under this Act, an eligible entity shall serve—

(1) educationally deprived students and their families, students eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and their families, or students participating in school-wide projects assisted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and their families; and

(2) any school, grade span, or program area if the program design is of adequate size, scope and quality to achieve program outcomes.

SEC. 7. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Each eligible entity receiving a grant under this Act may use such grant for programs that—

(1) plan, develop, coordinate, acquire, expand, or improve school-based or community-based education support services through cooperative agreements, contracts for services, or direct employment of staff to strengthen the educational performance of at-risk students, including support services such as child nutrition and nutrition education, health education, screening and referrals, student and family counseling, substance abuse prevention, extended school-day enrichment and remedial programs, before and after school child care, tutoring, mentoring, homework assistance, special curricula, family literacy, and parent education and involvement activities;

(2) plan, develop, and operate with other agencies a coordinated services program for at-risk students to increase the access of such students to community-based social support services including child nutrition, health and mental health services, substance abuse prevention and treatment, foster care and child protective services, child abuse services, welfare services, recreation, juvenile delinquency prevention and court intervention, job training and placement, community-based alternatives to residential placements for students with disabilities, and alternative living arrangements for students with dysfunctional families;

(3) develop effective strategies for coordinated services for at-risk students whose families are highly mobile;

(4) develop effective prevention and early intervention strategies with other agencies to serve at-risk students and their families;

(5) improve interagency communications and information-sharing, including developing local area telecommunications networks, software development, data base integration and management, and other applications of technology that improve coordination of services;

(6) support co-location of support services in schools, cooperating service agencies, community-based centers, public housing sites, or other sites nearby schools, including rental or lease payments, open and lock-up fees, or maintenance and security costs necessary for the delivery of services for at-risk students;

(7) design, implement, and evaluate unified eligibility procedures, integrated data bases, and secure confidentiality procedures that facilitate information-sharing;

(8) provide at-risk students with integrated case planning and case management services through staff support for interagency teams of service providers or hiring school-based support services coordinators;

(9) subsidize the coordination and delivery of education related services to at-risk students outside the school site by entities such as public housing authorities, libraries, senior citizen centers, or community-based organizations;

(10) provide staff development for teachers, guidance counselors, administrators, and public agency support services staff, including cross-agency training in service delivery for at-risk students;

(11) plan and operate one-stop school-based or nearby community-based service centers to provide at-risk students and their families with a wide variety and intensity of support services such as information, referral, expedited eligibility screening and enrollment and direct service delivery; and

(12) support dissemination and replication of a model coordinated educational support services program to other local educational agencies including dissemination and replication of materials and training.

(b) LIMITATIONS.—

(1) PLANNING.—Not more than one-third of each grant received under this Act shall be used for planning a coordinated services program.

(2) DELIVERY OF SERVICES.—Not more than 50 percent of each grant received under this Act shall be used for the delivery of services.

(3) SUPPLEMENT AND NOT SUPPLANT.—Grant funds awarded under this Act shall be used to supplement and not supplant the funds that would otherwise be available from non-Federal sources for the activities assisted under this Act.

SEC. 8. APPLICATIONS.

(a) IN GENERAL.—Each eligible entity desiring a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

(1) describe the activities and services for which assistance is sought;

(2) identify the degree of need for a coordinated services plan among the students served by the program;

(3) describe the expected improvement in educational outcomes for at-risk students served by the program;

(4) describe how the eligible entity will assess the educational and other outcomes of support services provided by each public agency participating in the partnership;

(5) contain a description of how the eligible entity will improve the educational achievement of at-risk students through more effective coordination of support services, staff development and cross-agency training, and the educational involvement of parents;

(6) describe how the eligible entity will continue the support services assisted under this Act after the Federal assistance provided under this Act is terminated; and

(7) provide evidence of the capacity of the program to serve as a model program for replication by local educational agencies.

(c) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—Each eligible entity desiring a grant under this Act shall establish a coordinated services advisory council to develop the application submitted pursuant to subsection (a).

(2) COMPOSITION.—The advisory council described in paragraph (1) shall consist of the head of each public agency participating in the partnership, a member of the local board of education, and the superintendent of schools, or the designees of such individuals, and representatives of parents, students, and the private sector.

(d) REVIEW OF APPLICATIONS.—The Secretary shall review applications submitted pursuant to subsection (a) with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate.

SEC. 9. FEDERAL INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT AND COMPOSITION.—There is established a Federal Interagency Task Force (in this section referred to as the "Task Force") consisting of the Secretaries of Education, Housing and Urban Development, and Health and Human Services, and the heads of other Federal agencies as appropriate.

(b) DUTIES.—The Task Force shall identify means to facilitate interagency collaboration at the Federal, State, and local level to improve support services for at-risk students. The Task Force shall—

(1) identify, and to the extent possible, eliminate program regulations or practices that impede coordination and collaboration;

(2) develop and implement whenever possible plans for creating jointly funded programs, unified eligibility and application procedures, and confidentiality regulations that facilitate information-sharing; and

(3) make recommendations to Congress concerning legislative action needed to facilitate coordination of support services.

SEC. 10. STUDY.

(a) STUDY.—The Secretary shall conduct a study of the grants awarded under the Act to identify—

(1) the regulatory and legislative obstacles encountered in developing and implementing coordinated support services programs; and

(2) the innovative procedures and program designs developed pursuant to this Act.

(b) REPORT.—The Secretary shall report the results of the study conducted pursuant to subsection (a) to the Congress with recommendations for further legislative action to facilitate coordinated support services.

SEC. 12. PAYMENTS; FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 8 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 50 percent.

SEC. 13. DEFINITIONS.

For the purpose of this Act—

(1) the term "local educational agency" has the same meaning provided in section 1471(12) of the Elementary and Secondary Education Act of 1965; and

(2) the term "Secretary", unless otherwise specified, means the Secretary of Education.

SEC. 14. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994 to carry out the provisions of this Act.

SUMMARY OF THE LINK-UP FOR LEARNING DEMONSTRATION GRANT ACT

1. PURPOSE AND TARGET POPULATION

Growing numbers of children live in economic conditions that greatly increase their risk of academic failure when they enter school. The Link-Up for Learning Demonstration Grant bill provides funds to coordinate educational and social support services for at-risk youth in our nation's elementary and secondary schools, and enhances the effectiveness of these services. The legislation targets educationally disadvantaged students and their families.

2. ELIGIBILITY AND AUTHORIZED USES OF FUNDS

A Chapter One eligible school district collaborating with a public agency, a non-profit organization, an institution of higher education, or a Head Start agency may apply for a 3 year grant. Recipients may use funds to coordinate and improve access to school-based or community-based education support services for disadvantaged youngsters. Such services can include nutrition, health screening and referrals, counseling, substance abuse prevention, extended school day programs, tutoring, literacy, parent education and involvement, child abuse services, welfare services, juvenile delinquency, job training and placement and others. Funds may also be used to establish "one-stop shopping" locations for services in schools, community centers, public housing sites or other central locations, to facilitate interagency communication, design unified eligibility procedures, coordinate case management, and train staff across agencies.

3. LIMITATIONS AND APPLICATIONS

Special consideration in awarding grants is given to urban and rural areas with high proportions of at-risk students. Not more than one-third of each grant shall be used for planning a coordinated service program and not more than 50 percent of each grant shall be used for the delivery of services. The federal share of the cost of the activities shall be 50 percent.

4. OTHER PROVISIONS

The bill establishes a Federal Interagency Task Force to facilitate interagency collaboration at the federal, state and local levels. Finally, it directs the Secretary of Education to conduct a study of funded projects and make recommendations to Congress to improve coordination of educational support services.

5. AUTHORIZED APPROPRIATIONS

$50 million is authorized for demonstration grants in Fiscal Year 1992 and such sums as are necessary are authorized in Fiscal Years 1993 and 1994.●

Mr. KENNEDY. Mr. President, I strongly support the Link-Up for Learning bill that Senator BRADLEY is introducing and I am proud to be a sponsor of this important idea in education.

Children are America's most valuable resource. They represent our Nation's future. The ability of the United States to compete successfully in the global marketplace of the 21st century depends directly on the education we provide for all children today.

However, more children are coming to school each year with a multitude of needs including health care, nutrition, and counseling against violence, child abuse, drug abuse, and other impediments to effective learning.

A growing number of today's students live under social, economic and family circumstances that deny them the support needed to become productive citizens in tomorrow's world. Every 8 seconds of the school day, an American child drops out of school. Every 53 minutes, a child dies because of poverty—10,000 a year. Every day. 100,000 children are homeless.

Today schools are being asked to do far more than merely educate our children. These at-risk students require

myriad of social services which our schools have neither the financial nor the professional resources to provide by themselves. Other public agencies and nonprofit organizations can provide these services, such as public health agencies, community based organizations, social workers, drug counselors, and many others. But these services are often fragmented, distributed across various agencies and hindered by bureaucratic and jurisdictional constraints. Children and their families are asked to go door to door to obtain the services they need, and not surprisingly, many of them never get there.

A recent report by the Committee for Economic Development, "The Unfinished Agenda: A New Vision for Child Development and Education," urges the Nation "to develop a comprehensive and coordinated strategy of human investment, one that redefines education as a process that begins at birth and encompasses all aspects of children's early development, including their physical, social, emotional, and cognitive growth."

The Link-Up for Learning bill will bring together educational and support services for at-risk students to provide "one-stop shopping" or colocation of services at a school, a community center, or other centralized location. Linking up schools and community support services for the at-risk student population will allow us to reach students efficiently and effectively, so that fewer students fall through the cracks.

Under the link-up for learning bill, a chapter 1 eligible school district collaborating with one or more public service agencies may receive funds to coordinate and improve access to support services for disadvantaged students and their families. These may include services such as nutrition, health screening and referrals, counseling, substance abuse prevention, extended school day programs, tutoring literacy, parent education and involvement, child abuse services, welfare services, juvenile delinquency, job training and placement, and others.

Funds may also be used to facilitate interagency communication, design unified eligibility procedures, coordinate case management, and train staff across agencies. Additionally, the bill establishes a Federal interagency task force to facilitate interagency collaboration at the Federal, State, and local levels.

Finally, the bill directs the Secretary of Education to conduct a study of funded projects and make recommendations to Congress to improve coordination of education support services; $50 million is authorized for learning demonstration grants in fiscal year 1992 and such sums as are necessary are authorized in fiscal year 1993 and 1994. The return of this investment would be vast in terms of the improved educational performance of at-risk students.

Successful collaboration between service agencies and the schools will not be achieved easily. Services have historically been provided within, rather than across, service categories. Each agency, including the school district, is used to its own priorities, eligibility criteria, funding sources, and legislative and regulatory restrictions.

We have been able to bridge these differences in some areas, but we have not made sufficient inroads among the school-age population. However, this link-up for learning initiative, proposed by the National School Board Association, endorses the one-stop shopping approach which is gaining momentum and bringing together parents, educators, and social service providers to deliver services.

The successful education of at-risk students requires coordinated services and an interagency focus on children and their families that is not constrained by jurisdictional and bureaucratic lines. We must begin to approach children as whole individuals, not as a series of isolated problems and needs.

The concept embodied in the link-up for learning bill can serve as a significant first step to improving the educational success of at-risk children.

It is my intention to build on this initiative so that over the next few months we will develop and move a comprehensive support services package for preschool as well as school-age children and their families.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 620. A bill to reform habeas corpus procedures; to the Committee on the Judiciary.

HABEAS CORPUS REFORM ACT

Mr. GRAHAM. Mr. President, I rise to introduce legislation on the topic of habeas corpus reform, legislation which is cosponsored by our distinguished colleague, the Senator from Nevada, Senator BRYAN.

We have just heard from the chairman of the Judiciary Committee, Senator BIDEN, as he discussed the broad outlines of a comprehensive anticrime bill that he has introduced. One of the key elements of his proposal, as of the proposal which the President announced yesterday, is reform in our habeas corpus system. The fact that both the chairman of the Judiciary Committee and the President and the House and the Senate collectively in 1990 have recognized the importance of legislation to reduce frivolous and stale habeas corpus claims by inmates who are serving capital punishment sentences is indicative of the growing recognition of the urgency of resolving this issue.

Unfortunately, in 1990, time ran out before the respective measures could be reconciled. We must not let the momentum of 1990 and the consensus behind this issue be lost.

The consensus that reform is needed is clear on both sides of the aisle. A number of proposals have been and will be considered. The most widely publicized recommendations are those by a special commission appointed by Supreme Court Justice William Rehnquist and chaired by former Supreme Court Justice Lewis Powell. This distinguished commission, made up of five Federal judges, pooled their practical experience and sought outside advice on options for habeas corpus reform.

Their proposals, generally referred to as the Powell proposals, establish a new statute of limitations on filing Federal habeas corpus claims.

Our bill does likewise.

Mr. President, currently there is little or no incentive for State inmates serving under sentence of death to file petition for Federal habeas corpus relief until an execution date is set. Unlike most other areas of habeas corpus relief where the inmate has an incentive to file petitions on a timely and urgent basis in order to secure the relief, when a person is serving under a death sentence, the incentives are just the opposite, to use the process in order to delay a final adjudication.

The setting of an execution date usually results in a flurry of chaos from both the defendant's counsel, the prosecutor, and multiple courts. Justice is not well served under this scenario, for the inmate or for the State. This bill, like the Powell proposal, allows inmates 6 months to file Federal habeas petitions, from the time a sentence has been affirmed on direct appeal and collateral representation has been appointed.

Mr. President, there is a second issue and that is the issue of accessibility of competent counsel for indigent defendants facing capital sentences. I applaud the Powell Commission of identifying a critical element in habeas corpus reform. Inadequate representations at trial and on appeal are often the underlying cause for the plurality of claims which slow the finality of a State court judgment. This is not to say that there is not a pool of fine, qualified lawyers available to handle capital cases. However, virtually every witness appearing last year before the Judiciary Committee on this topic lamented the accessibility of good lawyers for indigent inmates.

The State of Florida, by statute, has created public defender offices to provide competent counsel at trial level, an office of capital collateral representative to provide competent counsel for collateral appeals in capital cases.

The bill Senator BRYAN and I are introducing would encourage States to establish competency standards at the trial and appellate level in exchange

for the benefits of a 6-months time limit. This bill gives great flexibility to the State in determining the standards of competence.

Third, the various proposals address the concept of successive petitions. The question is, after the 6-months filing limit has passed, under what conditions can an inmate raise an unheard claim in Federal court?

Mr. President, one of the most frequently used and, in my judgment, abused provisions of the Federal habeas corpus process is the successive petition. In a hypothetical but typical case, a person awaiting the execution of the State sentence has been delayed until a death warrant is signed. Shortly before the death warrant is to reach its maturity, a petition is filed in Federal court raising some item of alleged unconstitutional behavior or procedure at the trial level. That matter then is resolved over an extended hearing process and appeal in the Federal judicial system.

Assuming, as is generally the case, that that claim is found to be without merit, then a second death warrant is signed. Again, a matter of days, sometimes hours of the maturity of that death warrant, a second petition is filed raising another alleged constitutional imperfection. These successive petitions and long periods of litigation over each successive petition have had the effect of drawing out the time between original sentence and execution of the sentence by a decade or more.

In my judgment, these successive petitions should be limited only to the most extenuating circumstances. In most cases, the petitioner should be required to bring all of his Federal constitutional claims in his initial petition.

Mr. President, in the legislation which Senator BRYAN and I will file today, we have provided for the following circumstances in which there can be a successive petition. That can occur when it is the result of State action which was in violation of the Constitution of the United States. It can occur as a result of a Supreme Court recognition of a new Federal right that is retroactively applicable. And it can occur when it is based on a factual predicate that could not have been discovered through the exercise of reasonable diligence and time to present the claim for State or Federal post-conviction review. And in all of these cases, the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt in the offense or in the validity of sentence of death. Those would be the extenuating circumstances under which a successive petition could be allowed.

The Powell Commission would allow successive petitions only when the claim raises questions regarding the guilt or innocence of the prisoner. We agreed successive petitions should be allowed in only very limited circumstances. However, successive petitions should be allowed in questions relating to the sentence of death when the facts underlying the claim undermine the court's confidence in the validity of that sentence.

Mr. President, the bill we introduced today incorporates the wisdom of the Powell Commission on almost every item. We have accepted its suggestions on limiting time, on giving States flexibility in assigning competent counsel in these cases, and in limiting successive petitions to truly extenuating circumstances.

Mr. President, this legislation will be a test of the public's confidence in our judicial system and it will be a test of the credibility of the congressional process. There is no aspect of our criminal justice system which has raised greater doubt in the public's mind in the credibility of deterrence and the confidence in justice than has the matter in which habeas corpus has been abused in our Federal judicial system.

Mr. President, there has been no greater test of this Congress' true commitment to criminal justice reform than the way in which it will deal with habeas corpus. It is hard to explain to a citizen, Mr. President, how a proposal which has passed this Senate on multiple occasions and last year passed both the Senate and the House of Representatives and still languishes unenacted.

One of the reasons that has occurred has been because we have fallen into the pattern of only considering anticrime bills against the deadline of a session adjournment. We have passed major crime or drug bills in 1986, in 1988, and in 1990, although in 1990, much of the work of both the House and the Senate vanished in a conference committee.

The President has now challenged us, Mr. President, to pass anticrime legislation within 100 days. I hope that we will accept that challenge with enthusiasm. This bill, Mr. President, demonstrates that we are serious about habeas corpus reform, we are serious about protecting the constitutional rights of defendants, and we are serious about securing order and finality in capital cases.

Mr. President, I ask unanimous consent that a copy of the bill, as submitted, be printed in the RECORD followed by a brief description of the provisions of the bill.

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

S. 620

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 "Habeas Corpus Reform Act of 1991".

SEC. 2. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new title:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Application of chapter to prisoners in State custody subject to capital sentence and appointment of counsel
"2257. Mandatory stays of execution and successive petitions
"2258. Filing of habeas corpus petition
"2259. Certificate of probable cause inapplicable
"2260. Counsel in capital cases

"§ 2256. Application of chapter to prisoners in State custody subject to capital sentence and appointment of counsel

"(a) APPLICABILITY OF CHAPTER TO CASES.—This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsection (b) is satisfied.

"(b) APPLICABILITY OF CHAPTER TO STATES.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2260 of this title.

"(c) RULE FOR PREVIOUS COUNSEL.—No counsel appointed pursuant to subsection (b) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(d) INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stays of execution and successive petitions

"(a) IN GENERAL.—Upon the entry in the appropriate State court of record of an order pursuant to section 2260 of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) DURATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title—

"(A) before a court of competent jurisdiction;

"(B) in the presence of counsel; and

"(C) after having been advised of the consequences of his decision.

"(c) SUCCESSIVE PETITIONS.—If one of the conditions provided in subsection (b) is satisfied, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt of the offense or offenses for which the death penalty was imposed, or in the validity of the sentence of death.

"§ 2258. Filing of habeas corpus petition

"(a) FILING OF PETITIONS.—Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the date of filing in the appropriate State court of record of an order issued appointing collateral counsel in compliance with section 2260 of this title.

"(b) TIME REQUIREMENTS.—The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

The tolling rule established by this subsection shall not apply during the pendency of a petition for certiorari before the Supreme Court following such State post-conviction review.

"§ 2259. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2260. Counsel in capital cases

"(a) IN GENERAL.—A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry and filing of an order in an appropriate State court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that—

"(A) the prisoner is not indigent; or

"(B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b) STANDARDS FOR COUNSEL.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth in subparagraph (B).

"(B) The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State statute, relying on staff attorneys of a defender organization, members of the private bar, or both;

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

"(C) The certification authority shall—

"(i) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

"(ii) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(iii) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed, or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) EXCEPTION FOR STATES WITHOUT STATE SYSTEMS.—In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of paragraph (1) shall be deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, and if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) insure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) NONCOMPLYING STATES.—

"(1) BEFORE TRIAL.—If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) AFTER TRIAL.—If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(d) DIFFERENT ATTORNEY.—Notwithstanding any other provision of this section, a court, for good cause, and upon the defendant's request, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(e) PAYMENT FOR ADDITIONAL SERVICES.—Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of reasonable fees and expenses therefor, under subsection (f). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(f) ATTORNEY COMPENSATION.—Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

(b) AMENDMENTS TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases ..... 2256"

HABEAS CORPUS REFORM ACT OF 1991

APPOINTMENT OF COUNSEL

The bill requires states who want to enforce the statute of limitations provided by

this bill to provide and set standards for qualified counsel for defendants charged with capital crimes and for habeas corpus petitioners under sentence of death.

STATUTE OF LIMITATIONS

Prisoners would have six months to file a federal habeas petition after the appointment of collateral counsel. The time is tolled during state collateral proceedings, but not during U.S. Supreme Court review after the state post-conviction review.

PROCEDURAL DEFAULT

The bill makes no changes in the current case law limiting the ability of an inmate to raise a procedurally defaulted claim in federal court.

SUCCESSIVE PETITIONS

The bill allows successive petitions only if the failure to raise the claim previously is:

The result of State action in violation of the Constitution or laws of the United States;

The result of the Supreme Court recognition of a new federal right that is retroactively applicable; or

Based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for state or federal post-conviction review;

And if the facts underlying the claim would be sufficient to undermine the court's confidence in the jury's determination of guilt or in the validity of the sentence.

By Mr. CRANSTON:

S. 621. A bill to establish the Manzanar National Historic Site in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

MANZANAR NATIONAL HISTORIC SITE

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish the Manzanar National Historic Site in the State of California. The legislation is identical to H.R. 543 sponsored in the House by Congressmen LEVINE, THOMAS, and MATSUI.

As many of my colleagues will recall, Manzanar was one of the 10 permanent Japanese-American relocation camps used during World War II. Located at the foot of the eastern slope of the Sierra Nevada mountain range approximately 175 miles north of Los Angeles, the Manzanar War Relocation Center was occupied from the spring of 1942 to the end of 1945. The entire Manzanar reservation covered some 6,000 acres, with a 500-acre living area and adjacent agricultural land, a reservoir, airport, cemetery, and sewage treatment plant. Although only the camp auditorium and a few other structures remain, the National Park Service believes that Manzanar offers the best opportunity among the camps for interpretation of the World War II relocation program.

Manzanar already is recognized as historically significant and has been designated a national historic landmark. However, this designation alone is insufficient to protect Manzanar's cultural resources and there have been some instances of vandalism. Additionally, although the Eastern California Museum in Independence has a good collection of Manzanar artifacts, there is no interpretive information at the site itself.

In 1989, as part of a feasibility study of sites associated with the Pacific campaign of World War II, the National Park Service issued a report outlining alternatives for management of Manzanar as a national historic site. This legislation implements the Park Service alternative which protects the most land and provides the greatest opportunities for the visiting public.

The bill designates a 500-acre Manzanar National Historic Site, encompassing the entire living area of the camp, the camp auditorium, and the cemetery. It authorizes the Secretary of the Interior to enter into cooperative agreements with public and private entities for management and interpretative programs and with the State of California for law enforcement and firefighting services. It recognizes existing grazing rights in the area subject to terms and conditions the Secretary may impose to protect the historic and other resources of Manzanar.

The bill also authorizes the Secretary to acquire land and improvements within the site by donation, exchange, or purchase with donated or appropriated funds. The land is entirely owned by the Los Angeles Department of Water and Power. However, no land acquisition is contemplated except for a less-than-fee interest as deemed necessary to manage and protect resources and provide for visitor use. The Park Service is proposing acquisition of the former camp auditorium owned by Inyo County and relocation of the county maintenance facility at an estimated cost of $750,000 to $1 million.

Finally, the bill establishes an advisory commission composed of former internees of the Manzanar relocation camp, local residents, native Americans, and the general public.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 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 Historical Site (hereinafter in this Act referred to as the "site").

(a) AREA INCLUDED.—The site shall consist of the lands and interests in 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 Act referred to as the "Secretary") may from time to time make minor revisions in the boundary of the site.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the site in accordance with this Act 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 Act.

(c) COOPERATION 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 with 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) COOPERATIVE AGREEMENTS WITH OWNERS.—The Secretary may enter into cooperative agreements with the owners of properties of historical or cultural significance as determined by the Secretary, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement.

(e) With respect to lands acquired by the United States pursuant to this Act, the Secretary shall permit movement of livestock across such lands in order to reach adjacent lands, if the party seeking to make such use of the acquired lands was authorized to make such use as of the date of enactment of this Act; but any such use shall be subject to such terms, conditions, and requirements as the Secretary may impose in order to protect the natural, cultural, historic, and other resources and values of the acquired lands.

SEC. 3. ACQUISITION OF LAND.

The Secretary may acquire land or interests in land, and improvements thereon, within the boundaries of the site by donation, purchase with donated or appropriated funds, or exchange.

SEC. 4. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Manzanar National Historic Site Advisory Commission (hereinafter in this Act referred to as the "Advisory Commission"). 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, or his designee, 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.

(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 must pay expenses reasonably incurred in carrying out their responsibilities under this Act 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 on 10 years after the date of enactment of this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this Act.

By Mr. SIMON:

S. 622. A bill to amend title 18 of the United States Code to require drug testing for released Federal prisoners; to the Committee on the Judiciary.

FEDERAL PRISONER DRUG TESTING ACT OF 1991

• Mr. SIMON. Mr. President, I rise today to introduce legislation to mandate drug testing for Federal prisoners as a condition of probation, parole, or supervised release.

Mr. President, between 1980 and 1987, the number of defendants sentenced to Federal prison for drug offenses almost tripled. This is the fastest growing segment of the Nation's prison population. Nearly 50 percent of those prisoners are serving sentences for drug-related offenses. Many of them were using illegal drugs prior to or during the commission of the crime for which they were imprisoned.

Unfortunately, illegal drug use and drug-related activity does not necessarily cease as a result of incarceration. Surprisingly, many inmates carry out well-organized criminal endeavors with drugs and other contraband smuggled in by staff and visitors.

But currently, there is no requirement for mandatory drug-testing to determine whether a soon-to-be released inmate is using one or more illegal substances. Nor is being drug-free a condition of release.

As a result of this gap in our system, prisoners using drugs are released and returned to our communities. One could predict that a prisoner using drugs would, upon release, commit drug offenses or other crimes either while under the influence of drugs or in order to obtain illegal drugs. A cycle of crime, arrest, prosecution, and incarceration is perpetuated. This is obviously unacceptable. This situation certainly helps to explain a recidivism rate that, according to the Bureau of Prisons, is as high as 43 percent for Federal prisoners.

To break this destructive cycle, we in Congress must act to ensure that inmates using illegal drugs are not eligible for release into our communities.

In furtherance of this goal, my legislation provides that any Federal inmate eligible for supervised release or parole must pass a urinalysis test before release and two tests after release from a Federal correctional facility. Federal probationers must also pass two such tests.

An inmate who fails the first urinalysis test will continue serving the imposed prison sentence until he or she passes a random urinalysis test. Supervised releasees and probationers face revocation of the sentence and return to prison if they test positive for an illegal substance.

Mr. President, the benefits of this legislation to our communities and our criminal justice system are potentially great. I urge the cosponsorship and support of my colleagues.•

By Mr. SIMON (for himself, Mr. DECONCINI, and Mr. HOLLINGS):

S. 623. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to maintain the current Federal-State funding ration for the Justice Assistance Grant Program; to the Committee on the Judiciary.

FUNDING FOR STATE AND LOCAL LAW ENFORCEMENT ANTIDRUG ABUSE AND ANTIDRUG CRIME PROGRAMS

• Mr. SIMON. Mr. President, I rise today to introduce important legislation that will maintain funding for State and local law enforcement programs aimed at combating drug use and related crime.

Our Nation is faced with a terrible public safety and public health crisis. While Government studies and surveys indicate a decrease in the level of casual drug use, evidence also suggests that there are more hardcore cocaine users than ever. The ravaging effects of illegal drug use and drug abuse do not discriminate between young and old, rich and poor, or black and white. We, as a Nation, are all victims.

The drug problem must be approached through a wide variety of prevention, education, treatment, interdiction, and law enforcement initiatives. I have vigorously supported treatment and education along with user accountability as part of an overall effort to reduce demand for drugs. I have also supported law enforcement efforts to thwart the distribution and availability of illegal drugs by supporting law enforcement efforts against dealers and distributors.

The public safety threat posed by the drug problem is national in scope, but it manifests itself differently throughout our communities. State and local law enforcement officers monitor drug use trends in our communities and put themselves at risk every day as they pursue drug dealers and distributors. State and local law enforcement is the backbone of the antidrug criminal justice effort.

The Federal Government is an important source of funding for many State and local law enforcement efforts. The Department of Justice, through the Bureau of Justice Assistance, distributes block grant funds to support many antidrug abuse efforts carried out by State and local law enforcement agencies. States administer the overall programs, distributing the block grant funding to support local law enforcement. Last year, I introduced legislation, which was ultimately passed as part of the Crime Control Act of 1990, to maintain the funding ratio at a 75 to 25 Federal-State cash match formula for fiscal year 1991. That is, local governments must pay 25 percent of the program costs, while the Federal Government pays the remaining 75 percent of the program costs.

The legislation I rise to introduce today will maintain this cash match formula for fiscal year 1992. Without passage of this legislation, States will be required to pay for 50 percent of the costs of this critical law enforcement program. Thus, local governments will be required to pay significantly more to maintain even the current level of antidrug programming.

The Illinois Criminal Justice Information Authority along with representatives from local law enforcement have impressed upon me the importance of the current Federal funding formula to their continued antidrug efforts. Local authorities truly depend on this passthrough aid. Local governments already contribute a significant percentage of their overall criminal justice resources to these programs. If their share of the financial burden is increased, many communities would be forced to end their participation in the State-administered Federal grant program. Given the critical role of local law enforcement in the fight against drug abuse we cannot afford to have that happen.

The President's 1992 budget provides $490 million for this antidrug abuse law enforcement block grant—this is the same level of funding requested in the President's 1991 budget. According to Federal Funds Information for States—a joint service of the National Conference of State Legislatures and the National Governor's Association Center for Policy Research—my home State of Illinois would have access to roughly $16.8 million in fiscal year 1992 Federal funds under the program. Under the current 75 to 25 funding formula Illinois local government payments would total roughly $5.6 million. If the funding formula is changed to 50

to 50, Illinois would have to contribute $16.8 million of its own funds to match the Federal contribution. This is a difference of $11.2 million. This increased cost to the State and local units of government would force many of them to end their participation in the program.

Mr. President, we cannot afford to inhibit local law enforcement's access to this critical Federal aid. My proposal will endure their continued participation in the Block Grant Program. It will allow local law enforcement continued access to the financial and technical assistance they need to improve their criminal justice systems, thereby maximizing the protection of the people of Illinois and in the rest of the Nation from drug-related crime. I strongly urge the cosponsorhip and support of this important criminal justice measure.●

By Mr. EXON (for hmself and Mr. KERREY):

S. 624. A bill to provide that certain games of chance conducted by a nonprofit organization not be treated as an unrelated business of such organization; to the Committee on Finance.

REPEAL TAX ON CERTAIN GAMES OF CHANCE

Mr. EXON. Mr. President, today I am introducing legislation to repeal a tax added in the 1986 tax reform on funds raised of nonprofit organizations through certain games of chance. My colleague from Nebraska, Senator KERREY, is joining me in this bill, which is companion legislation to H.R. 862, recently introduced in the House of Representatives by Representative HOAGLAND and identical to legislation we introduced during the 1990 session of Congress.

The issue arises from the 1986 Tax Reform Act. It had an obscurely worded section which made fundraising proceeds from nonprofit organizations' games of chance subject to the unrelated business income tax, although the 1986 change exempted organizations in North Dakota. The result is the nonprofit groups must pay taxes on those funds at corporate income tax rates. Another part of the problem arises due to many nonprofit groups having no knowledge of the existence of the added tax until last year. My bill would repeal the 1986 tax change retroactive to its effective date.

For example, in my home State of Nebraska, various churches, charities, veterans groups, and other nonprofit organizations use pull-tab lottery cards for fundrasing, known locally as "pickle cards" because traditionally they were often held for sale in old large pickle jars. Pickle card fundraising is limited under state law only to nonprofit organizations, so there is no issue of unfair competition with private business if the proceeds are not taxed. It wasn't until last year that these nonprofit groups learned that the IRS says they owe back taxes to October 22, 1986, with interest and penalty on the funds they raised. Of course, in most cases the nonprofits had no idea they owed the tax and the funds are now long spent for the charitable purposes of the organization. The threat of an IRS seizure of charitable property for unpaid back taxes which the groups had no knowledge they even owed and do not now have the funds to pay is a serious problem.

Of course, the Federal budget deficit problem and the budget agreement enforcement provisions passed last year create a huge barrier for any bill which proposes to reduce Federal tax revenue in any amount, no matter how fair and reasonable. Therefore, I hope that by working with members of the Senate Finance Committee that a way can be found to address the concerns I have outlined through some means as part of a larger legislative package with offsetting budget savings, so as not to increase the Federal deficit in any amount and still achieve fairness in this area.

Mr. President, I ask unanimous consent that a copy of the bill and a copy of a letter dated August 23, 1990, from the Joint Committee on Taxation with a revenue estimate for the changes I am proposing be included in the RECORD.

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

S. 624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THE CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

Section 1834 of the Tax Reform Act of 1986 is repealed for games conducted after October 22, 1986, and subparagraph (A) of section 311(a)(3) of the Tax Reform Act of 1984 shall be applied and administered as if such section 1834 (and the amendments made by such section 1834) had not been enacted.

JOINT COMMITTEE ON TAXATION,
Washington, DC, August 23, 1990.

Hon. J. JAMES EXON,
United States Senate, Washington, DC.

DEAR SENATOR EXON:

This is in response to your request dated March 26, 1990, for a revenue estimate of a proposal to exempt from the unrelated business income tax (UBIT) certain nonprofit organizations running games of chance.

The proposal would exempt from UBIT income from games of chance conducted in States that, as of October 5, 1983, had a law in effect permitting the conduct of such games so long as the activities were run by nonprofit organizations. Two alternatives are proposed. The first alternative would eliminate UBIT liability from October 23, 1986, and thereafter. The second alternative would repeal UBIT liability from October 23, 1986, to December 31, 1989, only.

We estimate that these two alternatives would reduce Federal budget receipts by the following amounts:

[In millions of dollars]

	Fiscal Years—					
	1991	1992	1993	1994	1995	1991–95
Item:						
Repeal UBIT from October 23, 1986 and thereafter	−53	−35	−4	.....	.....	−92
Repeal UBIT from October 23, 1986 through December 31, 1989	−40	−21	.....	.....	.....	−61

I hope this information is helpful to you. If we can provide further assistance, please do not hesitate to let me know.

Sincerely,

RONALD A. PEARLMAN.

Mr. KERREY. Mr. President, I rise today to join my senior colleague from the State of Nebraska, Mr. EXON, in introducing legislation to repeal a Federal tax provision that imposes a serious handicap on the fundraising and operating abilities of charitable organizations, such as churches, baseball teams, labor unions, veterans' groups, and other nonprofit organizations in the State of Nebraska. This legislation is identical to a bill we introduced last March, S. 2308.

This provision, incorporated into the 1986 Tax Reform Act, calls for the collection of Federal income taxes, or unrelated business income tax [UBIT], on the proceeds received by charitable organizations from games of chance. It requires not only the payment of the future tax liability of funds collected, but also the payment of taxes back to 1986. The bill we are introducing today calls for a straightforward repeal of the provision included in the 1986 act and the return of the law to its status prior to passage of the 1986 act.

In Nebraska, many charities perform their fundraising activities by means of a pull-tab lottery system called "pickle cards." Although never mentioned in the 1986 Tax Reform Act's official committee report and not enforced or apparently noticed by the Internal Revenue Service until last year, the collection of taxes on pickle card proceeds will have a devastating effect on the groups reliant on pickle cards for fundraising.

The effect of the collection of these taxes will be felt by a variety of groups performing important functions in the State of Nebraska. For example, a number of parish schools utilize pickle card revenues to finance athletic, transportation, equipment, and tuition

programs for students. Others negatively affected by this provision include the Septemberfest Salute to Labor; the Omaha Hearing School; the O'Neill Senior Center; numerous athletic associations, such as the Grover Little League and the Lincoln Swim Club; the Knights of Columbus, along with other fraternal organizations; and other groups providing special services to their communities.

Our colleague from Nebraska, Representative HOAGLAND, has recently introduced identical legislation, H.R. 862, in the House.

In a day when we, as a nation, have been forced to rely more on private and nonprofit resources to provide important and needed support for our communities, we must modify this provision that could wreak financial havoc on those organizations, groups and associations that must make up the shortfall.

I urge that our colleagues give this legislation their consideration and approval.

By Mr. REID (for himself and Mr. BROWN):

S. 625. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to U.S. investment; to the Committee on Finance.

FAIR INVESTMENT ACT OF 1991

• Mr. REID. Mr. President, today I am introducing the Fair Investment Act of 1991. This legislation is a companion bill to legislation Congressman TOM CAMPBELL is introducing in the House today.

The Fair Investment Act of 1991 is a direct response to the unfair business practices of Japan, Korea, and other countries.

We all know about the unfair trading practices of Japan and Korea. They slap obscenely high tariffs on American beef and cars so that our products cannot be sold in their countries. Then, they turn around and flood this country with cheap products and consistently undersell us. And they do this at the very time that the American taxpayer is paying for their military defense. We are subsidizing their national security so that they can take advantage of us economically.

The untold story is what the Japanese and Koreans are doing to us through unfair investment practices.

The Japanese are the most extreme in their unfairness. Consider what they think is fair investment in the United States.

The Japanese have penetrated just about every American industry. These incursions have had more than a few big ticket items. In 1989, Sony Corp. paid $3.4 billion for Columbia Pictures. Late in 1990, MCA, another entertainment giant, was bought by the Japanese. Rockefeller Center, the home of NBC and one of the most prestigious addresses in New York City, now has a Japanese landlord. Seventy percent of Honolulu is controlled by Japanese investors.

It's no wonder the Organization for Economic Cooperation and Development calls our economy the most open in the world. If other nations played by our rules, we would be in good shape; but they don't.

In contrast to our free and open markets, Japan is practically off-limits to American investors. For years, many United States manufacturers have tried to sell their goods in Japan—only to face repeated delays and setbacks.

The primary problem is that the Japanese distribution system has not accommodated American goods. For example, Japanese auto dealers often refuse to sell American-made cars. The alternative—establishing an entirely separate distribution system—is prohibitively expensive in most instances. Only a few American companies, such as the Amway Corp., have been able to establish their own, independent distribution systems to achieve market penetration.

Japan may be the worst offender, but it is hardly alone in this international double standard.

South Korea has flooded the American car market with Hyundais during the past several years. They like free trade when they come to America. They hate it on their own door step. And they have proven it in their investment policies, by outlawing foreign investment in 28 lucrative industries, including farming, publishing, and radio and television broadcasting.

This double standard is also practiced by European countries—who also rely on American military power to gain an economic advantage over us.

France will not grant most-favored-nation status to the United States or other countries outside the European Community. Approval to invest in France is sometimes even linked to specific requirements like maintaining a positive balance of trade. Recent cases have demonstrated that U.S. firms have had difficulty in obtaining such approval.

But it remains the Japanese who perpetuate the cruelest hoax on America—talking about free trade and open investment, while closing their borders in an economic move that mortally damages American workers and businesses.

Japan's economy is dominated by a shadow government of business leaders who make many of the decisions affecting that country's industrial, economic and trade policies. This internal cartel of interlocking corporations is known as keiretsu. Because of the keiretsu, economic power in Japan is extremely concentrated, even to the detriment of the vast majority of Japanese citizens.

This tightly knit control group is closed to all newcomers—Japanese as well as foreign. Most Japanese investors cannot penetrate the powerful, secretive keiretsu.

These are the Japanese men who make it almost impossible for American retailers to establish a presence in Japan. They keep restrictive laws on the books in Japan, such as the legal right of small store owners to contest the opening of large department stores in their neighborhoods.

An American retailer can expect to wait 10 years before opening doors for customers. Ten years is a long time to receive any return on an investment. And that's only if the American investor gets past all the Government regulations and potential lawsuits from small store owners.

One of the most egregious examples of discrimination occurs against Americans who merely want to invest in the Japanese capital markets. While the Japanese continue to buy controlling interests in American companies and freely enter our corporate board rooms as voting members of corporate boards of directors, they prohibit Americans from doing the very same thing in their country. They will sell us the stock and take our money, but they won't allow us to vote as stockholders.

Mr. T. Boone Pickens' experiences as a shareholder of Koito Manufacturing Co. are a perfect example of this unfairness.

He is now the company's largest shareholder, but Mr. Pickens cannot even get a look at the company books and records. Representation on the Koito Board is out of the question. The corporate insiders controlling Koito do not want a foreigner to have a look at how their system operates.

This outrageous behavior has even prompted ordinary Japanese citizens to write in support of Pickens' efforts.

Last year, a small businessman from Japan testified anonymously before a House Subcommittee on the anticompetitive behavior of keiretsu. Testifying from behind a cloak so the keiretsu could not retaliate against him, this brave Japanese businessman described how he is forced to accept arbitrary price cuts, hire particular individuals and blacklist suppliers who act independently of the keiretsu.

The Fair Investment Act of 1991 would stop the double standard that allows Japan and other countries to take our money without giving anything in return.

This legislation would use the successful carrot and stick approach. If foreign countries practice fair investment and don't discriminate against us, we won't retaliate against them. But if they discriminate against our businessmen, then they shouldn't expect to get a free ride in this country.

It's a question of fairness, that's all. If they play fair, so will we.

To achieve this reciprocal relationship, the Fair Investment Act amends section 301(c) of the Trade Act of 1974 (19 U.S.C. section 2411(c)) to authorize reciprocal responses to foreign acts, policies and practices that deny national treatment of U.S. investments. My bill merely seeks the creation of the level playing field that has been talked about but has never materialized.

The current administration, like its predecessor, views open investment and free trade as the two policy components to cure our foreign trade ills. Unfortunately, the pursuit of these policies has done nothing to improve our staggering trade deficit. I think I know why. Only our Government has a truly open and free trade policy.

The Japanese Government does everything in its power to preserve, protect, and defend Japanese industry. It's time we in the United States did the same thing for our economy.

We in Congress must pass legislation that encourages a reciprocal trade relationship. The policymakers in the administration must implement fair investment and fair trade policies. Failing to place Japan on the Super 301 list demonstrates they have not yet learned the wisdom of those kind of policies.

Mr. President, Congress is watching the implementation of our trade policies very carefully and it appears Americans keep getting shortchanged in these matters. Therefore, it is time to give our trade negotiators the proper tools. The legislation I am introducing today does just that. It puts a nation's money where its mouth is. If a nation really had free trade laws, then it will receive the benefit of America's open market. If it places restrictions on foreign investment in its economy, then America will place the same restrictions on investments here. This is a reasonable response to a situation that has grown out of control.●

By Mr. HEINZ:

S. 626. A bill to increase the literacy skills of commercial drivers; to the Committee on Labor and Human Resources.

COMMERCIAL DRIVERS LITERACY PROGRAM

● Mr. HEINZ. Mr. President, in 1986 Congress enacted the Commercial Motor Vehicle Safety Act. The law is primarily intended to eliminate the practice of holding multiple driver's licenses which enable unsafe drivers to flimflam law enforcement by handing over whichever license has the fewest violations against it. Now, drivers who don't turn in multiple licenses face fines and possible imprisonment.

Another provision requires all drivers to obtain a commercial driver's license [CDL] by April 1992. Commercial vehicle operators must take both a written and driving skills test. Passing the driving test ought to be comparatively easy. Most drivers on the road today have excellent driving records and years of experience.

For some, however, getting through the written test will be a whole other story. The sample driver's manuals that I've seen are proof positive that it will not be easy for those who do not have sharp literacy skills. Many of the older, experienced drivers have not taken such a written test since high school. They need remedial literacy training. If they do not get it, we could lose the experienced drivers we want in control of the big rigs and vehicles that get our goods to market and our children to school.

For this reason, I am again introducing legislation that would provide financial assistance targeted at programs that would raise the literacy skills of commercial drivers. During the past Congress, this legislation passed both the Senate and the House but in separate legislation and therefore did not become law.

Eligible grantees include colleges and universities, approved apprentice programs, private employers, and unions.

I have received letters from many organizations in support of this effort. I ask unanimous consent that the following letters be printed in the RECORD:

June 30, 1989, from Service Employees;

June 13, 1989, from International Brotherhood of Electrical Workers;

June 5, 1989, from Teamsters.

I also ask unanimous consent that an editorial from the Pittsburgh Press and an article from the Journal of Commerce entitled, "Truck Drivers Get Jitters Over 1992 License Rules" be printed in the RECORD at this point.

Mr. President, we have all heard the regrettable reports concerning this Nation's illiteracy rate. The commercial drivers who need literacy training earn a good living. They are making substantial contributions to the American economy. It is not right for them to lose their jobs or their rigs—for which some have mortgaged their homes—because they could not pass a written test. They want to pass. They want to possess good reading skills.

I urge my colleagues to join me in helping to raise the literacy skills of these hard-working Americans. We can't afford to lose them.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

Part C of the Adult Education Act (20 U.S.C. 1211 et seq.) is amended by inserting at the end thereof the following new section 373:

"SEC. 373. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants on a competitive basis to pay the Federal share of the costs of establishing and operating adult education programs which increase the literacy skills of eligible commercial drivers so that such drivers may successfully complete the knowledge test requirements under the Commercial Motor Vehicle Safety Act of 1986.

"(b) FEDERAL SHARE.—The Federal share of the costs of the adult education programs authorized under subsection (a) shall be 50 percent. Nothing in this subsection shall be construed to require States to meet the non-Federal share from State funds.

"(c) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section include—

"(1) private employers employing commercial drivers in partnership with agencies, colleges, or universities described in paragraph (2);

"(2) local educational agencies, State educational agencies, colleges, universities, or community colleges;

"(3) approved apprentice training programs; and

"(4) labor organizations, the memberships of which includes commercial drivers.

"(d) REFERRAL PROGRAM.—Grantees shall refer individuals who are identified as having literacy skill problems to appropriate adult education programs as authorized under this Act.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'approved apprentice training programs' has the meaning given such term in the National Apprenticeship Act of 1937.

"(2) The term 'eligible commercial driver' means a driver licensed prior to the requirements of the Commercial Motor Vehicle Safety Act of 1986.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of fiscal years 1992 and 1993.".

SERVICE EMPLOYEES
INTERNATIONAL UNION,
Washington, DC, June 30, 1989.

Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: On behalf of the 925,000 members of the Service Employees International Union, I'd like to extend my appreciation for your recent introduction of S. 1098, the bill providing for the remedial training of commercial drivers.

As you are aware, there has been a very direct impact felt by commercial drivers around the country due to the new testing imposed by the Commercial Motor Vehicle Code. Despite years of experience driving school buses and other vehicles, many are ill-prepared to take the written exams required under the new regulations.

We have received numerous inquiries from SEIU members with a confusion shared by many of their employers on the full scope and extent of the new tests. Even if they have spotless driving records, the anxiety of retaining their jobs often masks their true abilities when put to the written test.

Again, thank you for the initiative you have shown in recognizing those drivers who, with minimal guidance and assistance, can continue to move our country's people and goods around safely and effectively. Please let me know if we can be of any assistance to

you in making S. 1098 pass swiftly through the Congress.

Sincerely,

JOHN J. SWEENEY,
International President.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
Washington, DC, June 13, 1989.

Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: When Congress passed the Commercial Motor Vehicle Safety Act of 1986, none of us realized at the time that certain provisions of the law would adversely affect those drivers of commercial vehicles who do not possess literacy skills sufficient to pass the written examination to secure a commercial driver's license.

Because the livelihood of our members who fall within this category is in jeopardy, we brought this matter to your attention. Not only did you fully understand the problems of these workers, but you did something about it. You assisted them by introducing S. 1098.

On behalf of the members of the International Brotherhood of Electrical Workers, and all others who you are attempting to help by your efforts, I thank you.

With best wishes, I am,

Sincerely,

J.J. BARRY,
International President.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
Washington, DC, June 5, 1989.

Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: The Commercial Motor Vehicle Safety Act of 1986 created a federal standard for the issuance of a commercial driver's license by the states. As you are aware, all commercial drivers must now pass a written and a driving skills test before obtaining this national license. Many states, including Pennsylvania, are rewriting their motor vehicle codes to satisfy the demands of this new federal standard. Some states have already implemented their commercial license programs which include the required testing provisions.

A number of drivers have experienced difficulty in passing the written part of the license test. This failure is based on individual reading abilities and not on the qualifications or driving skills of these drivers. Recently you introduced S. 1098, which would provide for a federal grant program to allow labor organizations to establish and maintain adult education programs to increase the literacy skills of commercial drivers. As General President of the International Brotherhood of Teamsters, which represents thousands of commercial drivers, I fully endorse and support your proposal. Your legislation will allow many drivers, who are competent and capable, to continue as productive and safe operators of commercial vehicles.

On behalf of Teamsters everywhere, I commend you and offer our deep appreciation for your efforts in this area.

Sincerely,

WILLIAM J. MCCARTHY,
General President.

[From the Pittsburgh Press, June 13, 1989]

LITERACY BEHIND THE WHEEL

Over the next few years, it may not be unusual to see a trucker devouring the contents of a training manual along with his meat and potatoes at a truck stop. It's a scope that's sure to materialize as commercial drivers begin studying for an exam they must take to qualify for a national driver's license that the federal government will require by April 1992.

The national license, mandated by Congress two years ago, will be required of all drivers of buses, trucks of more than 28,000 pounds or those that haul hazardous materials. The aim of the national licensing system is to prevent long-haul drivers from holding several state licenses so they can avoid suspensions for traffic citations.

We were pleased with the establishment of a national system and we are even more gratified by a spin-off development: Many truckers will try to improve their reading and writing skills in an attempt to pass the exam.

Test study manuals and the tests themselves, although supposedly written at a sixth or seventh-grade level, are baffling many truckers. In California, where the tests already are being administered, more than a third of the drivers failed on their first try.

The problem is not the drivers' skills behind the wheel but their lack of skills behind a pencil and paper. Their reading and writing levels are not good enough to understand the 100-page manuals, leaving them ill-prepared for the tests.

Responding to the situation, the American Trucking Association and some unions in the industry are urging individual trucking companies to set up literacy and preparation courses for their drivers. And Sen. John Heinz, R-Pa., wants Congress to put some of its money where its laws are.

Senator Heinz has introduced legislation to provide up to $10 million in matching funds over the next two years to help pay for literacy training for the drivers.

Although it would be impossible to quantify, it is beyond doubt that a more literate truck driver would be a safer truck driver. Imagine the danger potential that exists when, say, a trailer truck driver who can't read or who has only minimal reading skills comes upon an unfamiliar direction sign at 55 mph.

We share the notion that trucking companies should help their drivers prepare for tests by improving their literacy skills. And will think Congress should do its part, too, by providing the matching funds Sen. Heinz is seeking.

[From the Journal of Commerce, Nov. 16, 1990]

TRUCK DRIVERS GET JITTERS OVER 1992 LICENSE SALES

(By Tom Belden)

HARRISBURG, Pa.—A new fear is gripping the highways.

Will the nation's 5 million commercial truck and bus drivers meet one of the biggest challenges they will have to face in the next few years?

To keep their jobs, every truck and bus driver in the country will have to take and pass a new commercial driver's license test by April 1, 1992—a test rumored to be so tough that many drivers fear they will fail it.

That's why a group of drivers paused Tuesday in a windblown parking lot at a truck stop on Interstate 81 to hear what they could do about it.

There's a fear out there," said Pete Dannecker, director of safety and recruiting for Jones Motor Group, an irregular route truckload and flatbed carrier in Spring City, Pa. "There are people who've been driving a truck for 20 years, at 100,000 miles a year, many of them without an accident, and they don't know what to expect."

Jones found an innovative way to get drivers' attention at the sprawling Truckstops of America Plaza here. It built an information booth on wheels to teach interested drivers how to pass the test.

A quick, free browse through its Hot Shot InfoExpress—operated by a Jones subsidiary, Hot Shot Express—could be just what a driver needs to pass the test, Jones official said.

Tuesday's stop on I-81 just east of Harrisburg was the first in a 13-state tour of truck stops planned for the next few months.

The InfoExpress is stocked with free information, including copies of the licensing procedure in every state that has established one so far.

The licensing requirement is part of the Federal Commercial Motor Vehicle Safety Act, passed by Congress in 1986. Responding to demands to weed out reckless commercial drivers, the law mandated that each state set up a stricter testing program.

As good as the new system promises to be for highway safety, there is widespread fear among drivers about flunking the test and losing their livelihood, both Jones officials and truckers said.

Many drivers haven't taken a test of any kind since high school, and some also will have trouble passing because of their literacy level, the officials said.

Hermon Jones of Roseland, La., a driver for Bendix Transportation Management, pronounced the InfoExpress "great" as he picked up information Tuesday. "I know I've got to study for it," he said of the test.

"We're talking about it out here and a lot of guys don't think they'll be able to pass it," he added. "A lot of guys are thinking about getting out of trucking because they can't pass it."

In addition to the free information, the InfoExpress will offer 30-minute training sessions conducted by David Derr, a former Jones driver who now is a field recruiter and instructor.

Most of the portable InfoExpress building is set up like a mini-classroom, where Mr. Derr will offer test-taking advice and seminars on study techniques.

"I had to stop here today anyway, but this is an interesting thing to listen to," said Lawrence Moss of Atlanta, a long-haul driver who works for Arthur H. Fulton Inc., a Stephens City, Va., trucking company.

Mr. Moss said truck stops and the CB radio airways are abuzz with drivers' talk about the test. Rumors are rampant about which states have the toughest exams, he said.

He has heard that some states have had trouble getting their programs started and that some will have much tougher tests than others.

"Right now it's confusing to a lot of the drivers," Mr. Moss said. He is hoping that some consideration will be given to experienced and safe drivers such as himself. In 17 years of driving, he hasn't had an accident or a ticket, he said.

As of Monday, Pennsylvania became the 26th state to join a national computer network that eventually will hold the licensing records of all commercial drivers, said Doug Tobin, director of the Pennsylvania Department of Transportation's Bureau of Vehicle Licensing.

The network was developed to deal with one of the biggest problems in trying to get bad truck and bus drivers off the road. It will be used to make sure drivers with multiple violations in one state can't be licensed in another state and continue driving.

"The hope is to reduce the incidence of heavy motor vehicle accidents across the country by standardizing and computerizing records nationally, and by eventually weeding out bad drivers," Mr. Tobin said.•

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 627. A bill to designate the lock and dam 1 on the Red River Waterway in Louisiana as the "Lindy Claiborne Boggs Lock"; to the Committee on Environment and Public Works.

LINDY CLAIBORNE BOGGS LOCK

• Mr. JOHNSTON. Mr. President, I am pleased to submit today legislation designating lock and dam 1 on the Red River Waterway as the "Lindy Claiborne Boggs Lock."

Throughout her distinguished service in the House of Representatives, Lindy had a keen interest in the Red River Waterway, and was a strong and key advocate for it through her membership on the House Appropriations Committee's Subcommittee on Energy and Water Development from 1977 until her retirement last year. Lindy recognized the importance this project has for economic development throughout Louisiana, including the future importance it will have for the Port of New Orleans. Born on Brunswick Plantation in Pointe Coupee Parish, and the daughter of a Point Coupee Levee Board member, she also knew well and fully understood the importance of this project to central Louisiana. Therefore, designating this first lock the "Lindy Claiborne Boggs Lock" is especially fitting, and I urge my colleague to approve this small tribute to this remarkable former member of the Louisiana delegation.•

• Mr. BREAUX. Mr. President, I rise today to cosponsor Senator JOHNSTON's bill which will designate lock and dam 1 of the Red River Waterway in Louisiana as the Lindy Boggs Lock. While serving as a member of the House Appropriations Committee, Congresswoman Boggs was instrumental in providing funding for the Red River Waterway project. Upon completion, the Red River Waterway project is expected to improve economic development in Louisiana by providing greater inland waterway commerce to and from the Mississippi River. Naming the first lock and dam of this mammoth project after her, is a small but fitting tribute.

While I was a Member of the House of Representatives, I had the privilege to work with Congresswoman Boggs for 14 years. Her leadership and outstanding history of public service has provided a fine model for all elected officials. The designation of this lock and dam is just one of several upcoming tributes to thank Mrs. Boggs for her many fine years of service and I urge my colleagues to join me in showing our appreciation to Mrs. Boggs.•

By Mr. BINGAMAN:

S. 628. A bill to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico; to the Committee on Energy and Natural Resources.

BOOTS AND SADDLES: HISTORIC NEW MEXICO FORTS STUDY ACT

• Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, Boots and Saddles: Historic New Mexico Forts Study Act. This bill authorizes the study of seven historic forts occupied during the Civil War and Indian campaigns in New Mexico. I am pleased that my colleague, Senator DOMENICI, is joining me as a cosponsor.

The bill will advance public appreciation and understanding of these forts, which played a key role in the economic development of the American frontier.

The forts are an important relic of our national history, but a relic that is deteriorating because of weathering, unsupervised visits, and the lack of maintenance. There is an urgent need to protect these significant historic properties. A comprehensive study is necessary to find appropriate means for systematic stabilization, restoration, and interpretation.

The bill would authorize a 1-year study of these forts by the Secretary of the Interior. The Secretary, acting through the Bureau of Land Management and the National Park Service, would develop alternative means of preserving and interpreting these forts.

The study would include assessing the feasibility of establishing guided tours which would encompass common themes and link appropriate sites. Visitors may be able to visit the forts by already established highways or could hike or ride horseback along the historical trails that linked the forts.

The territory of New Mexico was crossed by a large number of trails and routes in the 1800's. Numerous forts were located along these travelways. Because of the arid climate and sparse population of the Southwest, the physical evidence of many of these forts remains. A representative sample of these forts, including related sites such as way stations, should be nationally recognized for their historic significance.

Seven significant forts are included in this measure: Fort Bayard, Fort Craig, Fort Cummings, Fort Seldon, Fort Stanton, Fort Sumner, and Fort Union.

Fort Bayard was constructed in 1866 and played a key role in the campaigns against Geronimo. By the late 1870's, the fort housed almost 400 officers, enlisted men, and Navajo scouts.

Fort Craig was the largest Civil War fort in the West. Built in 1854, it guarded the Jornada del Muerto Trail and the Rio Grande Valley. The largest Civil War battle in New Mexico took place just a few miles north of the fort in 1862. This battle contributed to the end of Confederate aspirations in the Southwest.

Fort Cummings protected the Butterfield stage route between San Diego and San Antonio. This fort was a base of operations for the Apache wars against Indian leaders such as Geronimo and Cochise.

Established in 1865, Fort Seldon protected settlers from desperados and Apache raids. The son of the post commander was Douglas MacArthur, who lived at the fort and later became Supreme Commander of the Allied Forces in the Pacific during World War II.

Fort Stanton was founded in 1855 as a military outpost during the Indian Wars. It was abandoned by Union troops in 1861 and occupied by Confederate forces until they retreated into Texas after the Battle of Glorietta. In 1862, Kit Carson reoccupied the fort as a center for his campaign against the Apaches and Navajos.

Fort Sumner represents the U.S. Government's policy of repressing Indian resistance to American expansion through forced settlement on military reservations. Kit Carson invaded the Apache and Navajo homelands and forced many of them onto Fort Sumner, where they remained for 5 years.

The principal quartermaster depot of the Southwest, Fort Union guarded the Santa Fe Trail, which served as the main supply artery for Federal forces.

These forts represent an important period in American history, the study of which will contribute to an understanding of the frontier. Yet, until recently, these forts have been neglected to the point that they have deteriorated. In light of the precarious state of preservation at most of these sites and the urgent need to protect and manage them, increased cooperation between Federal and State agencies and private citizens is necessary for systematic stabilization, restoration and interpretation of these valuable cultural resources.

Interpretive efforts would be improved with cooperation between State and Federal agencies. Financial resources, personnel, and expertise could be shared to increase efficiency. The development of a management plan would guide resource management and protection, visitor use, interpretation, and boundary adjustments.

Such an effort would help preserve and protect an irreplaceable part of our heritage. Tourists in New Mexico often cite the State's cultural resources as their primary reason for visiting. A national study of these forts and related sites would bring more effective interpretation and appreciation of these unique links to the past.

For these reasons, I urge my colleagues to support this important legislation, and I ask unanimous consent that the full text of the bill appears in the RECORD following my statement.

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

S. 628

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 "Boots and Saddles: Historic New Mexico Forts Study Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the study and interpretation of historic cavalry forts occupied during the Civil War and Indian campaigns in New Mexico could contribute to an understanding of the American frontier;

(2) the forts are deteriorating due to natural weathering, unsupervised human visitation, and lack of maintenance and repair; and

(3) in light of the declining condition of most of these significant historic properties, it is necessary to determine, through a comprehensive study, the appropriate means to stabilize, restore, and interpret these sites.

SEC. 3. STUDY AND REPORT BY THE BUREAU OF LAND MANAGEMENT AND THE NATIONAL PARK SERVICE.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management and the Director of the National Park Service, shall conduct a study of the following historic forts in the State of New Mexico occupied during the Civil War and Indian campaigns:

(1) Fort Stanton;

(2) Fort Union;

(3) Fort Sumner;

(4) Fort Cummings;

(5) Fort Seldon;

(6) Fort Bayard; and

(7) Fort Craig.

(b) REPORT.—Not later than 1 year from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit the study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) STUDY CONTENT.—The study shall develop alternative means of preserving and interpreting the forts referred to in subsection (a) including—

(1) the study of related historic properties;

(2) the feasibility of establishing guided tours which may encompass common themes and link appropriate sites; and

(3) such other information as the Secretary may deem necessary.

SEC. 4. APPROPRIATION AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. D'AMATO:

S. 629. A bill to establish the grade of General of the Army and to authorize the President to appoint Generals Colin L. Powell and H. Norman Schwarzkopf, Jr., to that grade; to the Committee on Armed Services.

GENERAL OF THE ARMY

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation establishing the grade of General of the Army, establishing procedures for its award, and authorizing the President to appoint Generals Colin L. Powell and H. Norman Schwarzkopf, Jr., to this grade. My legislation is identical to H.R. 1052, a measure introduced in the House by Representative BILBRAY.

Together, Gen. Colin Powell and Gen. Norman Schwarzkopf planned and led a military campaign that produced a critically important victory for the United States, our coalition partners, Israel, and world peace. They accomplished a task that many said could not be done at all, or could only be done at a prohibitive cost in lives, treasure, and harm to U.S. long-term interests, in a quick, clean, and masterful fashion.

For this achievement, both General Powell and General Schwarzkopf deserve the opportunity, should the President choose to appoint them, to wear the five stars this Nation has accorded to its most successful wartime military leaders. This legislation establishes the rank of General of the Army, provides for Presidential appointment and Senate confirmation, establishes the occupants of the position's precedence and their compensation, and authorizes the President to appoint these two victorious leaders to that grade.

I introduce this measure today to follow up on a letter I wrote to President Bush on February 28, urging him to honor Generals Powell and Schwarzkopf with 5 stars. I urge all of my colleagues to join with me in support of this measure and work for its swift passage.

If appointed and confirmed, General Powell and General Schwarzkopf would join such American heroes as "Black Jack" Pershing, Dwight Eisenhower, Chester W. Nimitz, George Marshall, Hap Arnold, and Douglas MacArthur in the pantheon of those who wore five stars. None of these heroes is still living—Omar Bradley, "the Soldiers' General," was the last to pass away.

Some may say that the accomplishments of General Powell and General Schwarzkopf in Operations Desert Shield and Desert Storm do not measure up to the standards our World War I and World War II leaders had to meet. I disagree. While Saddam Hussein did not bestride the world the way the Kaiser or Hitler did, the very task of holding together and leading a much more diverse coalition in a volatile and dangerous region of the world was made just that much harder.

I call to my colleagues' attention the political aspect of the achievement our victory in Desert Storm represents. The critics claimed we could never hold the coalition together. They claimed that if we could hold it together, it could not be successful in combat.

Just as Dwight Eisenhower held the Allies together against Hitler's Germany, Norman Schwarzkopf held together an even more unusual—indeed, unprecedented—coalition against Saddam Hussein. Just as George Marshall gave Eisenhower, Bradley, MacArthur, and Arnold the tools they needed to win the war, Colin Powell did the same for Norman Schwarzkopf.

Their achievement deserves recognition—more tangible recognition than parades and medals. I ask that you join me in supporting this measure to give the President the opportunity to give them that recognition.●

By Mr. D'AMATO (for himself, Mr. DECONCINI, Mr. THURMOND, and Mr. COATS):

S. 630. A bill entitled the "Money Laundering Enforcement Act"; to the Committee on Banking, Housing, and Urban Affairs.

MONEY LAUNDERING ENFORCEMENT ACT

Mr. D'AMATO. Mr. President, I am pleased to introduce, together with Senators DECONCINI, THURMOND, and COATS, the Money Laundering Enforcement Act. Much of this legislation was contained in S. 2651, which I introduced in the last Congress. Most of that bill was adopted by the Senate Banking Committee last year as part of its comprehensive money laundering bill, S. 3037. Unfortunately, S. 3037 was not passed by the full Congress. That bill has been reintroduced in the current session as S. 305 by Senator KERRY, and cosponsored by myself and Senators RIEGLE, GARN, METZENBAUM, GRAHAM, BRYAN, and DIXON.

The international drug trade grosses $300 billion to $500 billion a year, 80 percent of that money is pure profit that needs to be laundered.

This bill combats the use of so-called money transmitters and other nonbank financial institutions, and the use of the international wire transfer and other fund transfer systems, to launder money.

Illegal money transmitters—illegal storefronts posing as travel agencies, telegraph offices, or other businesses that launder drug money—are an increasingly important part of the worldwide drug trade and the illegal money laundering industry.

In one recent money transmitter case, Treasury agents have identified hundreds of millions of dollars that were laundered.

At a conference on money transmitters sponsored by the Treasury Department's Financial Crimes Enforcement Network [FinCEN] in January, New York State officials discussed another money transmitter case that involved $100 million in laundered drug money.

At the conference, one prosecutor described these money transmitters as "all service providers for drug dealers." Often they have monthly meetings to coordinate their activities, and besides laundering money, they deal in phony immigration and other identification documents.

The battle against illegal money transmitters has barely begun. For the

most part, we have left the fight to a handful of State investigators.

As Timothy Mahoney, the director of special investigations for the New York State Banking Department testified before the Senate Banking Committee:

As banks became more sophisticated in reporting currency transactions, drug dealers became more creative and began to rely increasingly on unlicensed and illegal money transmitters, on check cashers, and on money order vendors, all users and sources of huge amounts of cash * * *. It is primarily the unlicensed money transmitter who provides the best means of laundering money and is most often used to structure illegal transactions.

On November 15, 1989, then-Assistant Treasury Secretary for Enforcement Salvatore R. Martoche testified before the House Banking Committee:

Investigations by law enforcement authorities show that wire transfers increasingly are becoming the method of choice to launder money.

In an April 28, 1989, submission to the drug czar, the American Bankers Association stated:

Wire transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade.

A September 25, 1989, article in the New York Times, entitled, "Unassuming Storefronts Believed to Launder Drug Dealers' Profits" quotes State banking regulators as saying that storefront money-transmitting and check-cashing operations are sending billions of dollars to drug dealers in South America and Asia.

Unfortunately, as the House Banking Committee noted in its report (No. 101-446) on its money laundering bill last year: "Certain States have recognized a need for more effective regulation of these businesses, but most States have yet to act. Those who have required some form of licensure usually have little manpower available to properly supervise and monitor the activities of these business establishments."

The Money Laundering Enforcement Act addresses these problems with provisions that:

First, require the Treasury Department to issue regulations directing banks to identify their money transmitter and other nonbank financial institution customers;

Second, require the Treasury Department to share this information with State agencies so the States can investigate whether such institutions are in compliance with State law;

Third, make it a Federal crime to operate a money transmitter business in violation of State law, add that crime to the list of Federal RICO offenses, and provide for the seizure of all the illegal business' property;

Fourth, the Treasury Department already has authority to impose special reporting rules on financial institutions in certain geographic areas—for example, they can be required to report cash transactions of less than $10,000. But if the banks tell their customers these rules are in effect, it defeats the whole purpose. Section 4, therefore, prohibits financial institutions from telling customers they are subject to geographic targeting;

Fifth, section 5 relates to recordkeeping for international fund transfers. It requires the Treasury Department to issue recordkeeping regulations for domestic depository institutions making international fund transfers, and for international fund transfer orders made by money transmitters and check cashers, and by businesses that issue or redeem money orders, travelers' checks, or other similar instruments that have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings;

Sixth, section 6 directs the Department of Treasury, in consultation with the Department of Justice and the Drug Enforcement Administration, to report on the advantages and disadvantages of changing the size, denominations, or color of U.S. currency or of providing that the color of U.S. currency in circulation in foreign countries be of a different color than currency circulating in the United States.

Seventh, section 7 provides that structuring transactions to avoid the $3,000 identification requirement of 31 U.S.C. 5325 is prohibited. This section also contains provisions necessary to bring the financial enforcement program in the United States into conformity with the recommendations of the Financial Action Task Force [FATF] on money laundering. Section 7 authorizes the Treasury Secretary to require by regulation the reporting of suspicious transactions by any financial institution subject to the Bank Secrecy Act. A financial institution, bank or nonbank, would also be prohibited from warning its customer if it made a suspicious transaction report.

Section 7 also authorizes the Treasury Secretary to require financial institutions subject to the Bank Secrecy Act to have antimoney laundering programs which include, at a minimum, development of internal policies, procedures, and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The procedures would be geared at money laundering generally whether or not a customer dealt in cash;

Eighth, since the inception of the Right to Financial Privacy Act [RFPA], pursuant to an exception in 12 U.S.C. 3404(c), financial institutions have been able to report, in good faith, possible violations of law or regulation to Federal authorities without notice to the suspected customer and free from civil liability under the RFPA. Neverthless, banks have advised that there are other concerns beyond liability under privacy laws that in some instances complicate their treatment of suspicious transactions. For instance, they fear possible defamation actions or that if they sever relations with a customer, they may risk liability under the Fair Credit Reporting Act, or for breach of contract.

Section 8(a) addresses these concerns by extending the protection of 12 U.S.C. 3404(c) to a financial institution that severs relations with a customer or refuses to do business because of activities underlying a suspicious transaction report, and by specifying that the financial institution that acts in good faith in reporting a suspicious transaction is protected from civil liability to the customer under any theory of State or Federal law.

Section 8(b) is necessary to facilitate the work of Treasury's new Financial Crimes Enforcement Network [FinCEN]. FinCEN plans not only to analyze financial records to facilitate investigations and prosecution by non-Treasury agencies, but to integrate such records with other available records for further analysis to identify new targets for criminal investigation. The amendment provides that an agency can transfer records obtained in accordance with the RFPA to FinCEN for criminal law enforcement purposes without customer notice. FinCEN also would be able to disseminate the results of its analysis, whether based in whole or in part on records obtained subject to the RFPA, to the appropriate agency for criminal investigation without customer notice.

Ninth, section 9 provides for a study by the Secretary of the Treasury to survey methods and technologies that may be used in the production of U.S. currency denominations of $10 or more, to make those notes—including presently circulating currency—traceable by an electronic scanning device, and to assess and evaluate the cost of implementing the methods and technologies surveyed, and the amount of time needed to implement each.

Together, these provisions give our regulatory and law enforcement agencies more ability to combat the multibillion dollar criminal money laundering enterprises operating in league with drug traffickers. When it comes to drug dealers and money launderers, we need the strongest possible laws to put them out of business and behind bars. We need to take everything they have—because right now they are taking everything we have.

Mr. President, I ask unanimous consent that the Money Laundering Enforcement Act be printed in its entirety, together with a section-by-section analysis, and I urge my colleagues to give the Money Laundering Enforcement Act their full support.

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

S. 630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as "The Money Laundering Enforcement Act.".

SEC. 2. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) A new section 5327 is added to title 31, United States Code, as follows:

"§ 5327. Identification of financial institutions

"By January 1, 1992, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in section 5312(a)(2) (H) through (Y) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate state financial institution supervisory agencies for supervisory purposes.".

(b) Section 5321 of title 31, United States Code, is amended by adding a new subparagraph (a)(7) as follows:

"(7)(A) The Secretary may impose a civil penalty on any person who willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

SEC. 3. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) Chapter 95 of title 18, United States Code, is amended by adding the following Section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever intentionally conducts, finances, manages, supervises, directs, or owns all or part of an illegal money transmitting business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(b) As used in this section—

"(1) 'illegal money transmitting business' means a money transmitting business which—

"(i) is an intentional violation of the law of a State or political subdivision in which it is conducted;

"(ii) involves one or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in a single day;

"(2) 'money transmitting' includes but is not limited to transfering funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile or courier; and

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) If one or more persons conduct, finance, manage, supervise, direct, or own all or part of a money transmitting business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

"(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.".

(b) The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item: "1960. Prohibition of illegal money transmitting businesses."

(c) Paragraph (1) of Section 1961 of title 18, United States Code, is amended by inserting after "section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire),": "section 1960 (relating to the prohibition of illegal money transmitting businesses),".

SEC. 4. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of our terms of the order to any person except as prescribed by the Secretary.".

SEC. 5. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraph:

"(2) FUNDS TRANSFERS.—

"(A) IN GENERAL.—By October 1, 1991, the Secretary, after consultation with the Board of Governors of the Federal Reserve System and State Banking Departments, shall prescribe such final regulations as may be appropriate to ensure that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeems money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments as will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

SEC. 6. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 7. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) Section 5324 of title 34, United States Code, is amended by adding the words "or section 5325 or the regulations thereunder" after the words "section 5313(a)," each time they appear.

(b) Section 5318 of title 31, United States Code, is amended by adding new subsections (g) and (h), as follows:

"(g)(1) The Secretary may prescribe that financial institutions report suspicious transactions relevant to possible violation of law or regulation.

"(2) A financial institution may not notify any person involved in the transaction that the transaction has been reported.

"(3) The provisions of section 1103(c) of the Right to Financial Privacy Act of 1978 (title XI of Public Law 95-630, as amended, 12 U.S.C. 3403(c)) shall apply to reports of suspicious transactions under this section.

"(h) In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to have anti-money laundering programs, including at a minimum, the development of internal policies, procedures and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The Secretary may promulgate minimum standards for such procedures."

SEC. 8. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) Section 1103(a) of the Right to Financial Privacy Act of 1978, (title XI of Public Law 95-630, as amended, 12 U.S.C. 3403(c)), is amended—

(1) by deleting the words, "in this chapter";

(2) by adding the words, ", as defined in 31 U.S.C. 5312 and the regulations thereunder," after the words "financial institution" in the first sentence; and

(3) by removing the period at the end thereof and adding the following: "or for refusal to do business with any person before or after disclosure of a possible violation of law or regulation made in good faith to a Government authority.".

(b) Section 1112 of the Right to Financial Privacy Act of 1978 (title XI of Public Law 95-630, as amended, 12 U.S.C. 3412) is amended—

(1) in paragraph (f)(1), by adding the words "or Secretary of the Treasury" after words "Attorney General";

(2) in paragraph (f)(1)(A) by adding the words "and in the case of the Secretary of the Treasury, a violation of section 1956 or 1957 of title 18, United States Code" after the word "law";

(3) in paragraph (f)(2) adding the words "Department of the Treasury" after the words "Department of Justice"; and

(4) by adding a new subsection (g) as follows:

"Financial records originally obtained by an agency in accordance with this chapter may be transferred to the Secretary of the Treasury for analysis and use by the Financial Crimes Enforcement Network ("FinCEN") for criminal law enforcement purposes without customer notice."

SEC. 9. ELECTRONIC SCANNING STUDY.

Section 102, Public Law 101-647, is hereby repealed and replaced with the following language:

"ELECTRONIC SCANNING STUDY

"(1) Not more than 30 days after the date of enactment of this section, the Secretary of the Treasury (referred to as the "Secretary") shall initiate an in-house study to—

"(A) survey methods and technologies that may be used in the production of United States currency, issued under section 411 of title 12, United States Code, in denominations of $10 or more, to make those notes (including presently circulating currency) traceable by an electronic scanning device; and

"(B) make an assessment and evaluation of the cost of implementing the methods and technologies surveyed and the amount of time needed to implement each."

SECTION-BY-SECTION ANALYSIS OF THE MONEY LAUNDERING ENFORCEMENT ACT

Section 2 provides for the identification of money transmitters and other non-bank financial institutions by requiring the Treasury Department to issue regulations by January 1, 1992 requiring that depository institutions (banks, saving associations, and credit unions) identify their non-bank financial institution customers: money transmitters, check cashers, foreign exchange dealers, issuers and redeemers of traveller's checks, and casinos. To help state regulators, the bill provides that Treasury will provide the list to state supervisory agencies for supervisory purposes, because, as many witnesses have testified before the Banking Committee, the sharing of information is crucial in the battle against drug dealing and money laundering. Section 2 also authorizes the Treasury Department to impose a civil penalty on any person who willfully violates section 5327 or a regulation prescribed thereunder.

Section 3 makes it a federal crime to operate a money transmitting business in violation of state law, and adds such crime to the list of federal RICO offenses contained in title 18, Section 1961.

Section 4. The Treasury Department already has authority to impose special reporting rules on financial institutions in certain geographic areas. For example, they can be required to report cash transactions of less than $10,000. But if the banks tell their customers these rules are in effect, it defeats the whole purpose. Section 5, therefore, prohibits financial institutions from telling customers they are subject to geographic targeting.

Section 5 relates to record keeping for International Fund Transfers. It requires the Treasury Department to issue record keeping regulations for domestic depository institutions making international fund transfers, and it also requires Treasury to issue record keeping rules for international fund transfer orders made by money transmitters and check cashers, and businesses that issue or redeem money orders, travelers' checks or other similar instruments.

Section 6 directs the Department of Treasury, in consultation with the Department of Justice and Drug Enforcement Administration, to report on the advantages and disadvantages of changing the size, denominations, or color of U.S. currency or of providing that the color of U.S. currency in circulation in foreign countries be of a different color than currency circulating in the U.S. A number of proposals have been suggested in reference to the issue of changing currency. The Drug Enforcement Administration, in a December 12, 1989 letter to the Department of Treasury, asked for consideration of printing two distinct forms of currency, one to serve as legal tender exclusively in the U.S. and the other form for use outside the U.S. Former Secretary of the Treasury Donald Regan, in a September 18, 1989 New York Times article, advocated a similar idea. His suggestion is as follows:

To get at the cash dealings of drug wholesalers, retailers, street pushers, we should print new $50 and $100 bills—either of a different color, or size, than the current ones. With only a 10-day warning, we should make all $50 and $100 bills obsolete—no longer acceptable as legal tender. Everyone would have to exchange their large bills for new ones. Banks and other financial institutions would have to keep a record of any cash transactions over $1,000. Reports would be furnished to the Comptroller and I.R.S. by name and taxpayer identification.

Section 7(a) is a technical amendment changing the anti-structuring provision of the Bank Secrecy Act, 31 U.S.C. 5324, to specify that structuring transactions to avoid the $300 identification requirement of 31 U.S.C. 5325 is prohibited.

In section 6185(b) of the Anti-Drug Abuse Act of 1988, Congress added section 5325 to guard against the practice of "smurfing" drug proceeds by cash purchases of monetary instruments at amounts below the $10,000 reporting threshold. Section 5325 prohibits the cash purchase of certain monetary instruments—bank checks, cashier's checks, traveler's checks, money orders—in amounts greater than $3000 to non-accountholders unless the financial institution verifies the identification of the purchaser.

Treasury has issued regulations under section 5325, 31 C.F.R. 103.29, which require that financial institutions maintain a log of cash purchases of these instruments over $3000 which included a notation of the identification exacted for non-accountholders.

However, section 5324 only refers to structuring to avoid the Currency Transaction Report requirement. Therefore, the proposed amendment is needed because under the current law it could be argued that customer structuring of transactions or smurfing to avoid the $3000 identification requirement would not be a violation of the Bank Secrecy Act.

Section 7(b). This section contains provisions necessary to bring the financial enforcement program in the United States into conformity with the recommendations of the Financial Action Task Force ("FATF") on money laundering.

The FATF was convened by the 1989 G-7 Summit to study the state of international cooperation on money laundering and measures to improve cooperation in international money laundering cases. The group was composed of fifteen financial center countries and the European Community. After several meetings of experts from law enforcement, justice and finance ministries, and bank supervisory authorities, in April 1990, the group issued a comprehensive report with 40 action recommendations for comprehensive domestic anti-money laundering programs and improved international cooperation in money laundering investigations, prosecutions, and forfeiture actions. The recommendations of the group have become the world model for effective anti-money laundering measures.

President Bush and the other heads of state and government endorsed the report of the Financial Action Task Force at the Houston Economic Summit last summer, and the financial ministries of non-G-7 participants also endorsed the report.

The Houston Summit reconvened the Task Force for another year. The mandate of the reconvened Task Force is to study possible complements to the original recommendations, to assess implementation of the recommendations, and to study how to expand the number of countries that subscribe to the recommendations. The reconvened Task Force is currently meeting. The original members have been joined by six other European countries and Hong Kong and the Gulf Cooperative Council.

By their endorsement, the Task Force members are committed to take necessary legislative and regulatory measures to implement the recommendations. Most of the recommendations reflect measures already in place in the United States, because the United States. Nevertheless, to fully measure up to the recommendations, our anti-money laundering program requires some refinements which the amendments in this section address.

First, the Task Force recommendations (recommendation 9) provide that the same anti-money laundering measures recommended for banks be put in place for non-bank financial institutions, such as the requirement to report suspicious transactions possibly indicative of money laundering (recommendation 16), and to create anti-money laundering programs (recommendation 20).

Experience in the United States and abroad indicates that as banks become more effective in guarding against money laundering, money launderers turn to non-bank financial institutions, such as money transmitters, casas de cambio and telegraph companies.

Many of these institutions are subject to the recordkeeping and reporting requirements of the Bank Secrecy Act, but unlike banks are not required to report suspicious transactions nor to have compliance programs to guard against money laundering. See e.g., 12 CFR 12.11 (relating to reports to

suspected crimes by national banks); 12 CFR 21.21 (relating to procedures for monitoring Bank Secrecy Act compliance by national banks).

Proposed section 31 U.S.C. 5318(g) authorizes the Treasury Secretary to require by regulation the reporting of suspicious transactions by any financial institution subject to the Bank Secrecy Act. Also in furtherance of the FATF recommendations, a financial institution, bank or non-bank, would be prohibited from warning its customer if it made a suspicious transaction report (recommendation 17).

Under the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. 3403(c), a financial institution may report a suspicious transaction free from civil liability for not notifying its customer, but is not specifically prohibited from warning the customer.

The FATF concluded that in order for suspicious transactions reporting to be effective there must be a prohibition from notifying the persons involved in the suspicious transaction. Also, as discussed below, in a related amendment, it is proposed to extend the customer liability protection of the RFPA to all financial institutions subject to the Bank Secrecy Act, not just to the banking institutions generally subject to the RFPA.

Proposed section 31 U.S.C. 5318(h), which tracks the language of FATF recommendation 20, would authorize the Secretary to require financial institutions subject to the Bank Secrecy Act to have anti-money laundering programs which include, at a minimum, development of internal policies, procedures, and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The Secretary would be able to promulgate minimum standards for such procedures.

This recommendation was based on the regulations the U.S. bank regulators have in place pursuant to 12 U.S.C. 1818 to ensure Bank Secrecy Act compliance. See, e.g., 12 CFR 21.21. The Secretary already has authority under 31 U.S.C. 5318 to promulgate procedures to ensure compliance with requirements of the Bank Secrecy Act. This amendment would eliminate the requirement that the procedures be linked to a Bank Secrecy Act requirement, i.e., currency transaction reporting. The procedures would be geared at money laundering generally whether or not a customer dealt in cash. For instance, this authority could be used to require that anti-money laundering programs include "know your customer" procedures.

The Department of the Treasury envisions that the authority of proposed section 5318 (g) and (h) could be used with respect to any institution subject to the Bank Secrecy Act under 31 U.S.C. 5312 whether or not that institution is required to report currency transactions under the Bank Secrecy Act.

Section 8(a). Since the inception of the Right to Financial Privacy Act, pursuant to an exception in section 1103(c), 12 U.S.C. 3404(c), financial institutions have been able to report, in good faith, possible violations of law or regulation to federal authorities without notice to the suspected customer and free from civil liability under the RFPA.

At the Administration's request in the Anti-Drug Abuse Act of 1986 and 1988, Congress further clarified this provision to specify what information a financial institution could give regarding the customer and the suspicious activity, and that the protection preempted any state law requiring notice to the customer. These changes were added to ensure that financial institutions would not be inhibited from reporting suspected violations, especially money laundering and Bank Secrecy Act reporting violations.

Nevertheless, banks have advised that there are other concerns beyond liability under privacy laws that in some instances complicate their treatment of suspicious transactions. For instance, they fear possible defamation actions or that if they sever relations with a customer, they may risk liability under the Fair Credit Reporting Act, 15 U.S.C. 1691, et seq., or for breach of contract. See Ricci V. Key Bancshares of Maine, 768 F.2d 456 (1st Cir. 1985). However, if they continue relations with the customers, they fear that they may be implicated in any illegal activity.

In many cases, after a suspicion has been reported, Federal authorities will encourage financial institutions to continue dealing with a suspicious customer so his activities may be monitored. Unfortunately, there is a question whether, in all cases, law enforcement follow-up with financial institutions on the disposition of suspicious activity reports. In any event, financial institutions should be free to sever relations with the customer based on its suspicions or on information about a customer received from law enforcement.

Section 8(a) addresses these concerns by extending the protection of Section 1103(c) to a financial institution that severs relations with a customer or refuses to do business because of activities underlying a suspicious transaction report and by specifying that the financial institution that acts in good faith in reporting a suspicious transaction is protected from civil liability to the customer under any theory of state or Federal law.

As discussed above, the amendment extends the protection of section 1103(c) to the wide range of bank and non-bank institutions subject to the Bank Secrecy Act, 31 U.S.C. 5312. Currently, the protection may apply to financial institutions as defined in section 1101 of the RFPA, 12 U.S.C. 3401, e.g., banks, credit unions, savings associations. Non-bank financial institutions may similarly be inhibited from reporting suspicious transactions by fear of civil liability for defamation or breach of contract or under financial or consumer privacy laws.

The protection would apply to all institutions enumerated in 31 U.S.C. 5312 (subject to the Bank Secrecy Act) whether or not the Secretary has exercised his regulatory authority to require a type of institution to report currency transactions under the Bank Secrecy Act.

For instance, travel agencies and insurance companies are listed in section 5312 as financial institutions subject to the Bank Secrecy Act, but have not been required to comply with any of the requirements of the Bank Secrecy Act by regulation. Instead, these institutions report cash received in excess of $10,000 to the Internal Revenue Service under section 6050I of the Internal Revenue Code, which establishes the currency reporting regime for trades or businesses not subject to BSA reporting. Nevertheless, under this amendment because travel agencies and insurance companies are within the Bank Secrecy Act definition of financial institution, the RFPA protection of section 1103(c) would extend to them if they report suspicious transactions, in good faith, to a federal authority.

Section 8(b). Section 1112 of the RFPA, 12 U.S.C. 3412, provides that agencies that obtain financial records in accordance with the RFPA (either after customer notice or pursuant to an authorized notice exception) notify a customer if it transfers the records to another agency.

The amendment in section 8(b) is necessary to facilitate the work of Treasury's new Financial Crimes Enforcement Network (FinCEN). FinCEN plans not only to analyze financial records, including records subject to the RFPA, e.g., records received by administrative subpoena, to facilitate investigations and prosecution by non-Treasury agencies, but to integrate such records with other available records for further analysis to identify new targets for criminal investigation. Treasury is concerned that this further use, independent of the needs of the agency that originally received the records in accordance with the RFPA, could be considered as a transfer of the records to Treasury necessitating customer notice under section 1112 of the RFPA.

The amendment adds a new subsection 1112(g) to provide that an agency can transfer records obtained in accordance with the RFPA to FinCEN for criminal law enforcement purposes without customer notice. FinCEN also would be able to disseminate the results of its analysis whether based in whole or in part on records obtained subject to the RFPA to the appropriate agency for criminal investigation without customer notice.

Section 9 provides for a study by the Secretary of the Treasury to survey methods and technologies that may be used in the production of United States currency denominations of $10 or more, to make those notes (including presently circulating currency) traceable by an electronic scanning device, and to assess and evaluate the cost of implementing the methods and technologies surveyed, and the amount of time needed to implement each.

By Mr. EXON (for himself, Mr. DANFORTH, and Mr. KASTEN):

S. 631. A bill to authorize appropriations for the Motor Carrier Safety Assistance Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION ACT

Mr. EXON. Mr. President, I am pleased today to introduce the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 [MCSAP]. This legislation is a continued effort to improve safety in the heavy truck and bus industry.

Congress created MCSAP in 1982. This program provides grants to States for roadside inspections of commercial vehicles and drivers, as well as safety audits at the terminal of truck and bus companies. MCSAP currently funds 1.15 million roadside inspections, and about 10,000 safety audits annually. This bill would provide funding for MCSAP of $65 million for fiscal year 1992; $70 million for fiscal year 1993; $75 million for fiscal year 1994; $80 million for fiscal year 1995; and $85 million for fiscal year 1996.

Congress has supported safety initiatives in past Congress' to improve the safety of commercial vehicles on our Nation's highways. To continue this effort, I am delighted to work with Senator DANFORTH and Senator KASTEN to

introduce the Motor Carrier Safety Assistance Program Reauthorization Act of 1991. This bill will continue the existing program which is widely regarded as a successful Federal/State partnership, by making some modifications intended to better direct the program at the cause of accidents involving commercial motor vehicles.

This bill will include programmatic changes that will require a State to meet the administrative requirements for grant qualifications in order to receive money from MCSAP, such as designating a State lead agency to administer the plan, using uniform forms for recordkeeping and inspections, and participation in data bases on drivers, vehicle inspections, and traffic accidents. The bill will also strengthen the program beginning with fiscal year 1993 by requiring a State to conduct increased enforcement in a number of areas including: drug interdiction; drug and alcohol enforcement; checking the status of drivers' CDL's; traffic safety enforcement in relation to commercial vehicle safety; and hazardous materials efforts.

Other provisions of the .bill will include initiatives designed to penalize those who violate out-of-service orders; establish guidelines that clearly delineate what is a compatible State safety rule regarding interstate-intrastate compatibility; establish a drug-free zone around truck stops by doubling the penalty levels for those persons convicted of selling drugs within 1,000 feet of a truck stop; and also require DOT to conduct a rulemaking on the need to adopt methods for improving truck braking performance. The rulemaking would be comprehensive addressing basic brake problems, such as the compatibility between tractor brakes and trailer brakes, and methods of ensuring effective brake timing.

I am committed to working with my colleagues to ensure 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. 631

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 "Motor Carrier Safety Assistance Program Reauthorization Act of 1991".

SEC. 2. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) AMENDMENT TO TITLE 23, U.S.C.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Motor carrier safety assistance program

"(a) GRANTS—The Secretary is authorized to make grants to eligible States for the development or implementation, or both, of programs for—

"(1) the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(2) effective enforcement of State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

A State shall be elibible to receive grants under this section only if the State has a plan approved by the Secretary under subsection (b).

"(b) STATE PLANS.—

"(1) SUBMISSION.—The Secretary shall formulate procedures for a State to submit annually a plan where the State agrees to adopt, and to assume responsibility for enforcing—

"(A) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(B) State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

"(2) APPROVAL.—Subject to paragraph (3), a State plan submitted under paragraph (1) shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

"(A) designates the State motor vehicle safety agency responsible for administering the plan;

"(B) ensures that the State motor vehicle safety agency has or will have the legal authority, resources, and qualified personnel necessary for administering the plan;

"(C) ensures that the State will devote adequate funds for administering the plan;

"(D) provides a right of entry and inspection to carry out the plan;

"(E) provides that the State motor vehicle safety agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations, as may be established and required by the Secretary;

"(F) provides that all required reports be submitted to the State motor vehicle safety agency and that the agency make the reports available to the Secretary, upon request;

"(G) ensures State participation in motor carrier information systems, including data bases containing data and information on drivers, vehicle inspections, driver operating compliance with applicable traffic safety laws and regulations, vehicle safety and compliance reviews, traffic accidents, and the weighing of vehicles;

"(H) ensures that commercial motor vehicle size and weight inspection activities will not diminish the effectiveness of other safety initiatives;

"(I) gives satisfactory assurances that the State will conduct effective activities—

"(i) to remove impaired commercial motor vehicle drivers from our nation's highways by increasing enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment, and to provide an appropriate level of training to its Motor Carriers Safety assistance Program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(ii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial driver's licenses;

"(iii) to increase enforcement of State or local traffic safety laws and regulations that affect commercial motor vehicle safety; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials;

"(J) gives satisfactory assurances that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and to provide training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions or local governments in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety; and

"(K) ensures that fines imposed and collected by the State will be reasonable and appropriate.

"(3) ADDITIONAL PLAN REQUIREMENTS.—

"(A) SAFETY AND DRUG ENFORCEMENT.—The Secretary shall not approve a State plan unless the plan provides that the estimated agregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle safety (including commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), exclusive of Federal funds and State matching funds required to receive Federal funding, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years.

"(B) WEIGHT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle size and weighing activities, exclusive of Federal funds, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In order to be authorized to use funds under this section to enforce commercial motor vehicle size and weight requirements, a State in its State plan submitted under this subsection shall certify that such size and weight activities will be coupled with an appropriate form of commercial motor vehicle safety inspection and will be directly related to a specific commercial motor vehicle safety problem in that State, in particular that funds for size and weight enforcement activities will be—

"(i) conducted at locations other than fixed weight facilities;

"(ii) used to measure or weigh vehicles at specific geographical locations (such as steep grades or mountainous terrains), where the weight of a vehicle can significantly affect the safe operation of that vehicle; or

"(iii) used at sea ports of entry into and exit from the United States, with a focus on intermodal shipping containers.

"(C) TRAFFIC SAFETY ENFORCEMENT.—The Secretary shall not approve a State plan that provides for funds received under this section to be used to enforce traffic safety regulations applicable to commercial motor vehicles, unless the State certifies in the plan that such traffic safety enforcement will be coupled with an appropriate form of a commercial motor vehicle safety inspection.

"(D) MAINTENANCE OF EFFORT.—The Secretary shall not approve any plan under this section which agency and upon the Secretary's own inspection. A written statement of the evaluation shall be prepared every three years.

"(B) WITHDRAWAL OF APPROVAL.—After providing a State with notice and an opportunity to comment, whenever the Secretary finds that a State plan is not being followed, or has become inadequate to ensure the enforcement of—

"(i) Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders, and

"(ii) State or local traffic safety laws and regulations applicable to commercial motor vehicles,

the Secretary shall notify the State that approval of the State plan is being withdrawn and shall specify the Secretary's reasons for such withdrawal. The plan shall cease to be an approved plan upon receipt by the State of the notice of withdrawal, and the Secretary shall permit the State to modify and resubmit the plan in accordance with this subsection.

"(C) JUDICIAL REVIEW.—A State may seek judicial review of notice of withdrawal of approval, pursuant to chapter 7 of title 5, United States Code, in the appropriate United States Court of Appeals. The State may retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the approval of the State plan, if the issues involved do not directly relate to the reasons for the withdrawal of approval.

"(4) COORDINATION OF SAFETY PLANS.—The State motor vehicle safety agency shall coordinate the plan prepared under this subsection, with the highway safety plan developed under section 402 of this title. Such coordination shall include consultation with the Governor's Highway Safety Representative and representatives of affected industries to ensure effective implementation of the purposes of this section.

"(c) FEDERAL SHARE OF COSTS.—By grants authorized under this section, the Secretary shall reimburse a State an amount not to exceed 80 percent of the costs incurred by that State in the development or implementation, or both, of programs as described under subsection (a). In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.

"(d) ALLOCATIONS.—

"(1) DEDUCTION FOR ADMINISTRATION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed one percent of the funds available for that fiscal year. At least one-half of the funds so deducted for administration shall be used for training of non-Federal inspectors to carry out the purposes of this section.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under subsection (b), the available funds for that fiscal year, pursuant to criteria established by the Secretary.

"(e) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and one succeeding fiscal year. Funds not expended by a State during those two fiscal years shall be released to the Secretary for reallocation. Funds made available under part A of title IV of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2301 et seq.) which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this section.

"(f) OBLIGATION OF FUNDS.—Approval by the Secretary of a grant to a State under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by that State in development or implementation, or both, of programs as described under subsection (a).

"(g) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.

"(h) FUNDING.—

"(1) AVAILABILITY.—To incur obligations to carry out the purposes of this section, there shall be available to the Secretary out of the Highway Trust Fund not to exceed $70,000,000 for fiscal year 1993, $75,000,000 for fiscal year 1994, $80,000,000 for fiscal year 1995, and $85,000,000 for fiscal year 1996.

"(2) ENFORCEMENT.—Of funds made available under this subsection for any fiscal year, not less than $7,500,000 each year shall be used to pay for traffic enforcement activities focused upon commercial motor vehicle drivers, if such activities are coupled with an appropriate type of inspection for compliance with the commerical motor vehicle safety regulations. Of the funds made available under this subsection for each of fiscal years 1993 and 1994, not less than $1,500,000 shall be used to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) by Motor Carrier Safety Assistance Program officers and employers, specifically including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to that Act.

"(3) RESEARCH AND DEVELOPMENT.—Not less than $500,000 but not more than $2,000,000 of the funds made available under this subsection for any fiscal year shall be available for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of this section and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for 100 percent of the State costs, or to other persons as determined by the Secretary. The reports required under section 5 of the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 and the development of the model program and procedures required under section 7 of that Act shall be funded under this paragraph.

"(4) PUBLIC EDUCATION.—Not less than $350,000 of the funds made available under this subsection for any of fiscal year shall be available to eligible States to help educate the motoring public on how to share the road safely with commercial motor vehicles.

"(i) DEFINITIONS.—As used in this section, the term—

"(1) 'commerce' means—

"(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

"(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

"(2) 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

"(A) if the vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

"(C) if the vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

"(3) 'controlled substance' has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

"(4) 'State' means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.".

"(b) AMENDMENT TO SURFACE TRANSPORTATION ASSISTANCE ACT of 1982.—

"(1) ELIGIBLE EXPENDITURES.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302) is amended by adding at the end the following new subsection:

"(e) After the date of enactment of this subsection, a State with a plan approved under subsection (b)(1) of this section may be reimbursed by the Secretary under this part for expenditures in enforcing State or local traffic laws or regulations designed to promote the safe operation and driving of commercial motor vehicles, or for activities described under section 411(b)(2) (I) and (J) of title 23, United States Code, or both.".

"(2) FUNDING.—Section 404(a)(2) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304(a)(2) is amended—

"(A) by striking "1988 and" and inserting in lieu thereof "1988,"; and

"(B) by inserting immediately before the period at the end of the following: ", and $65,000,000 per fiscal year for fiscal year 1992".

"(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following new item:

"411. Motor carrier safety assistance program.".

SEC. 3. NEW FORMULA FOR ALLOCATION OF MCSAP FUNDS.

Within 6 months after the date of the enactment of this Act, the Secretary of Trans-

portation by regulation shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the Motor Carrier Safety Assistance Program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successfuly, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety, including traffic safety enforcement and size and weight enforcement activities that are coupled with Motor Carrier Safety Assistance Program inspections; to increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations; and to promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

SEC. 4. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

Section 12008 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2707) is amended by adding at the end the following new subsection:

"(g) VIOLATION OF OUT-OF-SERVICE ORDERS.—

"(1) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(B) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(C) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(3) DEADLINES.—The regulations required under paragraph (1) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of enactment of this subsection and shall be issued not later than 12 months after such date of enactment.".

SEC. 5. REPORTS.

Within two years after the date of enactment of this Act, the Secretary of Transportation shall submit, to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, reports on—

(1) the effectiveness of the motor carrier inspection decal issued by the Commercial Vehicle Safety Alliance, ways to increase the use of that decal, and an analysis of whether the Federal Highway Administration should require the acceptance of the decal by States participating in the Motor Carrier Safety Assistance Program; and

(2) the effectiveness and acceptance of the uniform financial penalty recommendations of the Commercial Vehicle Safety Alliance, and the need for and practicality and feasibility of the Secretary issuing regulations requiring uniformity (within certain ranges) in the issuance of financial penalties resulting from violations found during inspections sponsored by the Motor Carrier Safety Assistance Program.

SEC. 6. INTRASTATE COMPATIBILITY.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations under the Motor Carrier Safety Assistance Program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 411 of title 23, United States Code, as added by this Act, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 7. ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall consult with representatives of law enforcement organizations and affected industries, and if appropriate contract with law enforcement organizations, to develop a model program and procedures for Motor Carrier Safety Assistance Program officers and employees to enforce the .04 percent blood alcohol concentration limit established by regulation pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

SEC. 8. FHWA POSITIONS.

To help implement the purposes of this act, the Secretary of Transportation in fiscal year 1992 shall employ and maintain thereafter two additional positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 9. DRUG FREE TRUCK STOPS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nations roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (a), part D of the Controlled Substances act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b) of this title; and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both; and

"(2) at least three times any term of supervised release authorized by section 401(b) of this title for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) with the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by striking "or 405B" each place it appears and inserting in lieu thereof "405B, or 409".

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting, immediately after the item relating to section 408, the following:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall imple-

ment the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines referred to in paragraph (2), as promulgated or amended under such paragraph, shall provide that an offense that could be subject to multiple enhancements pursuant to such paragraph is subject to not more than one such enhancement.

SEC. 10. IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

(a) RULEMAKING PROCEEDING.—Section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Public Law 199-690, subtitle B of title IX; 102 Stat. 4530) is amended—

(1) by striking "REPORT ON" in the heading;

(2) by inserting "(a) REPORT.—" immediately before "Not later than"; and

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

"(b) RULEMAKING PROCEEDING.—The Secretary shall initiate a rulemaking proceeding not later than July 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than April 1, 1992.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 9101(b) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (102 Stat. 4527) is amended by striking "Report on improved" in the item relating to section 9107 and inserting in lieu thereof "Improved".

SEC. 11. COMPLIANCE REVIEW PRIORITY.

If the Secretary of Transportation identifies a serious pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary shall ensure that such motor carrier recieves a high priority for safety reviews, compliance reviews, and other inspection or audit activities.

By Mr. PRYOR:

S. 632. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of interest paid in connection with certain life insurance contracts; to the Committee on Finance.

TAX TREATMENT OF CERTAIN INTEREST

• Mr. PRYOR. Mr. President, today I am introducing a bill to limit certain excessive practices involving business-owned life insurance products. While businesses have traditionally used life insurance policies for sound business purposes, some extreme marketing practices have developed that must be addressed in order to preserve the integrity of business-owned life insurance.

The bill specifically targets two problems. The first issue involves a company's ability to inflate interest rates on insurance policies, thereby allowing loan rates greatly in excess of the current cost of money. To address this problem, the bill sets a limit on deductible policy loan interest so that only that amount of interest that does not exceed the competitive price of money on the open market may be deducted. The limitation is defined in terms of Moody's cost of money index—a standard already used by the insurance industry in other contexts. A related problem also addressed is a company's ability to create much larger dividends with which it can pay premiums on a tax-free basis during the 4 years in which premiums must be paid.

The second issue addressed in the bill involves so-called janitor insurance. Janitor insurance refers to the practice of insuring all or most of a company's employees in order to generate tax-free funds earmarked for benefits limited to senior officers or some other group. Although it is technically possible that such products might be created, after review it seems difficult to find any company that has actually bought such a program.

However, even the possibility of such excessive use of tax benefits raises a problem. Insuring many to benefit a few is inconsistent with widely accepted nondiscrimination concepts and would also circumvent the $50,000 loan interest deduction limitation. To eliminate this potential practice, my proposal would subject business life insurance policies to the following new rules.

First, under this legislation, employees who are to be insured by their company must be notified of the fact, and given the opportunity to decline such coverage. Second, when an employer uses life insurance to legitimately provide for its employees, each and every employee who is covered by a life insurance policy will have to be eligible to receive the benefits of that policy. These rules, however, will not affect insurance arrangements that are not tied to employee benefit programs, such as key man and buy-sell programs.

Mr. President, I firmly believe that business-owned life insurance is a valuable insurance product for business use. Business-owned life insurance policy benefits are an absolute necessity for safeguarding against corporate losses in the event of an untimely death. Businesses have a long history of using insurance policies to supplement employee benefit or compensation programs, and when not excessive, such practices should be allowed to continue.

It is my intention to discourage use of life insurance to facilitate the funding of postretirement or other employee benefits in a way that would violate the principles contained in this legislation, from this day forward. Therefore, I hereby put on notice any prospective purchaser or seller of this type of program that I will attempt to make sure that any program put in place from this day forward which violates the principles of this legislation will be subject to the loss and/or limitation of the interest deduction provisions contained in this legislation.

I welcome any additional comments or suggestions regarding this legislation. With refinement of the rules regarding business-owned life insurance, such as the refinements proposed in this bill, I think we can curb possible excesses relating to such policies and maintain the integrity of business-owned life insurance policies. Mr. President, I ask unanimously consent that the full text of the bill be printed in the RECORD at the appropriate point.

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

S. 632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF INTEREST PAID IN CONNECTION WITH CERTAIN INSURANCE CONTRACTS.

(1) EXCESS INTEREST.—Subsection (a) of section 264 of the Internal Revenue Code of 1986 (relating to certain amounts paid in connection with insurance contracts) is amended by inserting after paragraph (4) the following:

"(5) Any amount of interest paid or accured on any indebtedness with respect to a life insurance policy, to the extent that the amount of such interest is in excess of the amount computed by use of the highest of the following rates:

"(A) A rate determined in accordance with section 3(a)(i) (or its successor provision) of the Model Policy Loan Interest Rate Bill of the National Association of Insurance Commissioners.

"(B) A rate determined in accordance with sections 3(b)(i) and 3(d) (or their successor provisions) of the Model Policy Loan Interest Rate Bill of the National Association of Insurance Commissioners.

"(C) A rate 1 percent above the lowest rate that is guaranteed to be credited over the life of the policy by the insurer.

For purposes of applying subparagraphs (A) and (B), if at any time there is no Model Policy Loan Interest Rate Bill of the National Association of Insurance Commissioners or if a rate cannot be established under section 3(a)(i) or sections 3(b)(i) and (d) (or their successor provisions) of such Bill, then the rate to be used shall be a substantially similar rate determined under regulations prescribed by the Secretary."

(b) MODIFICATION TO SECTION 264(c)(1).—Subsection (c) of section 264 of such Code is amended by adding at the end the following new sentence: "For purposes of applying paragraph (1), the payment of more than 25 percent of any annual premium on a contract purchased or carried pursuant to a plan referred to in subsection (a)(3) by the direct or indirect application of any dividend, distribution, or surrender proceeds from such contract shall be deemed a payment made by means of indebtedness."

(c) CONSENT OF ELIGIBILITY TEST.—Section 264 of such Code is amended by adding at the end thereof the following new subsection:

"(d) $50,000 EXEMPTION LIMIT OF SUBSECTION (A)(4) NOT TO APPLY TO CERTAIN POLICIES.—

"(1) IN GENERAL.—In the case of a life insurance policy described in paragraph (2), subsection (a)(4) shall be applied without regard to the provision limiting its application to indebtedness in excess of $50,000.

"(2) POLICIES TO WHICH PARAGRAPH (1) APPLIES.—A life insurance policy is described in this paragraph if such policy covers the life of any individual—

"(A) who was not afforded the opportunity to decline to be insured under such policy, or

"(B) to the extent that the insurance is purchased or continued pursuant to a funded or unfunded plan of employee compensation or benefits (whether or not the insurance is an asset of the plan, if, at the later of the inception of the policy or the inception of the plan, such individual with respect to such plan

"(i) is not a current participant, or

"(ii) is not a future participant under circumstances in which the employee's future participation is dependent solely upon any one or more of the following:

"(I) the attainment of plan specified service or age,

"(II) the continuation of full-time employment, or

"(III) the attainment of retirement status."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased on or after March 12, 1991.●

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. AKAKA):

S. 633. A bill to improve basic educational assistance benefits for members of the Armed Forces of the United States under chapter 30 of title 38, United States Code, and under chapter 106 of title 10, United States Code, and for other purposes; to the Committee on Veterans' Affairs.

EDUCATIONAL BENEFITS INCREASE

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce S. 633, the proposed Montgomery GI Bill Amendments of 1991. I am joined in this by my good friends from Arizona [Mr. DECONCINI] and Hawaii [Mr. AKAKA]. This bill would amend chapter 30 of title 38, United States Code, to increase the monthly rates paid to active duty servicemembers under the All-Volunteer Force Educational Assistance Program. It would also increase rates paid to members of the Selected Reserve who participate in the educational assistance program established in chapter 106 of title 10.

Mr. President, there has been no COLA in the MGIB rates since the program was enacted in 1984. The cost of education at 4-year public colleges has increased by 43.2 percent over the last 6 years and overall inflation as measured by the Consumer Price Index has been 36.5 percent.

Those who have kept our Nation strong and who served in the Persian Gulf certainly deserve to have GI bill benefits that are not so seriously eroded by inflation. To address the diminished purchasing power of MGIB benefits, this bill would provide, effective April 1, 1991, and increase in the MGIB for active duty servicemembers from $300 to $425 a month for full-time pursuit for those serving on active duty for 3 years or more and from $250 to $350 for full-time pursuit for those who serve 2 years on active duty and 4 years in the reserves. For full-time pursuit under chapter 106, my legislation would increase the monthly rate from $140 to $200, from $105 to $150 for three-quarter pursuit, and from $70 to $125 for half-time pursuit. These rates approximate the cost increases for education since 1984.

This bill also contains a provision that would increase the monthly payroll deduction for chapter 30 participants—paid during the first 12 months of their commitment—from $100 to $120, effective October 1, 1991—in keeping with increases in the lower enlisted pay rates.

Mr. President, I urge my colleagues to support this legislation, which would provide for a reasonable increase in the value of the Montgomery GI bill education benefits.

Mr. President, 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. 633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS.

(a) ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—Section 1415 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$425"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$350".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b) of the title 10, United States Code, is amended—

(1) by striking out "(b) Except" and inserting in lieu thereof "(b)(1) Except";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), (D), respectively;

(3) in subparagraph (A), as so redesignated, by striking out "$140" and inserting in lieu thereof "$200";

(4) in subparagraph (B), as so redesignated, by striking out "$105" and inserting in lieu thereof "$150"; and

(5) in subparagraph (C), as so redesignated, by striking out "$70" and inserting in lieu thereof "$100".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to payments of educational assistance made for an approved program of education pursued on or after April 1, 1991.

SEC. 2. INCREASE IN MONTHLY CONTRIBUTION FOR BASIC EDUCATIONAL ASSISTANCE UNDER CHAPTER 30 OF TITLE 38.

(a) CONTRIBUTION FOR SERVICE ON ACTIVE DUTY.—Section 1411(b) of title 38, United States Code, is amended by striking out "$100" and inserting in lieu thereof "$120".

(b) CONTRIBUTION FOR SERVICE IN SELECTED RESERVE.—Section 1412(c) of such title is amended by striking out "$100" and inserting in lieu thereof "$120".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to reductions in pay made on or after October 1, 1991.

By Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. SIMON, Mr. KERRY, Mr. CRANSTON, Mr. HARKIN, Mr. MOYNIHAN, Mr. GORE, and Mr. LEVIN):

S.J. Res. 91. Joint resolution expressing the sense of the Congress regarding the political and human rights situation in Kenya; to the Committee on Foreign Relations.

POLITICAL AND HUMAN RIGHTS SITUATION IN KENYA

Mr. KENNEDY. Mr. President, last July the administration suspended military aid to Kenya to protest the Moi government's brutal crackdown on citizens seeking democracy in that country. That step brought hope to the people of Kenya and put the United States on the side of freedom and justice in that troubled land.

Unfortunately, the administration has now abandoned the Kenyan people and their struggle for democracy by deciding to restore military aid despite the Government's continuing crackdown.

I am therefore today introducing legislation condemning human and civil rights violations in Kenya and putting the United States once again on the side of freedom. The bill suspends fiscal year 1990 military aid to the Government of Kenya until it restores democratic freedoms and releases persons detained for the peaceful expression of their political views.

Government security forces in Kenya continue to arrest, detain, and assault peaceful advocates of human rights and democratic reforms. This tragic cycle of violence and repression in Kenya is of deep concern to all friends of democracy.

The United States should not be supporting a Government that refuses to recognize its citizens's most basic human and civil rights. America has a heritage of standing with the forces of freedom, not with those who would repress it.

The Kenyan Government became a hallmark of democracy in Africa after its independence from Great Britain in 1963. Its adoption of a constitution that recognizes the basic rights of all citizens ensured the country's political stability for three decades and cemented a strong relationship with the United States. This stability, however, is now threatened by the government's rejection of the constitutional rights of its citizens.

During the past year, the Kenyan Government mounted a campaign against citizens who criticized President Daniel arap Moi, the nation's single party system, and the Govern-

ment's failure to respect the civil liberties of Kenyan citizens.

President Moi publicly denounced the concept of a pluralistic democracy in Kenya and called for the detention of individuals seeking to create an opposition party. At least 22 peaceful demonstrators were killed by security forces. Hundreds more were arrested, including former Cabinet Ministers Kenneth Matiba and Charles Rubia and leading advocates of multiparty democracy.

This assault on freedom of expression has also been directed against the press and human rights attorneys. In July, security forces arrested Gitobu Imanyara, the editor of the Nairobi Law Monthly, for accusing President Moi of undermining the Kenyan Constitution. The crackdown on human rights attorneys compelled Gibson Kuria, a world-renowned champion of human rights, to flee his country and seek safe refuge in the United States.

In response to the Government crackdown and pressure from Congress, the Bush administration suspended $10 million in military assistance to the Government of Kenya for fiscal year 1990. In addition, the Congress enacted into law legislation suspending military and economic support funds to Kenya for fiscal year 1991 unless and until the Kenyan Government restored democratic freedoms to its citizens.

Since that time, the Government of Kenya has taken several half-steps toward that goal. The secret ballot was reestablished, the arbitrary expulsion of members from Kenya's single party was abolished, and the tenure of judges was restored.

At the same time, however, the Government reaffirmed that Kenya would remain a single-party state, and extended its crackdown on dissidents and proponents of multiparty democracy. Some Cabinet Ministers called upon their supporters to take violent action against Government critics and encouraged extralegal assaults on human rights activists.

The State Department's own "Country Reports on Human Rights Practices for 1990" details extrajudicial killings; cruel, inhuman, and degrading treatment of prisoners and detainers by Kenyan security forces; arbitrary arrests and detentions; denial of fair public trials; and lack of respect for civil liberties.

Former Cabinet Minister Kenneth Matiba, who was arrested on July 4, 1990 for advocating a multiparty system, continues to be detained in solitary confinement without charge. Matiba has been denied proper medical care for so long that his physical condition may be life-threatening.

Despite these continuing abuses of human and civil rights by Government security forces, last month the administration released to the Kenyan Government $5 million of the suspended $10 million in United States military aid for fiscal year 1990.

These funds were released to the Kenyan Government as an expression of United States gratitude for Kenya's support during the gulf war and for its willingness to accept as refugees United States-trained Libyan rebels who had escaped from Chad.

Certainly, the United States is grateful to Kenya for these acts. If the gulf war has taught us anything, though, it is that the United States should not enter into close friendships with brutal dictators and that it should take a strong stand on the side of freedom.

By presenting the Government of Kenya with $5 million in military assistance, the administration has taken a confusing and inappropriate step. Releasing these funds sent precisely the wrong signal to the Moi government regarding the seriousness with which our Government views human rights abuses.

Within days of President Bush's announcement of the release of these funds, the Moi government escalated its crackdown on advocates of multiparty democracy. Gitobu Imanyara, the editor of the "Nairobi Law Monthly," was again arrested by security forces and copies of his magazine were seized from newsstands across the country. Earlier this week, the Moi government announced that Imanyara would be tried on charges of treason.

In addition, security forces detained Luke Obuk, who had been working closely with Oginga Odinga to establish an opposition party in Kenya. Moi has ordered the detention of individuals advocating the establishment of new parties despite the fact that the arrest of persons peacefully expressing their political views violates both Kenya's Constitution and the International Covenant on Civil and Political Rights, to which Kenya is a signatory.

The measure that I am introducing today condemns the Kenyan Government's hostility toward human rights and fundamental freedoms and its arrest and detention of Kenyan citizens for the peaceful expression of their political views.

It calls upon the Kenyan Government to end the intimidation and harassment of citizens who are critical of Government policies and those working for democracy in Kenya, particularly individuals within the church, the press, and the legal and academic communities. In addition, it calls upon the Government to implement safeguards to ensure unrestricted freedom of the press and the independence of the judiciary, and to guarantee due process and other fundamental civil and human rights for individuals imprisoned and detained by the Government.

This legislation would suspend all remaining military assistance to the Government of Kenya for fiscal year 1990 unless and until President Bush reports to Congress that the Government of Kenya has taken steps to:

First, charge and try or release all prisoners, including persons detained for political reasons;

Second, end all physical abuse or mistreatment of prisoners;

Third, restore the independence of the judiciary; and

Fourth, restore freedoms of expression.

No military funds for fiscal year 1990 could be expended for Kenya until 30 days after the administration certifies to Congress that these steps had been taken.

The United States should lose no time in responding to the current situation in Kenya. If we want to build on our long and positive relationship with the Kenyan people, we should make certain that we are supporting progress toward a democratic system that guarantees fundamental rights of freedom and liberty, not a police state of repression and intolerance.

This legislation would ensure the termination of United States support for Government-sponsored human and civil rights violations in Kenya. I urge my colleagues to approve it.

Mrs. KASSEBAUM. Mr. President, I rise today to join with Senators KENNEDY and SIMON in introducing legislation regarding the political and human rights situation in Kenya.

Over the past 2 years, I have become increasingly dismayed by the repressive actions taken by the regime of President Moi in Kenya. At one time, an economically successful and politically open Kenya served as a model for all of Africa.

Yet, President Moi has placed at risk much of the progress achieved in the first two and a half decades of independence by instituting a policy supressing basic human rights. He has seized and detained democratic activists, banned publications, and adopted constitutional changes which bring into question the independence of the judiciary.

Many of us held the hope over the past 2 months that President Moi had begun to change his policies by slowly opening up the political system. For example, at the December conference of the Kenya African National Union, queue-voting was abolished.

Yet, once again, after taking some small steps forward, President Moi seems to be taking several giant steps back. Just last week, the Government seized Mr. Gibotu Imanyara, editor of the highly respected Nairobi Law Monthly. Mr. Imanyara has been charged for sedition because he published an editorial critical of Government policies.

Furthermore, Mr. Luke Obok, a close associate of Mr. Oginga Odinga, was arraigned on charges of sedition last week. Mr. Odinga, a prominent demo-

cratic activist, announced on February 13 the formation of a new political party.

We also remain deeply concerned about the three political prisoners held without charge in Kenyan prisons, Mr. Kenneth Matiba, Mr. Charles Rubia, and Mr. Raila Odinga. Amnesty International has alleged that Kenyan officials have seriously mistreated Mr. Matiba, a former cabinet minister.

President Moi argues that he must pursue these policies to maintain stability and curb tribal rivalries. Yet, I believe the contrary is true: President Moi's repressive and paranoid policies put Kenya on the road to political instability and chaos.

Liberia and Somalia stand out as examples where repressive dictatorships—which ignored basic human rights—deteriorated into political anarchy and civil war, where thousands died and millions fled their homes.

Political stability and peaceful change in Kenya will only emerge from permitting freedom of expression—not by choking these freedoms.

Because Kenya is an important United States ally, Washington has a special role to play in promoting human rights in Kenya. The United States traditionally supplies Nairobi with nearly $50 million in aid, one of the largest amounts in all of sub-Saharan Africa.

The legislation we introduce today calls upon the Kenyan Government to end the intimidation and harassment of those critical of Government policies. Furthermore, we call upon the Kenyan Government to implement safeguards to protect the freedom of the press and the independence of the judiciary.

Most importantly, this legislation takes the remaining fiscal year 1990 military funds to Kenya and conditions further release of this money on the Kenyan Government meeting certain human rights conditions. These conditions, outlined in the fiscal year 1991 foreign operations appropriations legislation, include charging or releasing all political prisoners, ceasing mistreatment of prisoners, restoring the independence of the judiciary, and assuring freedom of expression.

Two weeks ago, when the U.S. Government released $5 million of the fiscal year 1990 military funds, several of us were concerned that such an action sent a mixed signal to President Moi, conveying the position that friendly actions outweigh human rights concerns.

This legislation sends a clear and firm message to the Kenyan Government: We are deeply concerned about the future of Kenya, and because of this concern, we cannot ignore the continued suppression of basic human rights and civil liberties in Kenya.

Mr. SIMON. Mr. President, Kenya and the United States have been friends for many years and we want that friendship to continue. But some of us here have been concerned about the deteriorating human rights situation in Kenya. Last summer, in response to the Kenyan Government crackdown on human rights and democracy advocates, I asked the administration to hold $10 million in fiscal year 1990 military aid to Kenya. We were in agreement then that we should send that important signal.

Recently, however, the administration made a unilateral decision to release $5 million of that military aid to Kenya. The administration justification for the decision was that the Kenyans had assisted in evacuating Americans from Mogadishu during the Somalia crisis, that the Kenyans had taken in Libyan rebels from Chad after the change in leadership there, and that the Kenyans had made some modest steps forward on the human rights situation.

I strongly disagree with the administration's decision. That is why I join Senator KENNEDY and Senator KASSEBAUM in introducing legislation to impose on the remaining fiscal year 1990 military funds the same human rights requirements Congress has imposed on the fiscal year 1991 aid to Kenya.

At a time when human rights concerns should have been at the top of our list, it lingered at the bottom. Although the Kenyan Government addressed inequities in voting requirements by scrapping of queu-voting and the 70 percent rule, the Government has yet to address the fundamental human rights problems of freedom of expression, no detention without charge or trial, release of political detainees, freedom of the press, to name a few.

What was the signal we ended up sending to the Kenyan Government? Just last Friday, Gitobu Imanyara, the editor of the Nairobi Law Monthly, was arrested and earlier this week was charged with sedition. The publication has been harassed by the Government for some time. Recently, the Nairobi Law Monthly ran an article on Mr. Oginga Odinga, his new National Democratic Party, and the party platform. This free expression then became a new reason for the Government to target the monthly. In addition, Luke Obok, an associate of Mr. Odinga's, was recently arrested, and Mr. Odinga's son Raila, continues to be held in solidary confinement. And the Scotland Yard report on the mysterious death of Foreign Minister Robert Ouko last February has not yet been released to the public.

Last summer, after active debate on establishing a multiparty system in Kenya, the Government imprisoned former Cabinet Ministers Kenneth Matiba, and Charles Rubia, and riots broke out in Nairobi and neighboring towns; at least 20 people died and 70 were injured. Over 1,000 people were arrested, 100 of which were charged with sedition. Since that time, there has been no meaningful improvement in the human rights situation to warrant release of $5 million in military aid to Kenya. That is why today, I urge my colleagues to support this effort, and recommend the following report of Africa Watch on the situation in Kenya.

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

AFRICA WATCH OPPOSES RESTORATION OF MILITARY AID TO KENYA

Africa Watch, the human rights monitoring organization affiliated with Human Rights Watch, strongly opposes the Bush Administration's recent announcement of the release of $5 million in military aid to Kenya. The reasons given to the Congress for the release of the aid are said to be Kenya's assistance in the evacuation of US nationals from Mogadishu and Khartoum, Kenya's acceptance of some 200 Libyan rebels who were evacuated from Chad, and alleged improvements in human rights.

Africa Watch views this freeing of military assistance as wholly inconsistent with Section 597 of the Foreign Operations and Related Programs Appropriations Act of 1991, which conditions military assistance and Economic Support Funds (ESF) to Kenya on the Kenyan Government taking steps to charge and try or release all prisoners, cease physical abuse of prisoners, restore the independence of the judiciary, and restore freedoms of expression.

Kenya has not taken the steps necessary to address the conditions of the Act, and in some instances human rights have actually deteriorated. For example, in December, the government-controlled parliament passed a "Nongovernmental Organizations Registration Act," which requires all private organizations to register with the authorities, and restricts direct foreign assistance to nongovernmental groups. Key church officials have announced their intention not to register, and Kenyan human rights advocates fear yet another showdown between President Moi and the Kenyan churches. Kenyan human rights advocates speculate that the purpose of the registration requirement is for the Kenyan government—which is notoriously corrupt—to have access to overseas funds given to private groups for its own purposes.

Africa Watch's evaluation of the Kenyan Government's lack of compliance the Congress's human rights requirements follows.

(1) CHARGE AND TRY OR RELEASE ALL PRISONERS, INCLUDING ANY PERSONS DETAINED FOR POLITICAL REASONS

Despite continued protests by many international human rights groups, the Kenyan government persists in detaining multiparty advocates and others critical of the government. To date, three prominent multiparty advocates remain detained without charge or trial, and four individuals remain in custody while awaiting trial for "sedition". In addition, at least 20 individuals have been released on bail but face charges of possessing seditious publications. Most recently, in October 1990, eight men and women were detained, and six of them presently face charges of treason or concealment of treason. Africa Watch remains concerned not only about the three prominent Kenyans detained without charge, but also fears that other individuals who have been charged

with criminal offenses may have been imprisoned and charged solely because of their political beliefs and are unlikely to receive a fair trial.

Detention without charge or trial: Since their arrest in July 1990, prominent multiparty advocates Kenneth Matiba, Charles Rubia and Raila Odinga remain imprisoned under Kenya's Public Security Regulations, which allow for indefinite detention without charge or trial. Matiba and Rubia, both prominent businessmen and ex-government ministers, were arrested on July 4, several days before a planned demonstration in support of political pluralism. Arrested at the same time was Raila Odinga, who is also a prominent advocate of multi-party politics and a former political prionser. It is believed that his detention was designed to silence both him and his father, a former Vice-President and a vocal critic of the present government. The government has not publicly given any precise reason for the detention of Matiba, Rubia and Odinga, and does not appear to be moving towards either charging or releasing the detainees.

Detention on charges of sedition and possessing seditious publications: Equally worrying is the detention on July 11, 1990, of four individuals charged with holding a seditious meeting and possessing seditious or banned publications. They are: George Anyona, a ex-member of parliament and former political prisoner, Ngotho Kariuki, a former Dean at University of Nairobi and a former political prisoner; Edward Oyugi, a professor and a former political prisoner; and Frederick Kathangu, a government official and businessman. Among the allegedly seditious publications in question was an issue of Africa Confidential, a well-known subscription newsletter which had not previously been banned.

Given the past record of the Kenyan security forces and the serious restrictions placed upon Kenya's judiciary, Africa Watch is concerned not only about detainees who are imprisoned without charge, but also fears that individuals who have been charged may not receive fair trials. In past cases, Kenyan security forces have used coercion and torture to extract false confessions or guilty pleas, political detainees have been denied adequate access to defense attorneys, and politically sensitive trials have resulted in questionable verdicts and sentences.

A prominent example of Kenya's flawed judicial system was the sentencing in March 1990, of Reverend Lawford Ndege Imunde to six years in prison for the possession of a "seditious" publication. After his trial and sentencing, Rev. Imunde swore in a signed affidavit that while in incommunicado detention he was kicked and beaten by police officers, denied adequate food and sleep, subjected to a mock execution, and was coerced by the police into signing a false guilty plea. In addition, Rev. Imunde was mislead into believing that he would receive a light sentence, and was denied access to his attorney. The alleged "seditious publication" in Rev. Imunde's possession was his private personal diary, presumably not a publication at all, into which, Rev. Imunde claims the security forces inserted passages criticizing the government.

In addition to the above individuals, many others, at least 20, have been detained, charged with the possession of seditious or prohibited publications, and then released on bail. Given the past history of abuses, Africa Watch is concerned that many of these individuals may have been arrested solely for their peaceful non-violent political activities, and urges the Kenyan government to drop charges against all of these charged with possessing or distributing seditious or prohibited publications.

Detentions of individuals charged with treason and possibly tortured: In October 1990, eight individuals were arrested and charged with treason or concealment of treason. The charges seem to be based on the arrest of self-exiled Kenyan opposition leader Koigi wa Wamwere, and the leveling of treason charges against him. The specific charges alleged that Wamwere, the leader of the Kenyan Patriotic Front (KPF), and six other individuals detained at the same time intended to violently overthrow the Kenyan government.

Arrested at the same time as Wamwere were two prominent lawyers, Rumba Kinuthia and Mirugi Kariuki, and several of Wamwere and Kinuthia's relatives. Government allegations, which themselves have been inconsistent, claim that weapons were found at both lawyers' residences, and they were accomplices to Wamwere's plot. Both allegations have subsequently been refuted by the lawyers' families and by journalists present at the scenes of arrest. Although the two lawyers have been charged with treason, Africa Watch is concerned that they have been targeted because of their activities in support of human rights and multi-party democracy. Mirugi Kariuki was previously detained without charge in 1986, and brought a legal suit against the government alleging that he was tortured while in custody. Since his release, Kariuki has litigated several cases involving land seizures by the government. Rumba Kinuthia has also been involved in defending political prisoners and was among a group of lawyers who accused the government of rigging the elections of the Law Society of Kenya. Africa Watch is concerned that these individuals may have been subjected to torture, and fears that should they come to trial, there is little hope that the trial will be fair and impartial.

Recommendations

Immediately release Kenneth Matiba, Charles Rubia, Raila Odinga, and any other detainees held without charge; drop all charges on individuals charged with possessing "seditious" or prohibited literature;

Insure that Koigi wa Wamwere and all others held and charged with treason receive a fair and impartial trial, with special attention to serious allegations that some of the detainees may have been tortured and coerced into making false statements.

(2) CEASE ANY PHYSICAL ABUSE OR MISTREATMENT OF PRISONERS

Recent statements by several prisoners indicate that the pattern of mistreatment and torture of prisoners, a pattern documented by Amnesty International and Africa Watch, continues today. The most severe mistreatment and torture appears to occur while prisoners are held incommunicado without charge or trial immediately after arrest. Recurring statements indicate that prisoners are often held for extended periods of time in cells flooded with water, are deprived of food and sleep, and are subjected to death threats and degrading psychological intimidation. Conditions for detainees who have been charged or who are held at official prisons are also extremely harsh. Prisoners consistently complain about being made to sleep on concrete floors, being denied adequate food and clothing, and having restricted access to medical care, family visits and reading material. In addition, most recent political detainees have been held at Kamiti Maximum Security Prison, in a wing reserved for psychologically disturbed inmates where conditions have been described by a former detainee as "barbaric."

The case of Kenneth Matiba: Matiba, who was arrested in July 1990, has been held in a special wing at Kamiti Maximum Security Prison designated for the criminally mentally ill and for inmates awaiting execution. Inmates in this wing reportedly cry and sing incessantly, and the constant noise, combined with poor food and inadequate reading material, have raised Mr. Matiba's blood pressure to dangerous levels. Mr. Matiba fears that the government has moved him to this wing, and is denying him adequate medical attention, in order to kill him. During a consultation with his doctor in October, prison authorities did not allow Mr. Matiba's doctor to pass on to him appropriate medicine to control his blood pressure. Instead, they demanded that Mr. Matiba's doctor write a prescription for the drugs and hand it over to the prison doctor, who would then purchase the medicine and deliver it to Mr. Matiba. The doctor complied with this procedure, but the drugs took over three weeks to reach Matiba, and even then were not the drugs specified by his doctor. In addition, during the October consultation Matiba's doctor requested permission for a follow up visit within three weeks. The prison authorities refused to allow another appointment until January 24, 1991, and have refused repeated pleas to move Matiba to a different wing of the prison. Matiba's doctor came away from the January consultation with increased concern about the prisoner's health.

The case of Gitobu Imanyara: Imanyara, the editor of The Nairobi Law Monthly, a journal focusing on constitutional and human rights issues, was arrested most recently on July 5, 1990, and released on bail on July 30. After his release, Imanyara complained of ill treatment while in detention. Imanyara said that he was held incommunicado for six days in a windowless cell in the psychiatric ward of Kamiti Prison. He described conditions as "squalid and degrading." Prisoners were supplied with a single chamber pot, to be used as both a wash basin and a toilet, and were denied toilet paper or tooth brushes. Mentally ill, and sometimes violent inmates also made constant noise, and some screamed throughout the nights.

The case of George Anyona: George Anyona is among a group of prominent Kenyans and former political prisoners who were arrested on July 11, 1990, and charged with sedition and possessing seditious or prohibited literature. Anyona himself was a former Member of Parliament and a former political prisoner detained in 1977 and 1982. During several court appearances in August and September 1990, Anyona described torture and ill-treatment while in detention. Anyona stated that he and three other prisoners were held in cells flooded with water, were kept permanently handcuffed in dimly lit cells, were made to sleep on a cold concrete floor with only two blankets, and were given food "unfit for human consumption" at unusual hours. Sanitation was non-existent. Prisoners could not wash and, according to Anyona, had to "wade through urine and human feces while queuing for the toilet in our bare feet which have sores." In addition, Anyona has been denied adequate access to his lawyer and denied all access to his family. After his initial complaints in court of torture and ill-treatment, Anyona stated that he was later "threatened, harassed and intimidated" by two prison guards.

At Anyona's court appearances, the state counsel, Bernard Chunga, rejected his com-

plaints stating that "prison is not a holiday resort." The Chief Magistrate, instead of ordering an independent investigation or probing the allegations himself, merely directed the prison authorities to investigate Anyona's charges. At the time of this writing, Anyona remains detained at Kamiti Prison.

The case of Koigi wa Wamwere: The recent arrest of Koigi wa Wamwere, a self-exiled critic of the government, has prompted additional allegations of tortue and ill-treatment while in police custody. In an affidavit filed on December 17, 1990, before the High Court in Nairobi, Wamwere testified that he had been tortured in Nyayo House, the headquarters of the security police. Wamwere stated that he was held in a cell whose floor was covered with human feces, was stripped naked and handcuffed, denied food and sleep for days at a time, forced to use his cell as a toilet, and denied medical attention. While under interrogation with his eyes blindfolded Wamwere stated that he was coerced, by death threats and by hearing simulated cries which his interrogators claimed came from his mother, into signing various false statements. These statements were confessions of organizing a group which received guerilla training in Uganda and Libya and was being funded by Scandinavian government and human rights groups such as Africa Watch and Amnesty International. The false statements also said that he transported weapons into Kenya with the purpose of attempting to violently overthrow the government.

Continuing legal suits against the government for practicing torture: In addition to the recent charges of torture and ill-treatment, the Kenyan government has recently imprisoned Mirugi Karivki, a lawyer and former political prisoner who along with two other detainees filed a suit against the government in 1987 alleging torture. Significant government pressure was brought against Kariuki to withdraw his suit, but he refused and remained imprisoned until June 1989. During this time, Gibson Kamau Kuria, a human rights lawyer who filed the torture complaints on behalf of Kariuki, was himself detained and tortured, and subsequently brought his own suit against the government. At present neither Kariuki nor Kamau Kuria's suits have been heard in court, and Kariuki is imprisoned and faces treason charges (which carry a mandatory death penalty) while Kamau Kuria has been forced to flee Kenya and seek political asylum in the United States.

(3) RESTORE THE INDEPENDENCE OF THE JUDICIARY

After heavy criticism from both the local and international communities regarding the human rights situation in Kenya, the Kenyan government decided to move towards restoring the tenure of judges. However, instead of merely revoking the 1988 amendment to the constitution which had removed the security of tenure, the government has proposed the creation of a new commission which would investigate complaints against judges and if necessary, dismiss them. As the constitution is now being interpreted, President Moi individually has the power to appoint and dismiss judges. This new proposal, although it would devolve some of the president's power and influence, would still leave the judiciary extremely vulnerable to the influence of the executive.

Under the new proposal, the president would be vested with the power to create an appointed commission which would enquire into the conduct of judges. The new proposal is similar to provisions in the original constitution (ie. prior to the 1988 amendment which removed the security of tenure) in that the President would appoint members of this judicial commission. However, in the original provision the judges appointed by the president had been from other commonwealth countries (such as India, Canada, and Australia), thus ensuring the judicial commission's independence. Also, as originally envisioned, the Kenyan members of the judicial commission would enjoy the security of tenture and thus also remain independent.

In the recent proposal, however, the president would appoint at least five members of a commission drawn exclusively from Kenyan judges, counsels, and advocates. Without the original security of tenure, these individuals would be vulnerable to influence by the executive or the party. For instance if the president appoints counsels and advocates for the commission, they may not exercise independence since they are not covered by the security of tenure.

The historical record indicates that President Moi might not appoint independent members of the bar to such a judicial commission. During his twelve year rule, Moi has dismissed or retired several judges who delivered judgements independently of the political considerations of the ruling party, KANU. Among the judges who were retired or dismissed were: O'Connor, Chesoni, Scofield, Madan, Simpson, Suchdeva, Mbaya, and Platt.

Experience shows that within the present one-party system, even the restoration of the security of tenure might not ensure the independence of the judiciary. Two cases—Mr. James Wagala vs. John Anguka, civil case No. 727, and High Court case No. 1523 or 1988—illustrate this point. In both cases the court ruled that it did not have any jurisdiction to hear a case involving KANU election disputes, thus signaling its subservience to the single party and the president.

In addition, the simple restoration of the security of tenure without other accompanying moves towards increased respect for human rights and the rule of law, such as restoring the freedoms of expression and association, and freedom from arbitrary arrest and torture, would do little to guarantee either an independent judiciary or the right of all Kenyans to a fair and impartial trial.

The trial and sentencing of Rev. Lawford Ndege Imunde, an outspoken multi-party advocate, is a prominent example of the need to accompany the restoration of judicial tenure with other reforms, especially ensuring that Kenyan security forces stop the practice of holding detainees in incommunicado detention and cease using torture and coercion to extract false statements (see above). The sentencing of Rev. Imunde, and the past trials of many other Kenyans under the vague charges of possessing seditious or prohibited literature or coerced through torture and intimidation into making false statement, indicates that the restoration of tenure, as an isolated step, will do little to free Kenya's judiciary from the influence of the executive and the ruling party.

Recommendations

Immediately restore the security of tenure for all judges through the repeal of the 1988 constitutional amendment (which had revoked the tenure guaranteed in the constitution);

Insure that the mistreatment of all detainees, and especially those held on account of their political opinions, cease immediately.

(4) RESTORE THE FREEDOM OF EXPRESSION

Although President Moi has declared that he supports freedom of expression, and the Kenyan Constitution protects that right, the government has repeatedly taken actions that curtail that freedom. Members of Parliament who have expressed any opposition to the policies of the KANU-led government have been suspended from parliament and have lost their party membership. After suspending members of parliament who criticized the Moi regime, the government then carried out a crackdown against outspoken professors at Nairobi University who voiced their opposition to one-party rule. Student unions were also targeted for harassment and repression. Student demonstrations were met with violent police suppression. Professors and student leaders were detained, and at least one student leader died in prison after reportedly being tortured.

In 1982, the government banned the University Staff Union and detained several of its leaders. The Kenyan Civil Servants Union was also banned. Tribal welfare associations, such as the GEMA, Akamba Union, Abaluya, Luo Union and others were also banned. They remain banned.

Journalist and lawyers who voiced criticisms of the government were also targeted (see above). Three major publications, Beyond, Financial Review, and Development Agenda, were subsequently banned. Beyond, a publication associated with the National Council of Churches of Kenya was banned in March 1988 after questioning the results of the February/March parliamentary elections. Beyond's editor, Bedan Mbugua, was arrested, charged with the technical offense of failing to submit annual sales returns to the Registrar of Books, and was sentenced to nine months in prison. After serving two weeks, Mbugua was released on bail, pending appeal of the sentence. In August 1989, after intense international pressure and extensive court appearances, Mbugua was acquitted by the Court of Appeals. However, the ban on the magazine is still in place.

Financial Review, which also criticized the fairness of the elections, was also banned, and its editor, Peter Kareithi, was arrested and detained for several days. And Development Agenda was banned after publishing only two issues, even though it had published nothing critical of the government. It is believed that the magazine was banned because its publisher was associated with persons who had fallen out of favor with President Moi.

There have been other, brief bannings. After reporting on governmental corruption, the largest-selling daily newspaper, The Daily Nation, was banned from covering parliamentary proceedings, a move probably intended to cripple the paper's circulation. After four months, and soaring sales, the government revoked the ban. And in the summer of 1990, The Nairobi Law Monthly was banned briefly for reporting on human rights abuses and for criticizing one-party rule. In the summer of 1990, the magazine's editor, Gitobu Imanyara, was arrested twice within a week. Imanyara was originally detained in July and held alongside Kenneth Matiba and Charles Rubia without charge. Imanyara was released without charge on July 25, 1990, only to be rearrested the next day, and charged with issuing a seditious publication—namely the April/May edition of the Nairobi Law Monthly—and charged with two other technical offenses relating to the production of the magazine. Though Imanyara was released on bail, his court case has yet to be resolved. Observers believe that the real motivation behind the criminal charges levied against him is to draw Imanyara into a lengthy legal battle and thus silence is magazine.

As noted above, a number of persons have been arrested for merely possessing banned editions of Beyond, and Financial Review, and even for possessing editions of Africa Confidential, a British newsletter which had not previously been banned. In addition, police have invaded press conferences and confiscated cameras and film. On June 21, lawyer Paul Muite held a press conference to recount and protest the harassment and intimidation he and his clients had suffered. Sixteen officers entered the conference and declared it illegal.

In another case of infringement on the right to freedom of expression, 24 people were arrested in Nakuru and Nairobi on July 6 and charged with offenses relating to the production, distribution and possession of popular music cassettes, considered "subversive" by the government.

Outspoken members of the clergy have also faced repression. In August 1990, Rev. Henry Okullu was attacked verbally by KANU's youth wing while he was giving a sermon in Nyaza. According to reports, the youths shouted at the bishop not to preach subversion. It was also reported that the youths were brought to the church in a vehicle belonging to a party official and a member of parliament. President Moi himself has denounced leading church figures, and repeatedly stated that the church should not involve itself in "politics."

Recommendations

The bans on Beyond, Financial Review, and Development Agenda should be lifted immediately;

The government should cease its threats to ban The Nairobi Law Monthly, Finance, or any other publication;

The government must cease its harassment of journalists, including the use of criminal charges to intimidate journalists who are exercising their constitutionally guaranteed right to freedom of expression; and

The government should lift the bans on the University Staff Union, the Kenya Civil Servants Union and all other unions.

By Mrs. KASSEBAUM (for herself, Mr. BOND, Mr. BROWN, Mr. CHAFEE, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. HATCH, Mr. JEFFORDS, Mr. KASTEN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. COATS, Mr. ADAMS, Mr. BAUCUS, Mr. BRADLEY, Mr. BREAUX, Mr. BURDICK, Mr. CRANSTON, Mr. DECONCINI, Mr. DIXON, Mr. FORD, Mr. FOWLER, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Ms. MIKULSKI, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. BOREN, Mr. ROBB and Mr. SARBANES):

S.J. Res. 92. Joint resolution to designate July 28, 1992, as "Buffalo Soldiers Day"; to the Committee on the Judiciary.

BUFFALO SOLDIERS DAY

Mrs. KASSEBAUM. Mr. President, in the summer of 1867, an Army cavalry regiment rode west out of Fort Leavenworth. The troops were headed across the Kansas prairie to their new post on the frontier.

They were traveling to Fort Hays, KS, where their first assignment would be to protect the frontier lines of the Kansas-Pacific Railroad. The troops in that newly formed 10th Cavalry Regiment were "green." Few had fought in the Civil War. None had served before it.

Their story is typical of many frontier soldiers. But these men were not typical soldiers. They were African-Americans—the first to serve the U.S. regular Army during peacetime. Congress had voted in 1866 to authorize the Department of War to create six African-American regiments in the regular army—the 9th and 10th Cavalries, and four infantry regiments.

By August, the 10th Cavalry had arrived at Fort Hays. On August 2, a group of Cheyenne warriors attacked F Company while it was on patrol. After the battle, an Army scout overheard the Indians speaking with respect about this first encounter with Black soldiers. The warriors called them "Buffalo Soldiers" because they fought with the fierceness of a cornered buffalo. The name stuck.

For more than eight decades—from their creation in 1866 until the Army was integrated in 1952—the Buffalo Soldiers served the United States with dedication. Words such as "bravery," "discipline," "fearlessness," and "endurance" consistently showed up in official reports about these troops. In campaigns from the American West to Cuba to the Philippines, these soldiers continually earned a place in our Nation's history.

They earned their place, Mr. President, but they have yet to take it. You will not find the story of the Buffalo Soldiers in our history textbooks. You will be hard-pressed to find it at all.

Our popular culture has virtually ignored the role of African-Americans in the Old West. For most Americans, the Wild West is John Wayne, not Henry Flipper. That must change.

I believe these soldiers deserve proper recognition. I share that belief with a dedicated group of Kansans and other people working to build a monument to the Buffalo Soldiers at Fort Leavenworth. At the center of this monument will stand a bronze statue of a Buffalo Soldier atop his mount. The site is a grassy area where Buffalo Soldiers once pitched their tents.

The inspiration for this monument came in 1982 from then-Brig. Gen. Colin Powell, who at the time was the deputy commander at Fort Leavenworth. When General Powell arrived, the only sign that Buffalo Soldiers ever had been stationed there were two small, gravel alleys named for the 9th and 10th Cavalries.

Mr. President, I ask unanimous consent that the letter from General Powell be printed in the RECORD at this point.

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

WASHINGTON, DC, *February 22, 1991.*

Hon. NANCY LANDON KASSEBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR KASSEBAUM: I am very grateful you invited me to provide a letter expressing my thoughts about the Buffalo Soldiers. I'm also thankful for your efforts on behalf of those soldiers and especially for introducing in the U.S. Senate the Joint Resolution to designate July 28, 1992 as "Buffalo Soldier Day."

When I was a brigadier general and assigned to Fort Leavenworth in 1982, I was jogging around the post one day and noticed a couple of gravel alleys that were named "9th and 10th Cavalry Streets." I wondered if that were all there was to commemorate those great soldiers. I wondered if on one of America's most historic Army posts, a post where the 10th Cavalry spent so much of its garrison life, a post in the center of the region where both the 9th and 10th Cavalry spent so much of their blood, I wondered if those gravel alleyways were all there was to signify their presence, all there was to commemorate their incredible contribution to the settlement of the American West.

And so I looked around some more. And on the entire post all I could find to commemorate two of the greatest regiments in the Army were those two alleys. That was a situation that I believed had to be changed. So a few of us set in motion a project to honor the Buffalo Soldiers. You, Senator, now co-chair the committee that grew from that project. Your committee oversees the construction of a proper monument to those great soldiers—a monument not simply to honor Buffalo Soldiers; instead, to honor all black soldiers who have served this nation over its long history.

Since 1641 there has never been a time in this country when blacks were unwilling to serve and sacrifice for America. From pre-Revolutionary times through the Revolutionary War, through every one of our wars and on up to the present, black men and women have willingly served and died. But it is also a part of our history that for most of that time blacks served without recognition or reward for the contribution they made for our freedom—for the freedom they did not enjoy here in their own beloved native land. The Buffalo Soldiers are a symbol—one chapter in a proud and glorious history.

To remind me of that history I have a painting that hangs on a wall in my office directly across from my desk. From that painting, Colonel Benjamin H. Grierson, 10th Cavalry Regimental Commander, Lieutenant Henry O. Flipper, the first black graduate of West Point, and a troop of Buffalo Soldiers constantly look at me. They remind me of my heritage and of the thousands of African-Americans who went before me and who shed their blood and made their sacrifices so that I could be Chairman of the Joint Chiefs of Staff. They look at me and make sure that I will never forget the courage and the determination of African-Americans who defied all odds to fight for their country, and who wore the uniform of the U.S. Army as proudly and as courageously as any other American who ever wore it.

The legacy of that pride and courage motivates every black soldier, sailor, airmen, Marine and Coast Guardsmen taking part today in Operation Desert Storm, and every black man and woman who helps man the ramparts of freedom around the world from Japan to

Panama to Germany. It's as if a full century had passed in the blink of an eye and Frederick Douglass' words were suddenly and vividly fulfilled: "Once let the black man get upon his person the brass letters, 'U.S.', let him get an eagle on his button, and a musket on his shoulder and bullets in his pocket, and there is no power on earth which can deny that he has earned the right to citizenship in the United States." Amen.

Sincerely,

COLIN L. POWELL,
Chairman, Joint Chiefs of Staff.

Mrs. KASSEBAUM. General Powell began planning a more fitting monument. He left Fort Leavenworth before construction began, but others took up his cause.

It is proper that we recognize the accomplishments of the Buffalo Soldiers. These troops accomplished more with less than any other fighting men. Most of the first Buffalo Soldiers were freed slaves. They lived in inadequate housing and received the worst food and equipment. They were subjected to racial discrimination by white officers and white troops.

These men were common soldiers. No great generals rode with them. In fact, many people at the time had little respect for them. Gen. George Custer was offered command of the 10th Cavalry but considered them inferior soldiers and declined.

But they were not inferior. They were exemplary.

Their morale remained high and their desertion rate was the lowest in the Army. They repeatedly were cited for heroism and dedication to duty. The Buffalo Soldiers have been honored for their bravery and service more than any other American military unit. Their many honors include: at least 20 Congressional Medal of Honor winners; 4 Campaign Citations in the Indian Wars; Campaign Citations for the Spanish-American War, the Philippine Insurrection and the Mexican Expedition; the French Campaign World War I Citation; 5 Unit Citations from World War II; 10 Unit Citations from the Korean conflict; 3 Presidential Unit Citations; a Navy Unit Commendation; a Philippine Presidential Citation; and 2 Republic of Korea Presidential Citations.

These men participated in many prominent events in our history. In the late 19th century, they fought a series of wars in the West. They rode with Maj. Gen. Philip H. Sheridan in western Kansas and rescued Maj. George A. Forsyth and his scouts from an island in the rising Republican River.

They guarded wagon trains, protected railroads and settlements, surveyed roads and built forts, including what later became Fort Sill, OK. At Fort Sill, Lt. Henry Flipper, the first African-American to graduate from West Point, used his engineering skills to construct a drainage ditch that other officers said could not work. That site now is a national historic landmark.

The soldiers built or renovated dozens of posts and camps and constructed thousands of miles of roads and telegraph lines. Their patrols yielded maps of uncharted wilderness that paved the way for pioneer settlers. They assisted civil authorities in controlling mobs, and pursued outlaws and cattle thieves. In 1916, they accompanied Gen. John J. Pershing into Mexico in pursuit of the outlaw Pancho Villa.

The Buffalo Soldiers fought in the Spanish-American War and served with Maj. Gen. Joseph Wheeler. They charged up San Juan Hill and rescued Teddy Roosevelt and the Rough Riders.

Men from every State became Buffalo Soldiers. Their places of service included Louisiana, Montana, Nebraska, New York, Oklahoma, Texas, Utah, Vermont, and Virginia. They served with Harry Truman in the First World War. They fought and died in the Second World War and in Korea.

Today, I am introducing legislation along with 40 cosponsors, to designate July 28, 1992, Buffalo Soldiers Day and to call upon the President to urge the American people to observe that day with ceremonies and activities. On that day—the 126th anniversary of the act that created the 9th and 10th Cavalries—the Buffalo Soldiers monument at Fort Leavenworth will be dedicated.

I believe it is fitting for this Congress to show its respect for the Buffalo Soldiers through this declaration. My hope is that this declaration and the monument's dedication will represent not the end of our efforts but the beginning of a movement to give the Buffalo Soldiers their proper place in history. They deserve no less.

I believe the Buffalo Soldiers are a fundamental part of the American Story. They are not solely black American heroes—they are American heroes. They represent the ability to achieve despite adversity.

Only one episode of one television western show focused mainly on African-Americans. On November 22, 1968, the episode of the show "The High Chapparal" was titled "The Buffalo Soldiers." The show depicted the soldiers on patrol near the Mexican border early this century. Even that show contained many flaws, but it stands alone to represent the Buffalo Soldiers in Western legend.

I strongly agree with a statement made about these troops in that 1968 episode:

> The Buffalo Soldiers of yesterday were the stuff of which legends are made and hope rekindled * * * all of us can recall and cherish the historic and continuing contribution of the black American to the life and progress of our nation.

Mr. DOLE. Mr. President, I am pleased to join Senator KASSEBAUM in cosponsoring the resolution designating July 28, 1992, as "Buffalo Soldiers Day."

It was 125 years ago when Congress, responding to the courageous Civil War service of black Americans, voted to create six regular Army regiments of black American soldiers.

The most famous of these regiments were the 9th and 10th Cavalries who were stationed at Greenville, LA, and Fort Leavenworth, KS. From these stations, the Buffalo Soldiers—so named because they fought as fiercely as buffaloes—would earn a distinguished place in American history.

It was the Buffalo Soldiers who protected the railroad construction workers, allowing them to succeed in their mission of uniting a nation.

It was the Buffalo Soldiers who, for 20 years, fought to protect those unable to defend themselves in the settling of the West.

The Buffalo Soldiers were with Teddy Roosevelt and the Rough Riders during the Spanish-American War, and they were there when Billy the Kid and Pancho Villa were captured.

It was the Buffalo Soldiers, who, despite being subjected to constant discrimination and receiving the worst equipment and food, still maintained the lowest desertion rate and the highest morale in the Army.

In 1982, Gen. Colin Powell, then serving as deputy commander at Fort Leavenworth, set into motion the effort to construct a monument to these American heroes. This monument will be dedicated in Fort Leavenworth on July 1992.

The monument, along with the designation of July 28 1992, as "Buffalo Soldiers Day" will ensure that the contributions and courage of these Americans are remembered in our history books and in our hearts.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 20

At the request of Mr. ROTH, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Washington [Mr. GORTON], the Senator from Arizona [Mr. MCCAIN], the Senator from New Hampshire [Mr. SMITH], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 20, a bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes.

S. 64

At the request of Mr. BINGAMAN, the name of the Senator from Illinois [Mr.

SIMON] was added as a cosponsors of S. 64, a bill to provide for the establishment of a National Commission on a Longer School Year, and for other purposes.

S. 65

At the request of Mr. NICKLES, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 65, a bill to make the 65 miles-per-hour speed limit demonstration project permanent and available to any State.

S. 102

At the request of Mr. COHEN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 102, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs.

S. 104

At the request of Mr. PRESSLER, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 104, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a physician as principal and interest on student loans if the physician agrees to practice medicine for 2 years in a rural community.

S. 140

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 167

At the request of Mr. RIEGLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 190

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 250

At the request of Mr. FORD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 257

At the request of Mr. METZENBAUM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 257, a bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

S. 264

At the request of Mr. COCHRAN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 316

At the request of Mr. CRAIG, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 349

At the request of Mr. BUMPERS, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such act, and for other purposes.

S. 377

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 377, a bill to amend the International Air Transportation Competition Act of 1979.

S. 384

At the request of Mr. MCCAIN, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 384, a bill to delay the effective date of reductions in the CHAMPUS mental health benefit, and for other purposes.

S. 391

At the request of Mr. REID, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 391, a bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 420

At the request of Mr. SARBANES, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 420, a bill to increase to $50,000 the maximum grant amount awarded pursuant to section 601 of the Library Services and Construction Act.

S. 463

At the request of Mr. HATFIELD, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 463, a bill to establish within the Department of Education an Office of Community Colleges.

S. 487

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 487, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 493

At the request of Mr. KENNEDY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants, and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 523

At the request of Mr. SIMON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

S. 534

At the request of Mr. LOTT, the names of the Senator from Washington [Mr. ADAMS], the Senator from Montana [Mr. BURNS], the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Illinois [Mr. DIXON], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. GARN], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. MCCAIN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Michigan

[Mr. RIEGLE], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. WIRTH], the Senator from Alaska [Mr. STEVENS], the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. BOREN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Indiana [Mr. LUGAR], the Senator from Georgia [Mr. NUNN], the Senator from Nevada [Mr. REID], the Senator from Virginia [Mr. ROBB], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. WALLOP], the Senator from Nevada [Mr. BRYAN], the Senator from New York [Mr. MOYNIHAN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 534, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 565

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a consponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927, and related beneficiaries, and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 591

At the request of Mr. BRYAN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 591, a bill to require airbags for certain newly manufactured vehicles.

S. 593

At the request of Mr. CHAFEE, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 593, a bill to amend title 23, United States Code, to control billboard advertising adjacent to Interstate Federal-aid primary highways, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the names of the Senator from Nebraska [Mr. KERREY], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

SENATE JOINT RESOLUTION 6

At the request of Mr. JOHNSTON, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Alabama [Mr. SHELBY], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 6, a joint resolution to designate the year 1992 as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 49

At the request of Mr. SARBANES, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 49, a joint resolution to designate 1991 as the "Year of Public Health" and to recognize the 75th Anniversary of the founding of the Johns Hopkins School of Public Health.

SENATE JOINT RESOLUTION 52

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the months of April 1991 and 1992 as "National Child Abuse Prevention Month."

SENATE JOINT RESOLUTION 65

At the request of Mr. D'AMATO, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 65, a joint resolution designating the week beginning May 12, 1991, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 69

At the request of Mr. RIEGLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 69, a joint resolution to designate the week commencing May 5, 1991, through May 11, 1991, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 70

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 70, a joint resolution to establish April 15, 1991, as "National Recycling Day."

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 73

At the request of Mr. SPECTER, the names of the Senator from Missouri [Mr. BOND], the Senator from Maine [Mr. COHEN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 73, a joint resolution designating October 1991 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 79

At the request of Mr. D'AMATO, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Mississippi [Mr. COCHRAN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 79, a joint resolution authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 85

At the request of Mr. KASTEN, the names of the Senator from Connecticut [Mr. DODD], the Senator from Washington [Mr. GORTON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 85, a joint resolution authorizing and requesting the President to appoint General Colin L. Powell and General H. Norman Schwarzkopf, Jr., United States Army, to the permanent grade of General of the Army.

SENATE CONCURRENT RESOLUTION 14

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 14, a concurrent resolution requesting the United States Trade Representative to enforce the rights of United States beer exporters against unjustified treatment by Canadian provincial liquor control boards.

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. MACK, the names of the Senator from Texas [Mr. GRAMM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Hawaii [Mr. AKAKA], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Concurrent Resolution 16, a concurrent resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

At the request of Mr. ROBB, the names of the Senator from Florida [Mr. GRAHAM], the Senator from New Jersey [Mr. BRADLEY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kentucky [Mr. FORD], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Concurrent Resolution 16, supra.

SENATE RESOLUTION 41

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Resolution 41, a resolution to establish April 15, 1991, as "National Recycling Day."

SENATE RESOLUTION 71

At the request of Mr. SPECTER, the names of the Senator from Idaho [Mr. CRAIG], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Resolution 71, a resolution to encourage the President of the United States to confer with the sovereign state of Kuwait, countries of the Coalition or the United Nations to establish an International Criminal Court or an International Military Tribunal to try and punish all individuals, including President Saddam Hussein, involved in the planning or execution of crimes against peace, war crimes, and crimes against humanity as defined under international law.

SENATE RESOLUTION 72

At the request of Mr. KASTEN, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Wisconsin [Mr. KOHL], the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], the Senator from North Dakota [Mr. BURDICK], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Mr. SARBANES], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Resolution 72, a resolution to express the sense of the Senate that American small businesses should be involved in rebuilding Kuwait.

SENATE CONCURRENT RESOLUTION 17—RELATIVE TO CERTAIN REGULATIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Mr. HATCH submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 17

Whereas it is in the public interest to reduce the frequency of workplace accidents and the human and economic costs associated with such injuries;

Whereas workplace accidents involving powered industrial trucks are often the result of operation by poorly trained, untrained, or unauthorized operators;

Whereas Federal regulations promulgated by the Occupational Safety and Health Administration and codified at 29 C.F.R. 1910.178 require that operators of powered industrial trucks be trained and authorized;

Whereas existing regulations lack any guidelines to measure whether operators of powered industrial trucks are in fact trained and authorized;

Whereas operator training programs have been demonstrated to reduce the frequency and severity of workplace accidents involving powered industrial trucks; and

Whereas a petition to amend existing regulations to specify the proper components of a training program for operation of powered industrial trucks has been pending before the Occupational Safety and Health Administration since March 1988: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Occupational Safety and Health Administration is requested to publish, before the expiration of the 102nd Congress, proposed regulations amending 29 C.F.R. 1910.178 that specify the components of an adequate operator program and that only trained employees be authorized to operate powered industrial trucks.

SENATE CONCURRENT RESOLUTION 18—RELATIVE TO HUMAN RIGHTS IN BURMA

Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. PELL, Mr. MOYNIHAN, Mr. KERRY, Mr. AKAKA, Mr. GORE, Mr. KENNEDY, Mr. ROBB, and Mr. SIMON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 18

Whereas since September 1988 the people of Burma have been subject to a military dictatorship which has surpassed massive prodemocracy demonstrations;

Whereas the State Law and Order Restoration Council has not transferred legal authority to a civilian government as required by the results of the May 1990 elections, in which the National League for Democracy received some 60 percent of valid votes cast and over 80 percent of parliamentary seats;

Whereas, on January 31, 1991, the United States Department of State submitted to the Congress its annual Country Reports on Human Rights Practices, and therein reported that Burma's deplorable human rights situation did not improve in 1990, citing torture, disappearances, arbitrary arrests and detentions, unfair trials and compulsory labor, among other violations.

Whereas the State Law and Order Restoration Council has led a campaign to decimate the National League for Democracy (NLD) through press attacks, blocked publications, office raids and the imprisonment of hundreds of NLF officials;

Whereas the Government of Burma has been hostile to outside scrutiny of its human rights record and has been unwilling to provide meaningful access to international and nongovernmental organizations concerned about human rights;

Whereas Burma has not met the certification requirements listed in section 802(b) of the Narcotics Control Trade Act of 1986;

Whereas an estimated 50,000 Burmese have fled to the border between Thailand and Burma and at least 2,000 Burmese students have fled to Bangkok since 1988;

Whereas while Thai authorities have permitted temporary safe haven to thousands of displaced Burmese and Burmese refugees in Thailand, the Government of Thailand has not yet permitted comprehensive United Nations protection and assistance for Burmese in Thailand:

Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls upon the State Law and Order Restoration Council to cede legal authority to a civilian government as mandated by the elections of May 1990;

(2) condemns the arrest and detention of Burmese citizens for the peaceful expression of their political views;

(3) condemns the Government of Burma's disregard of human rights and fundamental freedoms;

(4) urges the President to impose additional economic sanctions upon Burma as specified in section 138 of the Customs and Trade Act of 1990;

(5) calls upon the United Nations Human Rights Commission to seek greater access to Burma for its Expert on human rights in Burma, and to continue and expand its scrutiny over the human rights situation in the country.

(6) urges the United States, through the Secretary of State, to affirm its support for the resettlement of Burmese asylum seekers who are without other safe and reasonable alternatives; and

(7) urges the Government of Thailand to accord all displaced Burmese and Burmese asylum seekers temporary safe haven, protection against return of those who might face persecution or other threats to their lives or freedoms upon return to Burma, and access to procedures for third country resettlement for those Burmese refugees who are without safe and reasonable alternatives.

Mr. CRANSTON. Mr. President, I rise today to submit a concurrent resolution with the support of Senators MITCHELL, PELL, MOYNIHAN, KERRY, AKAKA, GORE, KENNEDY, ROBB, DECONCINI, and SIMON condemning brutal human rights abuses in Burma.

The situation in Burma is deteriorating daily. The military junta in charge—the State Law and Order Restoration Council—has kept most of the world ignorant of developments in that distant land: few tourists are allowed in and even fewer journalists or human rights observers. I was denied a visa to Burma last summer when I applied.

We must do what we can to retract this dark curtain of secrecy that has been drawn across Burma.

Democracy's back is being broken by Burma's military junta. In elections last May the opposition National League for Democracy won an overwhelming victory in the first multiparty elections in 28 years. The progovernment National Unity Party even lost the soldier's vote. Since then, the generals have systematically reasserted their control, forcibly relocating and razing the residences of opposition strongholds, arresting the few remaining opposition leaders not already jailed, and now are trying to intimidate the Buddhist monks who have on September 6, essentially excommunicated the military by refusing to bless or perform religious services for them.

During peaceful demonstrations in 1988, the military killed at least 3,000. The Burmese military reportedly use civilians as "human minesweepers" in their war with ethnic insurgents. The State Department in its 1990 human rights report concluded that "torture, beatings, and mistreatment of political detainees were commonplace." In its 1991 report incidents of torture, dis-

appearances, arbitrary arrests and detentions, unfair trials and compulsory labor are just some of the other human rights violations attributed to the Burmese Government.

Since July 1989, Aung San Suu Kyi, a central opposition leader and daughter of one of Burma's national heroes, has been under house arrest.

The United States claims it has no leverage over Burma, having ended all aid including drug enforcement assistance. But the United States continues to encourage foreign investment and United States public condemnation of human rights conditions have not been sufficiently vehement to discourage our friends in the region—the Thais, Singaporeans, Malaysians, Chinese, and Koreans—from discontinuing their trade and aid including military assistance. In addition, with the exception of humanitarian relief, no aid should be provided by any multilateral agency, including for antidrug programs.

Before the Burmese rejected his nomination, Frederick Vreeland, President Bush's nominee to be ambassador, testified before my subcommittee that it was his opinion that sanctions were "inescapable, at this point."

Now is the time for the President to act.

The resolution I am offering urges the United States to take stricter measures toward the Government of Burma by implementing economic sanctions as required in the Customs and Trade Act of 1990.

With this resolution, the Congress sends a clear signal of our concern over events in Burma. I urge my colleagues to join me in this initiative.

SENATE CONCURRENT RESOLUTION 19—RELATIVE TO HUMAN RIGHTS VIOLATIONS IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. PELL, Mr. KERRY, Mr. BIDEN, Mr. DECONCINI, Mr. AKAKA, Mr. GORE, Mr. KENNEDY, Mr. ROBB, Mr. DIXON, and Mr. SIMON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 19

Whereas the President has stated that it is the goal of the United States to seek a new world order in which respect for the rule of law and the fundamental rights of all people are the international standard;

Whereas the People's Republic of China as a member state of the United Nations have assumed an obligation to embrace and uphold international human rights standards embodied in the United Nations Charter and the Universal Declaration of Human Rights;

Whereas the United States Department of State has submitted to the Congress on January 31, 1991, its annual Country Reports on Human Rights Practices, and therein reported that observance of human rights in China fell far short of internationally recognized norms in 1990, citing torture, detention, unfair trials and the restrictions of religious practices among other violations;

Whereas the Amnesty International and Asia Watch have reported that thousands of Chinese citizens have been arrested and detained for prolonged periods without charges for activities related to the pro-democracy movement and the 1989 demonstrations, and that an indeterminate number are still in detention;

Whereas the Government of the People's Republic of China recently convicted and sentenced persons involved in the 1989 pro-democracy movement who the United States Department of State declared had committed no crime other than the peaceful advocacy of democracy, including Chinese student leader Wang Dan, human-rights advocate Ren Wanding, and intellectuals Wang Juntao and Chen Ziming;

Whereas the AFL-CIO and the Hoover Institution for War, Revolution and Peace report that the People's Republic of China continues to export goods produced in forced labor camps to the United States;

Whereas the government of the People's Republic of China continues to provide lethal military assistance to the murderous Khmer Rouge forces in Cambodia;

Whereas the United States Department of State, human, rights organizations including Amnesty International and Asia Watch, and the international press continue to report human rights violations in Tibet, including the use of excessive force on peaceful demonstrations, arbitrary arrest and detention, unfair trials, torture and death from torture, the restriction of religious practices, and systematic pattern of discrimination, among other violations;

Whereas the government of the People's Republic of China continues to imprison Tibetans for the peaceful expression of their political, cultural and religious views, including Tamdin Sithar, Yulo Dawa Tsering, Turing Chungdak, Ngawang Puchung, Tseten Norgye, Lhakpa Tsering, Dawa Dolma, Tenzin Phuntsog, Agyal Tsering and Ngawang Youdon;

Whereas the government of the People's Republic of China maintains a vast penal system in the Qinghai and Xinjiang provinces of china for the purpose of detaining political dissidents and has refused any access by international human rights organizations and the International Committee of the Red Cross to these prisons;

Whereas the government of the People's Republic of China persecutes and unjustly imprisons sectarian religious leaders for attempting to practice their faith;

Whereas the Amnesty International reports that after abbreviated trials at least 50 persons were summarily executed before the opening of the Asian Games as a deterrent against pro-democracy protests during the Games: Now, therefore

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns the government of the People's Republic of China's gross violations of internationally recognized human rights in China, including Tibet;

(2) condemns the arrest and detention of Chinese citizens for the peaceful expression of their political, cultural, and religious views;

(3) calls upon the government of the People's Republic of China to release the number and names of political and religious prisoners in China, including Tibet, the charges laid against them, and the dates scheduled for their trials;

(4) calls upon the Government of China to allow international human rights organizations to observe the trials of political prisoners and the Chinese judicial process, and to allow the International Red Cross to visit detention and reeducation centers and prisons;

(5) calls upon the Government of the People's Republic of China to cease its support of the Khmer Rouge forces in Cambodia; and

(6) urges the President to inform Chinese leaders that the persistance of human rights abuses and continued detention of political prisoners will have a negative effect upon decisions to renew most-favored-nation trade status.

Mr. CRANSTON. Mr. President, today I am submitting a concurrent resolution on behalf of myself and Senators MITCHELL, PELL, KERRY, BIDEN, DECONCINI, AKAKA, GORE, KENNEDY, ROBB, DIXON, and SIMON condemning the continuing abuse of human rights in the People's Republic of China. We must not permit these gross violations of internationally recognized human rights go unnoticed.

Most recently, the Chinese Government exploited the Middle East crisis by accelerating trials of dissidents and intellectuals who had committed no other crime than the peaceful advocacy of democracy, hoping that as the world was preoccupied with reestablishing freedom in the Persian Gulf, no one would notice the continued suppression of freedom in China.

But we did notice.

As the State Department noted in its 1990 human rights report issued last month, in China "observance of human rights fell far short of internationally recognized norms." Incidences of torture, detention, unfair trials, and the restriction of religious practices, are some common human rights violations by the Chinese Government.

Numerous other reports, such as those by Asia Watch and Amnesty International, also document efforts by Chinese authorities to stifle efforts by any citizens to promote democracy.

For the record, Mr. President, I request that a publication of the Lawyers Committee for Human Rights, entitled "People's Republic of China: Trials of Pro-Democracy Activists," be included following my statement. This excellent report details how little respect the Chinese Government has for basic human rights.

In recent testimony before the Foreign Relations Committee, Assistant Secretary Richard Schifter remarked that the United States should "continue to urge governments which deliberately violate the human rights of their citizens to cease and desist."

Mr. President, it is time that the Congress voiced as one its concern over the failure of improvement in China's human rights conditions.

Nor should we forget China's illegal occupation and terrorization of Tibet where China has done its best to not only rob a culture but eradicate one.

We must have a consistent American policy opposing human rights abuses

wherever they occur—not finding excuses to ignore them when it is convenient. Unfortunately, the President has already waived several of the 1989 congressionally mandated sanctions, including:

Granting a waiver of the suspension of military sales for the sale of 4 Boeing 757-200 commercial jets with navigation systems that could be converted to military use;

Permitting Chinese military officers to return to work at two United States facilities where they had been assisting American engineers in upgrading China's F-8 fighter with United States avionics;

Allowing high-level meetings between United States and Chinese officials despite an ostensible ban on such meetings, with President Bush meeting most recently the Chinese Foreign Minister in the White House;

Waiving congressionally imposed prohibitions on export licenses for three United States made communications satellites to be launched on Chinese missiles; and

Refusing to impose new restrictions on Eximbank funding for China which Congress enacted in H.R. 2494, the International Development and Finance Act of 1989.

Mr. President, this resolution represents a large step toward correcting the direction of U.S. foreign policy. I intend to hold hearings on China as we approach the time to reconsider renewing China's most-favored-nation status. I believe their human rights conduct should be a key factor in determining whether or not we grant that renewal.

Many of my colleagues have already joined in this resolution. I welcome more.

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

[From Lawyers Committee for Human Rights, NEW YORK, NY, *Feb. 12, 1991*]

PEOPLE'S REPUBLIC OF CHINA: TRIALS OF PRO-DEMOCRACY ACTIVISTS

In recent weeks the government of the People's Republic of China (PRC) has tried and convicted more than two dozen students and intellectuals accused of engaging in "counter-revolutionary activities" during the 1989 pro-democracy movement.[1] According to information available to the Lawyers Committee, these trials have not met international fair trial standards such as are found in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. These standards include the right of a criminal defendant to a public hearing by competent, independent and impartial tribunal; the right to adequate time and facilities to communicate with counsel of one's own choosing and to prepare a defense; the right to present evidence and witnesses on one's behalf; and the right to have one's case reviewed by a higher tribunal.[2]

On January 5, 1991 the official Xinhua news agency announced that seven political activists were convicted for inciting "subversion against the people's government and the overthrowing of the socialist system during the 1989 turnoil and rebellion."[3] Those convicted included four student leaders on the government's "21 most-wanted" list: Zheng Xuguang, 22, from the Beijing Aerospace and Aeronautics University; Zhang Ming, 23, from Qinghua University; Wang Youcai, 24, a physics graduate from Beijing University; and Ma Shaofang, 26, from Beijing Film Academy. All had leadership positions with the now-banned Beijing Students Autonomous Federation, which played a key role in the spring demonstrations. They received prison terms ranging from two to four years. Two other students convicted of minor offenses had criminal punishment waived.[4]

On January 26, 1991, the government announced a second round of convictions. Six persons received prison terms ranging from two to seven years. Three persons were convicted but exempted from criminal punishment. At least eighteen others were released without trial after authorities found "they committed only minor crimes and have shown repentance and performed meritorious services."[5] Forty-five more persons were released after investigation by the Public Security Bureau (the police) without having been formally arrested.[6] All had been in detention since being apprehended following the June 1989 crackdown.[7]

Among those recently sentenced to prison terms are:

Wang Dan, a 22-year-old history student at Beijing University, headed the government's 21 most-wanted list. Prior to the Tiananmen Square demonstrations, he had promoted campus discussions on political reform. He was among the student leaders who organized student protest marches and was the author of an article in May 1989 that called for political reform.[8] He was arrested on July 2, 1989. According to a notice posted outside the Intermediate People's Court in Beijing, Wang was convicted on charges of "agitating counter-revolutionary propaganda" and sentenced to four years' imprisonment.[9]

Ren Wanding, a 46-year-old factory accountant, is a long-time human rights activist who was imprisoned in 1979-83 for his essays written during the Democracy Wall movement in the late 1970s. One of the few Democracy Wall activists to give speeches in Tiananmen Square, Ren distributed articles he had written calling for respect for the rule of law and freedom of expression. He was arrested in his home on June 9, 1989; in March 1990 his family received a notice that he would be charged with "counter-revolutionary incitement" but the formal charges may not have been filed until November. On January 26, 1991, the official Xinhua news agency reported that Ren "was found guilty of grave crimes and showed no repentance." He was sentenced to a seven-year prison term.

Bao Zunxin, in his fifties, is a philosopher and leading intellectual. Prior to the June 1989 crackdown, Bao had written several petitions to the government calling for reform and the release of political prisoners. He had also attempted to organize intellectuals in support of the student demonstrators. He was arrested on July 7, 1989 and was included in a September 1989 government list of "Major criminals on Ministry of Public Security wanted lists who have now either been caught or have turned themselves in." On January 26, 1991, he was sentenced to five-years' imprisonment for "agitating counter-revolutionary propaganda."[10]

Guo Haifeng, a 24-year-old Beijing University student, was at one time chairperson of the Beijing Students Autonomous Federation. On April 24, 1989, Guo and two other students attempted to petition the government to rehabilitate posthumously former party secretary-general Hu Yaobang. According to official accounts, he was apprehended on June 4, 1989 "by the martial law enforcement troops while he and a gang of ruffians were trying to set fire to an Army unit's armored vehicle."[11] Guo's trial began on January 9, 1991, but his family reportedly was not notified by the court and had to search for a lawyer willing to attend the sentencing and file an appeal. On January 26, 1991, the Beijing Intermediate People's Court sentenced him to four-year's imprisonment for "counter-revolutionary sabotage."[12]

Liu Zihou, a 34-year-old worker at the Beijing Aquatic Products Company, was arrested on June 18, 1989 and accused of being the head of the illegal Capital Workers' Special Picket Corps. He was convicted for "incitement to armed rebellion." Unlike the students and intellectuals convicted, Liu's sentence has not been announced. A court spokesperson told a reporter only that Zihou had received a "relatively lenient sentence of several years in prison."[13]

On February 12, the government announced sentences in the cases of four persons charged with "conspiracy to overthrow the government." Two of the defendants received 13-year prison terms, one a six-year sentence and one was "exempt from criminal

[1] The Criminal Law of the PRC, arts. 90 to 104, sets out various "crimes" of counter-revolution," including sedition, organizing a counter-revolutionary group and spreading counter-revolutionary propaganda.

[2] See International Covenant on Civil and Political Rights, art. 14. Although the PRC is not a party to the Covenant, the Covenant provides the fullest expression of basic fair trial rights as they exist under international law.

[3] Xinhua news agency, Jan. 5, 1991, as reported in Foreign Broadcast Information Service, "China: Daily Report" [hereinafter FBIS], Jan. 7, 1991, at 15. A month after the Tiananmen Square crackdown, the Chinese government issued a circular which listed five categories of offenses under which individuals may be detained. These are: (1) "propagating and actively supporting the spread of bourgeois liberalization"; (2) "supporting, organizing and participating in the counter-revolutionary rebellion"; (3) leading illegal organizations formed during the protests in April and May 1989; (4) working with "enemy organizations outside the country"; and (5) committing violent crimes during the demonstrations such as "smashing, burning and killing." Punishment for any of these crimes range "from prison to reform though labor and in extreme cases execution." Circular, July 9, 1989 as reported in Hong Kong Standard, July 11, 1989.

[4] New York Times, Jan. 6, 1991.

[5] Xinhua news agency, as reported in UPI, Jan. 26, 1991.

[6] Xinhua news agency, Jan. 27, 1991.

[7] For detailed descriptions of persons in detention, see Amnesty International, "People's Republic of China: A New Stage of Repression" Dec. 1990; Asia Watch, "Update of Arrests in China," Jan. 30, 1991; Asia Watch, "Rough Justice in Beijing," Jan. 17, 1991.

[8] Wang wrote: "We make no attempt to conceal the aim of the current student movement, which is to exert pressure on the government to promote the progress of democracy. * * * People's yearning for democracy, science, human rights, freedom, reason and equality, which lack a fundamental basis in China, have once again been aroused." Quoted in the UPI, Jan. 23, 1991.

[9] UPI, Jan. 23, 1991.

[10] See Asia Watch, "Update on Arrests in China," Jan. 30, 1991 at 4-5.

[11] Beijing Radio, June 10, 1989.

[12] Asia Watch, "Update on Arrests" in China, Jan. 30, 1991 at 4.

[13] UPI, Feb. 4, 1991.

punishment." By law, conviction for sedition carries a minimum ten-year prison term but can result in the death penalty if the case is considered "especially serious."[14] Those convicted were:

Economist Chen Ziming, 38, and journalist Wang Juntao, 32, were each sentenced to 13 years' imprisonment. According to the Xinhua news agency, they were found guilty of forming illegal organizations and conducting a "series of activities to subvert the government." They were also found to have organized and directed "the interception of and attacks against the armed forces that were enforcing martial law and helping safeguard public order."[15] Prior to the trial, the government had labeled Chen and Wang as the "black hands" (conspirators) behind the 1989 student movement.[16] In the mid-1980s Chen organized the private Social and Economic Sciences Research Institute, which promoted political and economic reform. Wang was an editor of the Institute's now-banned Economic Studies Weekly, which often criticized government economic policies and reported on the 1989 student demonstrations. In May 1989 Chen and Wang organized an association dedicated to advancing "freedom, democracy, the rule of law and civilization," which the government declared illegal after the June crackdown. Both were arrested in October or November 1989 and have been detained incommunicado in Quincheng prison since that time.[17]

Liu Gang, a 29-year-old physics graduate from Beijing University, received a six-year sentence for "committing serious crimes." This was reported as a "mitigated sentence" because he had shown a willingess to repent.[18] Liu has for several years spoken out for greater respect for human rights in China. He was listed third on the government's 21 most-wanted list and was a prominent member of the Beijing Students Autonomous Federation. In July 1989, the Chinese press accused him of organizing a "democracy salon," whose proceedings were evidence of an attempt "to overthrow the leadership of the Chinese Communist Party and the socialist system."[19]

Chen Xiaoping, 29, a constitutional law scholar at the University of Politics and Law in Beijing and long-time human rights advocate, was exempted from criminal punishment. Xinhua reported that this was because he had surrendered voluntarily to the authorities and had shown repentance.[20] During student demonstrations in 1985, when he was a doctoral candidate in Beijing University's law department, Chen wrote in a wall poster: "China's constitution guarantees freedom of expression and assembly. Yet they tear down posters and arrest peaceful demonstrators. China should either follow its own laws or face up to its actual policies honestly, and delete these bogus rights from the constitution."[21] As a result of his statements, he was denied a prestigious job with the Legal Commission of the Standing Committee on the National People's Congress. In 1989, he played a leading role in organizing the Beijing Citizens Autonomous Union, an activist group that sought to include students, workers and intellectuals. He was arrested shortly after June 4, 1989.[22]

PRINCIPAL LEGAL CONCERNS

The Lawyers Committee believes that the trials of pro-democracy activists have not met international fair trial standards or fair trial provisions under Chinese law. As one journalist wrote about the Chinese criminal justice system, it presents "a facade that provides for strict legal procedures, but in practice permits caprice, secrecy and intimidation. To read the Chinese legal code, one might think that the system is well developed and orderly; in practice, many of the legal guarantees seem meaningless."[23] In crucial respects, including the right to a public trial, access to an attorney, and the opportunity to present a defense, Chinese legal practice is at odds with Chinese and international law. The recent trials of pro-democracy activists is disturbing testimony to the lack of respect for the rule of law in the PRC.

Prolonged Detention Without Charge or Trial

Those recently prosecuted for their participation in the pro-democracy movement have been held in apparent violation of Chinese law. Families of detained pro-democracy activists reported that they received formal notification of arrest only in late November 1990.[24] This notification, coming as long as 18 months after apprehension, far exceeds provisions of the PRC Criminal Procedure Law, which requires that persons detained by the Public Security Bureau be formally arrested within ten days following detention.[25] Moreover, under the procedural law, the maximum period for which the authorities may detain a person before formally deciding to prosecute or granting a release is five and a half months.[26]

Closed Trials

The recent trials of political activists have not been open to the public in contravention of international standards providing for open trials[27] and provisions of Chinese law. The PRC Constitution at article 125 states that "[a]ll cases handled by the people's courts, except for those involving special circumstances as specified by law, shall be heard in public." The Criminal Procedure Law at article 111 provides that the "people's courts shall conduct adjudication of cases in the first instance in public. However, cases involving state secrets or the private affairs of individuals are not to be heard in public. * * * The reasons for not hearing it in public shall be announced in court."[28]

The Chinese government has insisted that the trials of pro-democracy activists have been held in public.[29] The Xinhua news agency reported that 60 people and relatives of some of the defendants attended the first set of trials held in January 1991[30] and that "more than 300 local residents" attended the second set of trials in mid-January.[31] However, the authorities closely controlled admission to the trials and some family members of those being tried were excluded.[32] Wang Dan's family learned about his trial on the morning it took place.[33] The wife of human rights advocate Ren Wanding reported that she was not even notified of the trial of her husband, which began on January 9, 1991.[34] The wives of both men were detained briefly by the authorities after they tried to petition for open trials for their husbands.[35]

On December 22, 1990, the Lawyers Committee made a request to the PRC Ministry of Justice to send a delegation to China to monitor trials of pro-democracy activists; to date the Lawyers Committee has not received a reply. Efforts by foreign news agencies, diplomats in Beijing and international human rights organizations to attend the trials have also been unsuccessful.[36] One court spokesperson said that the ban on foreign observers was based on the court's informal interpretation of an internal Supreme Court regulation.[37] This regulation has not been made public.

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[14] Criminal Code of the PRC, art. 104.

[15] Xinhua news agency, as reported in Reuters, Feb. 12, 1991.

[16] South China Morning Post, June 21, 1990, as reported in FBIS, June 21, 1990 at 8.

[17] See Asia Watch, "Rough Justice in Beijing," Jan. 17, 1991 at 15-25.

[18] Xinhua news agency, as reported in Reuters, Feb. 12, 1991.

[19] Beijing Daily, July 25, 1989, quoted in Amnesty International, Urgent Action, Jan. 25, 1991.

[20] Xinhua news agency, as reported in Reuters, Feb. 12, 1991.

[21] Quoted in Amnesty International, "The People's Republic of China: A New Stage in the Repression," Dec. 1990 at 13.

[22] See Asia Watch, "Update on Arrests in China," Jan. 30, 1991.

[23] WeDunn, "In Murky Trials, China Buries Tiananmen Affair," New York Times, Jan. 20, 1991.

[24] On November 24, 1990, relatives of Wang Juntao, 32, and possibly Chen Ziming, 38, editors of the now banned Economic Studies Weekly, received notices from the Public Security Bureau that indicated the filing of formal charges was imminent.

[25] PRC, Criminal Procedure Law (1980), art. 48. Art. 48 provides that if the Public Security Bureau or the procuratorate does not approve an arrest within ten days of detention, "the detained person or his family has the right to demand release, and the public security organ or the people's procuratorate shall immediately release him."

[26] See Criminal Procedure Law, arts. 92, 93, 97 & 99. Further extension may only occur with the approval of the Standing Committee of the National People's Congress. Asia Watch believes that the pro-democracy activists may have been held under a form of administrative detention called "shelter and investigation" (shourong schencha), which is of questionable legal basis. See Asia Watch, "Rough Justice in Beijing," Jan. 17, 1991 at 4-5. In an interview with the Lawyers Committee, a PRC judge said that "in many cases," criminal and political suspects remain detained beyond the legal limit, even when the procuracy finds "there is not enough evidence [to convict the person]." He added that the procuracy often is "not willing to release the defendant because they think the defendant must have committed a crime, or that maybe they can find evidence later on."

[27] See Universal Declaration, art. 11; International Covenant on Civil and Poitical Rights, art. 14.

[28] Criminal Procedure Law, art. 111.

[29] Xinhua news agency, Jan. 5, 1991, as reported in FBIS, Jan. 7, 1991, at 15; see also statement of Wang Mingdi, deputy director of the Academic Research Committee of Law on Reform through Labor of Chinese Law Society, in South China Morning Post, Dec. 4, 1990.

[30] Xinhua news agency, as reported in China News Digest, Jan. 5, 1991.

[31] Xinhua news agency, as quoted in Washington Post, Jan. 27, 1991.

[32] It is the practice in China for the authorities to issue tickets for entrance to trials. According to a PRC judge, this is done in order to control the number of people attending because courtrooms are usually small and can accommodate only a limited number of people. In ordinary criminal cases, no one is denied admission in court hearings. But the judge conceded that admission tickets for trials of "serious" cases are issued by local Communist Party leaders at their discretion.

[33] New York Times, Jan. 27, 1990.

[34] New York Times, Jan. 20, 1991.

[35] See "Silence in Court," Far Eastern Economic Review, Jan. 31, 1991.

[36] An official of the Beijing High People's Court told journalists that the trial of student leader Wang Dan "is not open to foreigners." A six-member delegatioin from the Hong Kong Federation of Studnets was denied entry to the court to monitor the proceedings against Wang. Twice journalists were asked by security officers to move away from a board where the notice of Wang's trial was posted. Agence France Presse, Jan. 23, 1991, as reported in FBIS, Jan. 23, 1991.

[37] UPI, Jan. 29, 1991. "If there is such an order then we've been given the royal runaround," one diplomat was quoted as saying. "We've been told all day that the trials are open." Associated Press, Jan. 9, 1991.

Limitations on the Right to Counsel and to Present a Defense

Right to counsel during criminal proceedings in the PRC is always limited, but during the recent trials of pro-democracy activists it was even further circumscribed. The PRC Constitution and the Criminal Procedure Law provide that a criminal defendant has a right to defend himself[38] and obtain a lawyer or have one provided for him.[39] By law, defense counsel may meet with the defendant in custody to prepare a case.[40] However, the Criminal Procedure Law stipulates that the defendant may only appoint counsel, or have a lawyer designated by the government to defend him, after the people's court has decided to open the court session and adjudicate the case.[41] As a result, the defendant is not entitled to counsel during the preliminary investigation and may be subjected to repeated interrogations over the course of many months without ever being able to meet with an attorney. Defendants typically do not have access to a lawyer until the prosecution issues a formal indictment and the trial date is set, which may be as few as seven days before the trial.[42] According to friends and family members of Chen Ziming, he began a hunger strike on February 7 in order to delay the start of his trial so that his attorney would have adequate time to prepare his defense.[43]

The government has imposed further restrictions on the right to counsel of detained pro-democracy activists. Foreign news agencies reported that the Ministry of Justice required that lawyers seeking to represent pro-democracy activists receive its approval. Most defendants were represented by lawyers chosen by the Justice Ministry[44] or who were on a list that the Ministry compiled.[45] Wang Dan's lawyer was appointed for him by the government from the Beijing No. 1 Law Office.[46] In an instance of an exception that proves the rule, the Beijing Intermediate People's Court notified Liu Gang before his trial that he could choose his defense lawyer.[47]

Under Chinese law, defense counsel are entitled—in fact have a duty—to protect the legal interests of their clients. Lawyers are responsible for "safeguarding the lawful rights and interests of the defendant"[48] and for presenting "materials and opinions proving that the defendant is innocent, that his crime is minor, or that he should receive a mitigated punishment or be exempted from criminal responsibility."[49] Defense lawyers are also permitted by law to present and question witnesses and evidence during the trial.[50]

In practice the right to present a defense does not meet international fair trial standards.[51] The rights of a criminal defendant in China are sharply undermined by the strong presumption of guilt existing in the criminal justice system. Trials, especially for serious crimes such as "counter-revolutionary activity," are conducted under a procedure openly known in China as "verdict first, trial second." Before a trial commences, the three-member collegial panel of the trial-level People's Court meets and discusses the case based on information provided by the procuracy. The panel then presents its findings to the adjudication committee, a body set up in each court to supervise judicial work. These findings include a discussion of the crime with which the defendant should be charged, the evidence applicable in court, and the sentence to be imposed. The adjudication committee has authority to accept or reject the findings of the collegial panel. Decisions are reported and discussed with the relevant Communist Party political-legal committee, especially in serious cases. According to a PRC judge, "political-legal committees have the right to make the final decision," and in some areas decide almost all cases prior to trial.[52] An article in a Chinese legal magazine in 1987 concluded this "makes the open trial degenerate into a mere formality * * * and inevitably results in false and unjust cases. * * * To put the matter more sharply, the practice of 'deciding on verdicts before trial' amounts simply to a refurbished version of the presumption of guilt."[53]

An additional factor limiting the role of defense attorneys and thus infringing upon the fair trial rights of the accused is the long-held tenet of criminal justice in the PRC of "leniency for those who confess, severity for those who resist."[54] Typically, repentance for one's misdeeds plays a far greater role in determining the court's sentence than the presentation of exculpatory evidence. This was evident in the recent court decisions involving pro-democracy activists. According to the government, Wang Dan, who headed the government's 21 most-wanted list, received a four-year sentence, lenient by PRC standards, because he "committed serious crimes but has shown such repentance as confessing his own crimes and exposing others."[55] Liu Xiaobo, a prominent literary critic and long-time dissident, was convicted but exempted from punishment; the government said that Liu had "committed serious crimes but has acknowledged them, showed repentance and performed some major meritorious services."[56] By contrast, Ren Wanding, who was also charged with counter-revolutionary activities, received a seven-year term. The government stated that he "was found guilty of grave crimes and showed no repentance." Chen Ziming and Wang Juntao, who received 13-year sentences, were reported by the official news agency as having "so far shown no willingness to repent." According to a source quoted by UPI, Chen "did not acknowledge his guilt, and denied all of the charges against him."[57]

Because of the strong presumption of guilt against the defendant and the emphasis on repentance as the basis for determining sentences, defense lawyers typically devote their energies to showing the remorse of their clients and pleading for a lenient sentence.[58] During the recent trials, the government adopted measures that further weaken the defendant's right to prepare a defense. According to the Hong Kong Federation of Students, which conducted a secret trip to the PRC in January, all lawyers representing pro-democracy activists were required to submit their defenses to the Ministry of Justice for prior approval. Not only strategies, but all statements, had to be approved beforehand by the Justice Ministry.[59] Moreover, according to news reports, lawyers were only permitted to present mitigating circumstances on behalf of their clients; pleas of not guilty were forbidden.[60] The Justice Ministry reportedly informed law professors in Beijing that if they represented pro-democracy activists, they would be allowed to file not guilty pleas.[61] According to "an informed source" quoted in the South China Morning Post, "If, out of reasons including sympathy for the accused, the lawyer resorts to unapproved strategies in court, he will be penalized."[62]

LIMITATIONS ON THE RIGHT TO APPEAL

Under Chinese law, appeals must be filed within ten days of judgment,[63] except for appeals of certain capital offenses where the period is only three days.[64] In the past, persons convicted of crimes were deterred from exercising their right to appeal for fear of in-

[38] PRC Constitution, art. 125.

[39] Criminal Procedure Law, arts. 26 & 27.

[40] Id., art. 29.

[41] Id., art. 110.

[42] See id., art. 110.

[43] AP, Feb. 10, 1991.

[44] UPI, Jan. 29, 1991.

[45] South China Morning Post, Dec. 28, 1990.

[46] New York Times, Jan. 28, 1991.

[47] Hong Kong Standard, Feb. 1, 1991, as reported in FBIS, Feb. 1, 1991 at 18. The Standard considered this to be "an extraordinary concession in the dissident trials."

[48] Criminal Procedure Law, art. 28.

[49] Id.

[50] Id., arts. 114, 115 & 118. To prepare for the defense, the defense counsel is authorized by law to "consult the materials of the case, acquaint himself with the circumstances of the case," and interview and correspond with the defendant if he is held in custody (art 29). At the trial, the defender has the right to put questions to the defendant and the witnesses (arts. 114, 115); to apply for the notification of new witnesses for the obtaining of new material evidence (art. 117); to participate in debate (art. 118); and to appeal the judgment with the agreement of the defendant (art. 129).

[51] The International Covenant on Civil and Political Rights at art. 14 provides, inter alia, that a criminal defendant is entitled "to defend himself in person or through legal assistance of his own choosing"; "to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witness against him"; and "not be compelled to testify against himself or to confess guilt."

[52] Lawyers Committee interviews.

[53] Faxue, Science of Law, 1987 at 15-16, cited in Amnesty Internationa, "People's Republic of China," Aug. 1989 at 40-41.

[54] See Shao-chuan Leng, Justice in Communist China, (Dobbs Ferry, New York: Oceana Publications: 1967) at 162.

[55] Washington Post, Jan 27, 1990. The Post suggests that the government's claim may have been fabricated to discredit Wang among members of the pro-democracy movement.

[56] The "meritorious services" may have referred to his role in trying to persuade student demonstrators to leave Tiananmen Square the night of the military attack.

[57] UPI, Feb. 12, 1991.

[58] See, e.g., Randle Edwards, "Civil and Social Rights; Theory and Practice in Chinese Law Today," in Human Rights in Contemporary China, (New York: Columbia University Press, 1986) at 63-67.

[59] South China Morning Post, Dec. 28, 1990.

[60] New York Times, Jan. 28, 1991; Hong Kong Standard, Jan. 10, 1991.

[61] Washington Post, Jan. 21, 1991.

[62] South China Morning Post, Dec. 28, 1990. These restrictions are not unprecedented. An article in a Chinese legal magazine recently stated: "Lawyers * * * suffer interference in their work from party and government organs, especially from the organs of judicial administration. For example, some justice bureaus have a regulation that if a lawyer wishes to present a defense of "not guilty" in a criminal case, then he must first obtain authorization from the party organization of the justice bureaus of question. Faxue, No. 2, 1988, at 43-45, as quoted in Amnesty International, "People's Republic of China," Aug. 1989 at 43.

[63] Criminal Procedure Law, art. 131.

[64] The shortened appeal period was adopted by the Standing Committee of the National People's Congress during an "anti-crime campaign" in 1983. It applies to crimes of homicide, robbery, rape, causing explosions, arson, spreading poisons, breaching dikes or undermining transportation or electric power equipment and "other activities that seriously threaten public security." See Resolution of September 2, 1983 adopted by the Standing Committee of the National People's Congress Regarding the Procedure for Rapid Adjudication of Cases Involving Criminal Elements Who Seriously Endanger Public Security, reprinted in Civil Law and Criminal Procedure of the PRC, (Beijing: 1984) at 246.

curring heavier punishment.[65] The Criminal Procedure Law specifically stipulates that in adjudicating a case appealed by a defendant, the appellate court may not increase the criminal punishment.[66] Should a case be successfully appealed, however, the appellate court may remand the case to the court of first instance,[67] which is not bound by the above provision and hence may increase the sentence. More fundamentally, during the pre-trial discussions in which a verdict is reached, the trial court will frequently consult with the higher court in reaching a decision; as a result, a higher court will be predisposed to a verdict before the case even reaches it on appeal. To the extent that a defendant is faced with constraints and limitations in the full and effective exercise of the right to appeal, there is an effective denial of this right as guaranteed under international fair trial standards.[68]

CONCLUSIONS AND RECOMMENDATIONS

The Lawyers Committee urges the PRC government to release all persons who are being detailed for the peaceful exercise of the fundamental rights to expression, association and assembly. Trials conducted should meet fair trial standards as provided under international law. These standards have not been met in the recent trials of pro-democracy activists.

(1) Pro-democracy activists have been detained without charge in contravention of both Chinese and international law. Those who were not promptly charged with a legally-cognizable offense should be released immediately.

(2) The recent trials have denied access to foreign journalists and diplomats, monitors from international human rights organizations, and some family members of the accused. Trials should be fully open to the public.

(3) Cases have apparently been tried under the procedure known as "verdict first, trial second." International law requires trials to be conducted before a tribunal that is fair, independent and impartial.

(4) Chinese law permits detainees to be held without access to an attorney for as long as seven days before trial. As a result, the defendants have insufficient time to prepare a legal defense. International fair trial standards call for adequate time and facilities to prepare a defense. Persons taken into customer should have prompt access to an attorney.

(5) Defendants have been required to pick an attorney from government-provided lists or have had an attorney chosen for them by the government. Defendants must have an opportunity to obtain the counsel of their choice.

(6) Because of the strong presumption of guilt and the emphasis placed on repentance in the Chinese criminal justice system, lawyers are effectively prevented from defending the innocence of their clients in court. During the recent trials, lawyers have reportedly been prevented from filing pleas of not guilty. International fair trial standards require that defendants and their counsel be given the opportunity to present in court all witnesses and evidence in their defense.

(7) The right to appeal a case to a higher tribunal is undermined in China by the involvement of higher courts in the trial court verdict and the fear that an appeal could ultimately result in a higher sentence. To meet the international standard for the right of appeal, the government must permit appeals to a higher court that took no part in the initial decision.

[65] "See Jerome Cohen, The Criminal Process in the People's Republic of China, (Cambridge: Harvard Univ. Press, 1968) at 556-63.

[66] Criminal Procedure Law, art. 137. This provision "does not apply to a case where a people's procuratorate presents a protest or a private prosecutor presents an appeal." *Id.*

[67] Id., art. 138.

[68] The International Covenant on Civil and Political Rights at art. 14(4) states that "Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.".

SENATE CONCURRENT RESOLUTION 20—RELATING TO THE USE OF THE ROTUNDA OF THE CAPITOL TO COMMEMORATE THE DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. LAUTENBERG (for himself, Mr. METZENBAUM, Mr. PELL, Mr. MURKOWSKI, and Mr. KASTEN) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration.

S. CON. RES. 20

Whereas the United States Holocaust Memorial Council, established pursuant to the Act entitled "An Act to establish the United States Holocaust Memorial Council" (36 U.S.C. 1401), has designated April 7 through April 14, 1991, and April 26 through May 3, 1992, as "Days of Remembrance of Victims of the Holocaust"; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony be held at noon on April 11, 1991, and at noon on April 30, 1992, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it,

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on April 11, 1991, from 8 a.m. until 3 p.m. and on April 30, 1992, from 8 a.m. until 3 p.m. for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

• Mr. LAUTENBERG. Mr. President, today I am introducing a resolution to reserve the Capitol rotunda for a ceremony to commemorate the victims of the Holocaust. The commemorative ceremony is a way of remembering the victims of the Holocaust and serves to remind all of the apathy that gave rise to this period of unprecedented evil.

As an original member of the President's Commission on the Holocaust, I supported the initial call to remember the victims of the Holocaust through a week-long series of activities. Among the programs initiated by the Commission was an initial commemorative service held in the Capitol rotunda. This annual ceremony still serves as an example for remembering the victims of the Holocaust.

There is so much we can learn from that unforgettable period. Perhaps the greatest lesson was portrayed by Elie Wiesel, Nobel laureate and chairman of the President's Commission on the Holocaust. He wrote in the original report, "the most vital lesson to be drawn from the Holocaust era is that Auschwitz was possible because the enemy of the Jewish people and of mankind * * * succeeded in dividing, in separating, in splitting human society. * * * And not enough people cared."

If we are going to pass the lessons of the Holocaust era on to future generations, we must publicly remember the evil and suffering that occurred. There is no more fitting place to commit ourselves to this cause than the rotunda of our Capitol, which exemplifies the greatness of the world's largest and strongest democracy.•

SENATE CONCURRENT RESOLUTION 21—COMMENDING THE PEOPLE OF MONGOLIA ON THEIR FIRST MULTIPARTY ELECTIONS

Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. PELL, Mr. KERRY, Mr. AKAKA, Mr. GORE, Mr. KENNEDY, Mr. ROBB, Mr. SIMON, Mr. LUGAR, Mr. MOYNIHAN, Mr. PACKWOOD and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 21

Whereas the people of Mongolia had the first multiparty elections of their seventy year history in July of 1990 and have taken great strides toward a multiparty, pluralistic and democratic government;

Whereas the newly elected government of Mongolia has pledged to continue a peaceful transition to a democratic government and has committed to accept and implement free market and free trade principles;

Whereas the congressional leadership welcomed the President of the newly elected government on his first State visit to the United States in January;

Whereas President Bush has requested the granting of Most Favored Nation status to the Mongolian People's Republic;

Whereas Mongolia has asked for economic assistance to bolster its movement toward democracy and economic reform;

Whereas Mongolia presents the world with an admirable example of the peaceful conversion to free world values and democratic principles: Now, therefore,

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) hereby offers its congratulations to the people of Mongolia for a generally free and fair election process and looks forward to growth and development of United States-Mongolia relations on issues of mutual interest, such as regional stability, trade, and human rights.

(2) commends the political leaders and parties of Mongolia that worked together to achieve the creation of democratic pluralism and free market institutions and urges the United States Government to continue to grant all appropriate economic and technical assistance to Mongolia and its people.

(3) welcome the people of Mongolia into the community of free nations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President and requests that he further transmit such copy to the Government of Mongolia.

SENATE RESOLUTION 77—SUPPORTING MASS TRANSIT

Mr. D'AMATO (for himself, Mr. HEINZ, Mr. DIXON, Mr. CRANSTON, Mr. CHAFEE, Mr. HATFIELD, Mr. KERRY, Ms. MIKULSKI, Mr. GORTON, Mr. PACKWOOD, Mr. SPECTER, Mr. DODD, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. BOND, and Mr. SEYMOUR) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 77

Whereas, the events of the Persian Gulf have brought to the forefront the need to conserve energy and reduce reliance on energy imports.

Whereas, the transportation sector uses 63 percent of the petroleum consumed in the United States. And, automobiles and light trucks account for 40 percent of petroleum consumption.

Whereas, fuel efficiency of mass transit is markedly higher than the average commuter auto.

Whereas, a single person commuting via transit can save 200 gallons of gasoline a year.

Whereas, a subway train can carry up to 34,000 passengers per hour resulting in 30,000 less vehicles on our roads.

Whereas, bus service has the capability to reduce vehicle traffic by 90 cars every time it makes its rounds.

Whereas, the efficient movement of goods, people and services depends on a reliable mass transportation system.

Whereas, chronic congestion of our Nation's highways erodes our ability to meet clean air goals and contributes to lost productivity.

Whereas, last fall Congress increased its commitment to transit infrastructure by increasing revenues into the mass transit account of the highway trust fund.

Whereas, Congress should continue that commitment by allowing those funds to be invested.

Whereas, the Omnibus Budget Reconciliation Act of 1990 provides for increased transportation funding.

Whereas, higher fuel costs, persistent pollution problems, the increasing dependency of elderly citizens on public transportation, the mainstreaming of disabled people and growing congestion of urban corridors will increase the demands on mass transit: Therefore be it

Resolved, it is the Sense of the Senate, That the 1991 reauthorization of mass transit programs be considered as part of the solution to these and many other national problems.

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation that expresses a strong sense of the Senate that a national commitment be made to our mass transit programs. I am pleased to be joined by Senators HEINZ, DIXON, CRANSTON, CHAFEE, HATFIELD, KERRY, MIKULSKI, GORTON, PACKWOOD, SPECTER, DODD, MOYNIHAN, LIEBERMAN, KENNEDY, LAUTENBERG, and BOND.

Mr. President, as ranking member of the Banking Subcommitee on Housing and Urban Affairs, I will be working to reauthorize the transit programs which expire on September 30. Fiscal constraints are staring us right in the face but our infrastructure needs have never been greater. It is a critical time for transit.

No one knows better than our transit authorities that times are tough. It is difficult, if not impossible, just to keep pace. Fiscal pressures are forcing service cuts and fare increases across this Nation. While revenue is falling the responsibilities of our mass transit systems are growing.

In addition to the traditional role of moving people, goods, and services efficiently, our systems are relied upon more and more to reduce congestion and pollution by getting people off the roads. Transit must also meet the needs of the disabled.

I believe the resolution speaks for itself. Now more than ever, mass transit should be looked to as part of a solution to many national problems.

Mr. President, I ask unanimous consent that the text of our resolution be printed in its entirety at the conclusion of my remarks.•

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, March 20, 191, at 9:30 a.m., in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 341, the National Energy Security Act of 1991, title XI concerning corporate average fuel economy.

For further information, please contact Karl Hausker, chief economist, at (202) 224-3329.

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 343, a bill to provide for continued U.S. leadership in high performance computing.

The hearing will take place on Thursday, April 11, at 2 p.m., in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Paul Barnett.

For further information, please contact Paul Barnett of the committee staff at 202/224-7569.

Mr. FORD. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's Superconducting Super Collider Program.

The hearing will take place on Tuesday, April 16, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Paul Barnett.

For further information, please contact Paul Barnett of the committee staff at 202/224-7569.

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public, that the Senate Special Committee on Aging has scheduled a hearing to examine the effectiveness of the evaluation program for health maintenance organizations [HMO's] treating Medicare recipients.

The hearing will take place on Wednesday, March 13, 1991, beginning at 10 a.m. in room 628 of the Dirksen Senate Office Building.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a business meeting on Wednesday, March 13, 1991, beginning at 9:20 a.m., in 485 Russell Senate Office Building to adopt the committee rules.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

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

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 12, at 2 p.m. to hold a hearing on the Foreign Relations Authorization Act for fiscal years 1992 and 1993.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m. March 12, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, title IX concerning provisions which authorize a competitive oil and gas leasing program for the coastal plain of the Arctic National Wildlife Refuge in Alaska [ANWR].

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

ADDITIONAL STATEMENTS

THE MYTH OF LINKAGE

• Mr. DECONCINI. Mr. President, on August 12, 1990, Saddam Hussein attempted to cover his bloody aggression against Kuwait by asserting that his withdrawal from the emirate was linked to the resolution of all of the Middle East's ills. The region's problems are legion and were present well before Saddam became a threat to his people, much less the entire world.

As we have seen, the Arab members of the international coalition united against Saddam's aggression saw through Hussein's pretense. The fact that he was using linkage to cover his illegal acts is proven by his abandonment of those Arabs who rallied to his cause—Iraqi, Palestinian, and Jordanian alike. He has callously forgotten his people and the serious issues affecting Middle Eastern peace and security while trying to cover up what his hubris needlessly brought to thousands of his people. But sooner or later his people will learn the truth and Saddam will be exposed before his people as he has exposed himself before the world.

What remains in his wake are shattered lives, destroyed nations, and all of the Middle East's ills which he vainly sought to exploit for his own interests. There is a seed of hope, however, that through regional cooperation these issues may finally be resolved.

Saddam's scheme did not succeed. Egypt remained a strong partner in the coalition, and Syrian troops fought alongside Western forces as Saddam attempted to drag Israel into a fight in which it had no quarrel. What initially was a case of Iraq's Arab belligerence against Kuwait, a peaceful Arab country, Saddam tried—and failed miserably—to turn into a case of the "Arab nation" against Israel, the "Zionist entity."

Saddam Hussein rained Scud missiles on innocent civilians in populated areas and tried to divert the world's attention from his rape of Kuwait. The world would not be diverted. Indeed, sympathy for the plight of the Israeli innocents increased. The Arab coalition partners even grudgingly accepted the reality that Israel had a right to retaliate for Iraq's attacks against a sovereign nation.

By this act, Saddam may have laid the groundwork for a solution which years of shuttle diplomacy had failed to accomplish. The fact that Arab nations—de jure at war against Israel—were able to state that Israel has a right to defend itself against attack may be the necessary turning point which could result in recognition of Israel's right to exist within secure borders.

Egypt had made peace with Israel and, while not a warm and friendly peace, it is one which has endured through many difficult moments. As with any two sovereign nations, differences remain on a number of issues. But these are discussed and ultimately worked through to a resolution. Egypt's example of an honorable peace is one for the rest of the Arab world to emulate.

Other states in the region also have problems with Israel. Syria desires the return of the Golan Heights. Saudi Arabia would like to see real peace in Lebanon. Jordan's problems are too numerous to mention here, but it has its own internal problems which will not be easily resolved. All of these Arab nations have different ideas over what Israel's borders should be. Many other problems separate Arab from Arab. The security of Lebanon and Syria's role in that devastated nation are just the most visible of these questions.

Saddam's war should demonstrate to the Arab States that Israel is a reliable partner which truly desires peace. Now they should acknowledge the importance of secure borders for all nations. If Kuwait and Saudi Arabia deserve them, then so does Israel.

Saddam Hussein's ill-advised attempt at linkage did not help the Palestinians; in fact, it may have hurt their cause. These people have been poorly served by their so-called leaders. By siding with a nation which tried to justify its aggression, their cause was weakened—not only in the West but also among many of their Arab brethren. The Saudis had previously provided enormous financial support for the PLO and its efforts. The Kuwaitis not only quietly gave contributions to the PLO, they also provided many jobs to Palestinians working in Kuwait, enabling these workers to send money back to their families in the West Bank and Jordan.

Iraq's invasion changed all of that. The more Yasser Arafat kissed and embraced Saddam, the less inclined have the Saudis become to continue their support. Some quietly stated they would reevaluate their financial support. The Saudi Ambassador to the United States, Prince Bandar bin Sultan, in an interview with the Los Angeles Times referred to Arafat as a clown. He said the Saudis would "distinguish between Arafat and leadership of the Palestinians, and between the Palestinians and their cause." Also, the Palestinians in Kuwait have become refugees once again. It is difficult to comprehend why they would call Saddam their savior when he only added to their pain and increased their suffering.

Israel remains threatened. Seeing thousands of Palestinians rejoicing when Iraqi Scud missiles landed in Israel did nothing to assuage their sense of insecurity. Arafat's open support of Saddam's efforts has wiped out any hope that the Government of Israel can trust a man and an organization which refuse to condemn acts of terrorism and which so brazenly sided with a man who did everything in his power to incite yet another war against Israel.

It is incumbent upon Israel's neighbors to recognize the reality which Israel faces and also to publicly recognize the reality of Israel. By removing the threat to Israel's existence which is posed by the continuing state of war from its neighbors, Israel can then turn to resolving the issue which has torn at the very fabric of Israeli society—the rights of the Palestinian people. Most Israelis recognize that they have a human rights problem on their hands for their treatment of the Palestinians in the West Bank and Gaza Strip. But, under a state of siege by its neighbors, the Israelis are unable to rationally address this issue. The sooner there is peace with Israel's neighbors, the sooner there will be peace with the Palestinians.

There are many areas of contention in the Middle East which will require the combined effort of all of the states in the region if they are to be resolved. One of the most pressing is that of water and water distribution. From Turkey to Egypt, access to water has the potential for increasing the destabilization of the region. We have only to examine the problems among California, Colorado, and Arizona to understand the importance of this issue. However, resolution of the dispute between Israel and the Arab States other than Egypt must be addressed if we are to witness real progress toward regional security, arms control, and a resolution of the Palestinian issue.

Israel is willing to be a good partner on these issues, if given a chance. It may not happen overnight—longstanding animosities are difficult to overcome—but it can happen if all parties are willing to set aside the rhetoric of generations and sit at the same table. As we awaken from Saddam's nightmare, a new day may be dawning in the Middle East. Let us not miss this opportunity.•

PUBLISHERS PRESS

• Mr. McCONNELL. Mr. President, I rise today to recognize two outstanding Kentucky businessmen for their commitment to family, hard work, and a sense of community. These three elements have been the buildings blocks for their successful, expanding printing business known as Publishers Press in Shepherdsville and Lebanon Junction, KY.

Under the watchful care of fifth generation owners Nick and Michael Simon, the company has grown from a mere 40 employees in 1958 to 1,045 today. Publishers Press now prints 20 million copies of magazines a year. As the largest employer in Bullitt County, it has annual sales of $75 million a year, a $20 million payroll, and a client list that boasts a variety from the Catholic Diocese of Louisville to the late pop artist Andy Warhol.

Beyond responsible fiscal management and an impressive list of clients, the Simons take pride in "[erasing] * * * the line between workers and management," according to Nick Simon. He meets with employees once a month, pays employees a quarterly bonus, and constantly upgrades and expands employee benefits. Training and equipment, too, are part of the emphasis at Publishers. Clients as well as employees spend time learning the company and the business from beginning to end, from printing, to paste-up to binding. And it is a long company tradition to maintain cutting-edge printing equipment. This allows Publishers to nurture existing market niches and capture new ones. It is all these factors, combined with an unshakable commitment to customer service, that have allowed Publishers to maintain a 20-percent annual growth rate.

I salute these Kentuckians for their outstanding achievements, and ask that their inspiring story of dedication be inserted in the RECORD.

The article follows:

[From the Lexington (KY) Herald-Leader, Mar. 11, 1991]

MAGAZINE PUBLISHER PRESSES AHEAD IN BULLITT: PUBLISHERS PRESS KEEPS EXPANDING OPERATIONS

(By Jacalyn Carfagno)

SHEPHERDSVILLE.—Nick Simon trotted into the vast open spaces of the new Publishers Press plant in Lebanon Junction last week, a bag of green apples under his arm.

The apples were for employees who had wondered why Simon, the president of the company, didn't bring more when he came in munching one on his last visit. On this visit, apples aside, Simon was there to see the new magazine binding machine, which was fired up for the first time that day.

The 115,000-square-foot Lebanon Junction plant is the most recent expansion for Publishers. Unseated by freeway construction, Publishers moved in 1958 from Louisville to nearby Shepherdsville with 40 employees.

It grew into a company whose 1,000-plus employees print 20 million copies of magazines a year. Publishers squeezed as much as it could onto 13 acres in Shepherdsville, averaging a building permit every two months for the last several years. Last year, Publishers found a 376-acre site 15 minutes south in Lebanon Junction.

My father would have gotten a kick out of this," said Simon, as he looked around the plant. He and his brother, Michael, are the fifth generation of Simons to run the company.

The binder was the first of the giant machines to run at the new plant. By late spring, Publishers will have two presses humming and soon will have an additional 200 employees at work in Lebanon Junction.

Nick Simon's father, Frank E. Simon, died in May just as construction started at Lebanon Junction. Nick, now 32, and Michael, 31, thought about delaying construction, but decided that was not what Frank would have wanted. "He was always go, go, go, full speed ahead," Nick Simon said.

Frank Simon's drive, combined with risk taking and luck, made Publishers Press the largest employer in Bullitt County. Bolstered by a client list that has stretched from the Catholic Diocese of Louisville to pop artist Andy Warhol, Publishers has grown 15 percent to 20 percent a year in the last decade, over and above inflation.

A little more than 20 years ago, Frank Simon bet the store on high quality and quick turn-around in what the magazine industry calls a short- or medium-range run—10,000 to 100,000 copies.

Interview Magazine, the monthly founded by Warhol, is one of Publishers' largest jobs at 230,000 magazines a month. But the majority of its work is made up of much smaller runs. In January, for instance, Publishers printed 344 titles. Publishers counts itself among the top 10 percent of the short-run magazine publishers.

"We were at the right place at the right time" to capture a share of that market, said Michael Simon, executive vice president. And Publishers provided the goods. "The majority of our growth has come from reputation as opposed to aggressive marketing," he said.

The fast growth has not spoiled Publishers, said Edward Bowen, editor in chief of The Blood-Horse, a client since 1987. "It's amazing that you can have the feeling of a family in a company that large," he said. Bowen said the family feeling went beyond ownership to the Simons' relationship with their employees.

"We try to erase the line between workers and management," Nick Simon said.

Simon works on that through monthly meetings with employees, which were started by his father. With no other managers present, the employees bring their questions and complaints to the top.

This month, questions covered topics ranging from a pothole to the work schedule for the Fourth of July to health insurance for retirees and how the minimum-wage increase would affect salaries.

Publishers' $20 million annual payroll starts with entry-level salaries just above minimum wage and runs up to about $15 an hour for skilled craftsmen, Nick Simon said. None of the employees belongs to a union, he said.

Publishers also pays each employee a quarterly bonus of as much as four or five days' pay. The Simons gradually have increased other benefits to include a retirement fund, general health insurance, and dental and eye care.

Publishers' investment in its employees, and its product, goes beyond wages and benefits to training and equipment. In the mid-'80s, as the Simons explored ways to maintain quality in the face of explosive growth, they set up a training department. Every new employee spends 40 hours learning the company, the business, his job and what comes before and after.

Technical courses prepare people to move up to more skilled jobs. Publishers also pays for about 120 clients a year to come to two-day sessions. They learn everything about printing, from paste-up to binding.

As for keeping up with printing technology, Nick Simon's answer was simple: "We just try to buy the newest gadget if we need it." That follows in the tradition of his father, who "borrowed almost as much as his entire net worth" to buy a web press that would allow him to capture a larger share of the small-run magazine market, Nick Simon said.

"We plow all the money back into the business," he said. "We've never paid a dividend in 125 years." Publishers, for example, has paid $5 million in cash of the $8 million invested in the plant and equipment at Lebanon Junction.

The Blood-Horse is a magazine that requires all the technological capacity and personal service the Simons have brought to bear at Publishers. "We are a problem for printers," said Bowen the editor in chief. The Blood-Horse uses a lot of color inside the magazine and, because it reports on the thoroughbred world on a weekly basis, has a quick turnaround.

"It takes a very good printer" to meet the demand for quality The Blood-Horse requires within a budget it can afford "and to do it lickety-split," Bowen said.

"I never sense that my problem is put behind someone else's. That has to be based on a true concern for their clients," he said.

At Publishers, Michael Simon and five employees make up the marketing staff. In contrast, the customer service department has more than 100 workers. Although Nick Simon described Publishers as "a lean operation," the service staff is not eyed for cuts. "A lot of companies would look at that as overhead and try to carve on that, but we don't," Nick Simon said.

The Simons, with their recent expansion at Lebanon Junction, figure they can keep up the 20 percent annual growth.

Ron Davis, chief economist at Printing Industries of America, agreed that the future is bright for short-run magazine printers who can control costs and maintain quality.

"That's the growth segment," he said. "We're really into an era of micromarketing rather than mass marketing."

Advertisers are eager to buy space in magazines that focus on a particular group while trade and business associations have upgraded to slick magazines with high-quality color.

"We could have another 1,000 people working here," Nick Simon said, looking at the open ground around the new plant.•

ANNIVERSARY OF LITHUANIAN DECLARATION OF INDEPENDENCE

• Mr. SIMON. Mr. President, March 11, 1990, was a historic day for the people of Lithuania. On March 11 of last year, after 40 years of illegal Soviet occupation, the newly elected Lithuanian Parliament declared Lithuania once again to be an independent state. Today, I want to recognize this brave step by a country of 4 million people who want nothing more than to be free.

The Soviet Government has not been serious about Lithuanian and the Baltic States. In Lithuania alone, Moscow has tried an economic blockade, delayed negotiations and even killed people in the Lithuanian capital of Vilnius. Now the Soviets are resorting to disrupting the flow of mail between Lithuania and the United States. We ought to support these brave people who have not lost their desire to be free.

On February 9 of this year, 90 percent of the Lithuanian people voted on a referendum calling for independence. The Soviet Union declared this referendum null and void. Latvia and Estonia held similar votes a few weeks ago, also with positive results for freedom.

These states earned the right to determine their own futures. The Administration has recently made some efforts by supplying the Baltic States with emergency medical aid and delaying loans for American-Soviet joint ventures. The United States needs to go further by internationalizing the negotiations between Lithuania, Latvia, Estonia, and the Soviet Union. We formed a 28-nation coalition to oust Iraq from Kuwait; we can at least bring the topic of the Baltic up at the United Nations.

During our Revolutionary War, the young United States of America would not have survived without the support of France. As a symbol of self-determination, the United States has an obligation to help the democratic forces in Lithuania, Latvia, and Estonia.•

TRIBUTE TO STEPHEN T. BOW

• Mr. McCONNELL. Mr. President, it is my distinct pleasure at this time to recognize the remarkable achievements of Mr. Steve T. Bow, president and chief executive officer of Blue Cross and Blue Shield of Kentucky. Both his work with Blue Cross and Blue Shield and his ongoing work with the State of Kentucky and the city of Louisville have secured his position in the community in the truest meaning of the word "citizen."

Mr. Bow serves as a member of the board of directors of many institutions, including the Kentucky Chamber of Commerce, Berea College, the Greater Louisville Economic Development Council, and the Metro United Way. He has received such honors as Kentucky Citizen of the Year, the United Negro College Fund's Frederick D. Patterson Award, and County Volunteer of the Year. All told, Steve Bow contributes between 75 and 100 hours of work either overseeing nearly every department within the offices of Blue Cross and Blue Shield or volunteering his time to the community.

Since his arrival in May 1989, Bow has piloted Blue Cross and Blue Shield of Kentucky as president and chief executive officer, and during this time, he has turned what many brokers termed "an institution with a uncertain future" into "an aggressive marketing firm with a confident future."

This homegrown product from Burkesville, KY, has proven himself to be a constructive force for the State and its people. He has garnered praise and respect from professional colleagues to basic policyholders, whose interests he must protect. Mr. Bow practices what he preaches, going beyond the basic business concerns to sharing his personal time with others.

At this time, I ask that two articles from the Louisville Courier-Journal on Mr. Bow and the changes within Blue Cross and Blue Shield of Kentucky be printed with this statement in the RECORD.

The articles follow:

[From the Louisville Courier-Journal, Feb. 28, 1991]

BOW INHERITED KNACK FOR FIXING

(By Ben Z. Hershberg)

Stephen T. Bow is a tall, trim man whose youthful style and energy contradict his white hair and the 59 years of age listed on his resume.

His personal, down-to-earth manner and his rural Kentucky accent also contrast with the corporate power and prominence he's gained as president of the state's largest health insurer.

Bow, born in Burkesville, spent his youth on family farms in Kentucky and Indiana. Later, he traveled roads in the South during the summer selling Bibles to pay for his living expenses at Berea College.

Those early experiences seem to have little in common with his career. In recent years he managed regional offices for Metropolitan Life Insurance Co. in San Francisco and Chicago, far away in distance and style from the small farms where he was reared.

Yet Bow finds a common thread running through those experiences.

In much the same way that his father liked to pick up old, run-down farms, shape them up and move on, Bow said, he enjoys the challenge of trimming costs, boosting sales and creating more efficient operations.

For example, during 1984, his first full year in charge of Metropolitan's San Francisco office, Bow said, he cut expenses by $14 million and helped boost productivity and income.

Now, as the top executive overseeing more than 2,000 employees at Blue Cross, he's taking similar steps. A few months after joining the health insurer in May 1989, Bow began cutting its work force and pricing insurance premiums more carefully to improve profitability. He also has tried to improve the company's overall responsiveness to the public—and its own employees.

Sometimes, however, Bow's outgoing style has backfired.

One evening during July 1989, two months after his arrival, recalled J. Hartlage, a claims manager, Bow walked by and complimented him effusively on changes he had made in the department and said he was glad Hartlage was on the team.

At 8 a.m. the next morning, Hartlage was laid off after 21 years with Blue Cross because of the corporate reorganization. Hartlage now works as a claims supervisor for the Prudential Services Co.

Bow, when asked about the incident, said his timing was bad. But he didn't know Hartlage was to be laid off, and he was trying to encourage everyone.

Rhonda Burns, a secretary in the corporate audit department, said Bow's management style is still outgoing. And she thinks it's effective.

"He's been in our area numerous times," always saying hello to employees, Burns said. "He's super, outgoing person."

These days, Bow travels a few days a month for Blue Cross and puts in 70 to 75 hours a week on company business, he said.

However, his schedule of Blue Cross affairs has eased from his first months with the company, so that he can now spend a couple of days a week at the Kentucky Home Mutal Insurance Co. office in downtown Louisville, Bow said.

Blue Cross affiliated with Kentucky Home last year and soon will begin selling group life insurance provided by Kentucky Home with its health insurance, receiving a fee for distributing the life insurance. It used to have a similar arrangement with an out-of-state insurer, but now will have more control of the life insurance policies and premiums, which should help both companies' growth, Bow said.

The insurance, executive still seems more comfortable selling life insurance than health insurance, which is much less predictable and generally less profitable than life policies.

As he explained, with a laugh, "sane people sell life insurance, insane people sell health insurance."

Bow is married and has twin sons who are 15 years old and four daughters ranging in age from 31 to 39. He lives in Anchorage, Ky. His hobbies include reading, painting and golf.

[From the Courier-Journal, Feb. 24, 1991]

STRENGTHENED BLUE CROSS SEES TEST AHEAD

(By Ben Z. Hershberg)

Most of Blue Cross and Blue Shield of Kentucky Inc.'s vital signs are strong today.

But the health insurance industry is entering tougher times, observers say, with the economy weakening, medical costs soaring and competition among insurers heating up to a fever pitch it hasn't reached for the last two years.

Even company President Stephen T. Bow, credited with reviving Blue Cross in recent years, warns that many insurers are offering premiums that seem too low to cover costs. And he thinks many of them are likely to start losing money as the industry dives toward the bottom of a three-year cycle of profitability and losses later this year.

How Blue Cross fares is critical to Kentucky.

The company sets insurance premiums and pays for the medical care of nearly 900,000 people statewide, many of them in rural areas where there are few health-care alternatives.

Its success or failure also will affect most of the state's hospitals, for which Blue Cross is a major source of funds.

In Louisville, as the leader of not-for-profit hospitals' efforts to compete with Humana Inc., Blue Cross' growth or decline will largely determine the number of patients they treat.

Four years ago Blue Cross losses alarmed many.

Buffeted by soaring medical costs and intense competition with Humana and others, the stodgy and once-dominant insurer in Kentucky and Louisville lost nearly $100 million in 1987 and 1988. If losses had continued

at that rate, Blue Cross would have been insolvent within three years.

Shaken by the financial threat, Blue Cross management didn't renew many money-losing insurance contracts in 1987 and 1988, including a large health plan for state employees. And it boosted rates sharply on other unprofitable lines.

As a result, the company lost thousands of customers and touched off widespread criticism by state officials and consumers. But the groundwork for its financial improvement in the last two years was laid partly by those controversial steps.

Bow, who had been a Metropolitan Life Insurance Co. executive in San Francisco, stepped into the storm in May 1989, eight months after the resignation of his predecessor, Douglas Sutherland.

By July 1989 Bow had started cutting costs through layoffs and early retirements. By year end 359 people—nearly 16 percent of the work force—had been cut from the payroll.

Bow also brought in or promoted a host of new executives. And he worked to make the company more responsive to the public.

William Davenhall, a Louisville health-care consultant who has observed Blue Cross for many years, called the changes impressive.

"Blue Cross has gone from being an elephant to being a gazelle," he said.

"But they are still in the same jungle."

Continued survival depends on how quickly the company can react to changes in the turbulent health-care environment without slipping too often. Davenhall and other industry observers said. That environment, if anything, is getting more complex and difficult, Davenhall said.

Kevin Russell, a vice president of Hyers & Levy Inc., a nationally prominent Louisville actuarial firm, agreed that Blue Cross's financial condition seems to have improved a great deal.

Like other analysts, he belives the health-insurance industry remains turbulent and seems to follow a three-year cycle. In the first year, companies typically hold down premiums to increase their business. After losing money for a year or two, they raise their prices and profitability. Then they repeat the same cycle.

"The disturbing thing is that losses appear to be getting larger and gains appear to be getting smaller," Russell said.

Bow acknowledges that he can't promise the health insurer will never again report losses. "We're not immune to them," he said, adding that he believes Blue Cross is now prepared to ride out such problems.

Some of the company's vital statistics bear him out.

Through nine months of 1990 Blue Cross made more than twice as much money as it made in all of 1989. The company added $41.7 million of net income to Blue Cross financial reserves in that nine-month period bringing total reserves to $154,962,000.

Insurers use reserves to cover losses in difficult times. The level of Blue Cross reserves at the end of September would last the company for 2.5 months if income were interrupted and claims were incurred at the rate of recent months. The industry likes to maintain reserves that would last for 3 months, a goal, Bow wants to reach and exceed in the next few months.

The company also added more than 44,000 new members, or more than 5 percent, to its health plans in 1990 bringing total enrollment to 871.976 people.

In addition, company expenses in 1990 were equal to about 10.1 percent of the premiums it collected, down from 12.3 percent in 1989 and 11.4 percent in 1988.

A lower ratio of expenses to premiums in the insurance industry indicates a company is more efficient. Bow wants to get expenses below 10 percent, which would be a low level for a health insurer.

Outside observers and some former employees agree that Blue Cross has changed greatly in the last two years. But some of them believe morale is still low within the organization and that some departments are disorganized.

"My impression is, the new leadership is very desirous of creating a high state of responsiveness to physicians and policy holders," said Arnold Belker, president of the Jefferson County Medical Society.

"I'm not sure they've done it."

On occasion his office or patients get told different things by different people in Blue Cross in response to the same questions, Belker said, adding that it takes time to implement fundamental changes in attitude and performance in an organization as large as Blue Cross.

J. Hartlage, a former Blue Cross claims manager who now is an associate claims manager for the Prudential Services Co., said friends still working at Blue Cross often tell him morale is low, with many people fearing their jobs are in jeopardy.

Phil Fister, a unit specialist in Blue Cross's national accounts department, disagreed. The long-time Blue Cross employee said, "You hear rumors about different things, that there might be more cutbacks through attrition. That's what I think's going to happen."

Even with such uncertainties, Fister said he believes Blue Cross workers are more confident about the future than they were two years ago.

Hartlage and others said some appointments also have affected morale within the company, including the hiring last year of Greg Miller as vice president of cost containment. He is the son of former board chairman Joe Miller, who still is a director of Blue Cross.

Bow rejects any suggestion of nepotism in his appointments. Greg Miller had worked in Chicago for the American Medical Association's insurance agency, which sells malpractice and other insurance to doctors, Bow said. So he was well qualified.

Like Fister, many people outside the company also are more confident about its future then they were a few years ago.

Insurance broker Marvin Smith noted that Blue Cross has gone from a service-type organization focused on paying claims quickly to an aggressive marketing firm.

A few years ago, Humana Inc.'s marketing-oriented insurance division "was just doing a number on them," said Smith, whose company, Insuramax Inc., sells both companies' coverage.

Blue Cross traditionally dominated the Louisville health-insurance market, he said. But Humana marketed its insurance plan so aggressively that within a few years it managed to share the Louisville insurance business about equally with Blue Cross—each with about 40 percent. (Another 15 to 20 percent of the insurance customers locally are self-insured or insured through other companies.)

Smith thinks Blue Cross is giving a much better account of itself today than it did a few years ago, marketing more aggressively and effectively than it used to.

However, Blue Cross still has some problems in dealing with outside brokers like himself, Smith said. It sometimes takes longer than he expects to get Blue Cross to quote premiums or provide other information for prospective clients, he said. He also thinks there's a chance for new rate wars in the Louisville insurance business.

Blue Cross is introducing a health plan, Preferred Option, that seems to be modeled on Humana's fast-growing Kentucky Physicians Plan, Smith said. Both health plans tightly control which doctors and hospitals their patients can use in return for lower premiums.

Blue Cross hopes to control premiums for Preferred Option because most of the city's not-for-profit hospitals and a doctors' organization own 49 percent of it. Blue Cross owns the balance.

The hope is that hospitals and doctors will offer lower charges in exchange for a larger share of the health-care market and a share of the profits.

Smith believes Preferred Option will grow rapidly because it will be priced competitively.

What's unknown, both Smith and Davenhall said, is whether it will mostly attract customers from other Blue Cross health plans or from Humana and other insurers.

If it attracts primarily people who already were Blue Cross customers, the insurer could just end up with a smaller share of the profits it might have earned without Preferred Option.

Whether that will cut Blue Cross profits isn't clear. But the company's overall strength will become apparent in the next year or two if the tough competition develops that Bow expects.

Already, Bow said, he sees many insurers, whom he declined to name, pricing their health plans at money-losing levels.

Blue Cross is observing the market and may have to do some "barebones pricing" itself to keep attracting new customers, he said.

That's admittedly risky. But Bow stressed that the company has no intention of putting itself back into the precarious position it was a few years ago, although it won't intentionally set rates so low it loses money.

Blue Cross can succeed, Bow said, by responding to consumer needs even in the most competitive market.

"If you let the customer do what the customer wants," Bow said, "the company comes out fine." •

S. 596—FEDERAL FACILITY COMPLIANCE ACT

• Mr. REID. Mr. President, I am pleased to rise today to express my support for the legislation introduced recently by Majority Leader MITCHELL, the Federal Facilities Compliance Act. This is an important piece of legislation that has far-reaching implications for a number of Federal agencies. When enacted, this legislation will provide a measure of assurance that the Federal Government will comply with the requirements of the Resource Conservation and Recovery Act in the same manner that it must comply with other comprehensive environmental laws. It is time that the Federal Government becomes a responsible neighbor to the public in the vicinity of Federal installations; we should send a clear signal

that the public should not be exposed to the health consequences of waste mismanagement by the Federal Government.

Every year Federal facilities generate and dispose of huge quantities of hazardous waste. Such waste includes radioactive materials, heavy metals, acids, and nitrates. All of these can cause major environmental problems if not managed properly. All too frequently, reports of waste mismanagement surface in the press; it is highly likely that major environmental insults still have not been discovered or reported to appropriate authorities. It is one thing when a private corporation abuses the environment, but, in the minds of many, wholly another when the Federal Government is the abuser.

The Federal Government has been notably slow to comply with Federal and State environmental laws. In some instances, regulations are not heeded and facility staff or contractors shy away from reporting abuses; coverups do occur. Recently, the Department of Justice has decided to prosecute the contractors involved with the coverup of a 20,000-gallon spill of jet fuel at the Fallon Naval Air Station in Nevada. The arm of the law cannot stop at the gate of Federal facilities; the public in the vicinity of Federal facilities warrant no less protection than the public in the vicinity of private companies.

I have long been concerned with the failure of those Federal facilities that are located in Nevada to comply with Federal and State environmental laws. In particular, the Department of Energy has been slow to meet environmental regulations at the Nevada test site. Last month, the Office of Technology Assessment released its report "Complex Cleanup" that deals with the environmental problems at the DOE weapons complex sites; it concluded that DOE "has yet to establish the credibility and capability necessary for the massive cleanup" that lies ahead.

It is unfortunate that we cannot rely solely upon the goodwill of the Departments of Energy and Defense to get their house in order. The cleanup efforts that they are undertaking today are still subject to the same priority setting machinations that go on in every agency. The proper management of hazardous waste materials cannot be subject to reactive management.

Mr. President, concern for the environment and the public that lives in the vicinity of Federal installations must be ingrained into the mindset of Federal employees and contractors. Changing the mindset is a slow and arduous process. The Federal Government must set the example for others to follow rather than to ridicule.●

ONE YEAR ANNIVERSARY OF LITHUANIAN INDEPENDENCE

● Mr. D'AMATO. Mr. President, exactly 1 year ago yesterday, a new, democratically elected government of Lithuania declared the restoration of its lost, post-1940 independence. The entire world looked on with total amazement and disbelief as the small state of Lithuania and its people stood up to the giant Soviet bear and reasserted their overwhelming desire for self-determination and freedom.

Much has happened in that year. Lithuania withstood a severe Soviet economic blockade, but suffered as a massive invasion of Soviet military. Interior and black beret troops came rumbling into the country and capital city of Vilnius, resulting in the death of 15 innocent people on "Bloody Sunday."

I recently returned from Lithuania, where I met with President Landsbergis and saw for myself how the Lithuanian Parliament building stood surrounded by rings of barricades awaiting an onslaught of Soviet troops, which lurk quietly on the streets and back lots of Vilnius. I saw for myself how Soviet troops have occupied the Vilnius television tower and broadcast center, and where, to this very day, Soviet troops occupy that facility, while imported Soviet commentators preach KGB propaganda. And I saw for myself how committed the people of Lithuania, both young and old, remain to total independence. It is a commitment which will not go away.

Four weeks ago the people of Lithuania held a national plebescite, one of the oldest concepts of democracy, in which they voted overwhelmingly, over 90 percent, for independence. While over 80 percent of Lithuania's population is Lithuanian, the remaining 20 percent of the population is comprised of various other minorities, primarily Russian and Polish, who also voted in large numbers for independence. It should come as no surprise that freedom and self-determination are concepts that only dictators oppose. Just recently this Nation undertook a heroic battle to restore freedom and fight oppression in the Persian Gulf. While that battle was victorious we must not forget the people of Lithuania, and the other Baltic States, who are held illegally by an ominous empire whose days are numbered.

Mr. President, the people of Lithuania deserve their independence. Perhaps more than any other nation, the people of Lithuania, Latvia, and Estonia have had to endure a daily hell for nearly 50 years. Life in the Soviet Union is not easy, and the yoke of Soviet oppression destroyed the once flourishing democracies of the Baltic countries, and now subjects the people to a standard of living barely above that of a Third World country. The people of the Baltic States need our help and they need our assistance to end their nightmarish occupation by the Soviet Union.

Mr. President, I stand here today and call on my colleagues to continue the battle for the oppressed peoples of Lithuania. For too long, Mr. President, we have given the Soviets a free hand to work their will in the Baltic States. Even in light of our nonrecognition policy, which does not recognize the illegal occupation of Lithuania, Lativa, and Estonia by the Soviet Union, we have done too little for too long.

What is even more outrageous is the fact that even Mr. Gorbachev's own committee of the Supreme Soviet, created to investigate the legality of the Soviet annexation of the Baltic States, found that the Soviet occupation was indeed illegal under the Hitler-Stalin pact; yet, we in the West have failed to take the appropriate steps to recognize Lithuania's independence.

The Lithuanian democratic movement has been peaceful and just. We in the United States must recognize that Lithuania suffered a grave injustice with the outbreak of World War II. This injustice must be addressed so that the last remaining vestige of World War II, the illegal annexation of the Baltic States by the Soviet Union, can finally be put to rest.

Eastern Europe now glows in the reborn spirit of democracy. We in the West must make sure that freedom will not be lost to another generation of Lithuanians. May God bless the people of Lithuania and the hundreds of thousands of American-Lithuanians who continue the drive for the full restoration and recognition of Lithuania's independence on its first-year anniversary.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee has received a request for a determination under rule 35 for Mr. John Barnes, a member of the staff of Senator GRASSLEY to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the U.S.-Asia Institute, from March 25 to April 5, 1991.

The committee has determined that participation by Mr. Barnes in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs and the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Dan Berkovitz, a member of the staff of Senator BURDICK, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the U.S.-Asia Institute, from March 23–April 5, 1991.

The committee has determined that participation by Mr. Berkovitz in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs and the U.S.-Asia Institute, is in the interest of the Senate and the United States.●

S. 364, BUSINESS AND EDUCATION PARTNERSHIP ACT

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 364, the Business and Education Partnership Act of 1991. I commend my colleague from Connecticut, Senator LIEBERMAN, for his commitment to developing a better educated, more highly skilled work force, and for introducing legislation to help accomplish this goal.

It is clear, Mr. President, that unless we so something to bridge the gap between the poor performance of today's students and the growing demand for a highly educated work force, we will soon find it impossible as a nation to compete effectively in the world market.

The truth of this is not lost on the American business community, which spends roughly $30 billion a year on worker training and education. Citibank is one of a growing number of U.S. companies that have decided it is in their own best interest to invest in the education of tomorrow's workers. Last May, the company said it would invest $20 million over the next 10 years to improve urban schools. Their aim is simple: to ensure that the students they support are prepared either for college or for employment when they complete secondary school.

Mr. President, that is precisely the aim of this legislation. S. 364 provides incentives for the establishment of several types of business/education partnership programs designed to provide training for the college-bound and the noncollege-bound, as well as those in the work force in need of basic skills training or retraining to keep up with advances in technology.

Specifically, S. 364 will authorize the Secretary of Education to make grants to business and education partnerships to establish several high schools of science and mathematics, model technology high schools, and experimental "Governor's Model Schools." The success of the Bronx High School of Science in producing leaders and scholars in the sciences demonstrates the potential of specialized curriculum schools in revitalizing our Nation's command of math and science. I believe that the innovative programs supported by this legislation can be equally successful in producing workers with the technical knowledge needed to compete in our modern economy.

Mr. President, I again commend Senator LIEBERMAN for his leadership in promoting a skilled work force by encouraging partnerships between business and education. I encourage my colleagues to join me as a cosponsor of S. 364, and I urge its prompt passage.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, 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 $1.7 billion in budget authority, and under the budget resolution by $1.3 billion in outlays. Current level is $1 million below the revenue target in 1991 and over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $325.7 billion—$1.3 billion below the maximum deficit amount for 1991 of $327 billion.

The report follows:

U.S. CONGRESS,
Congressional Budget Office,
Washington, DC, March 12, 1991.

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

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through March 8, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508). 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.

Since my last report, dated March 4, 1991, the Congress has cleared for the President's signature H.R. 180, Veterans' Education, Employment and Training Amendments. This action increases the current level estimates of budget authority and outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., AS OF MAR. 8, 1991

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
On-budget:			
Budget Authority	1,189.2	1,187.5	−1.7
Outlays	1,132.4	1,131.1	−1.3
Revenues:			
1991	805.4	805.4	—
1991–95	4,690.3	4,690.3	—
Maximum deficit amount	327.0	325.7	−1.3
Direct loan obligations	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,353.5	−791.5
Off-budget:			
Social Security Outlays:			
1991	234.2	234.2	—
1991–95	1,284.4	1,284.4	—
Social Security revenues:			
1991	303.1	303.1	—
1991–95	1,736.3	1,736.3	—

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508).

[2] 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. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508) current level excludes $1.0 billion in budget authority and $1.2 billion in outlays for Operation Desert Shield; $.1 billion in budget authority and $.2 billion in outlays for debt forgiveness for Egypt and Portland; and $.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the Committee attributes to the Omnibus Budget Reconciliation Act (P.L. 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service Appropriations Bill (P.L. 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS MAR. 8, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	—	—	834,910
Permanent appropriations and trust funds	725,105	633,016	—
Other legislation	664,057	676,371	—
Offsetting receipts	−210,616	−210,616	—
Total enacted in previous sessions	1,178.546	1,098,770	834,910
II. Enacted this session: Extending IRS Deadline for Desert Storm Troops (P.L. 102–2)	—	—	−1
III. Continuing resolution authority	—	—	—
IV. Conference agreements ratified by both Houses: Veterans' education, employment and training amendments (H.R. 180)	2	2	—
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−6,307	799	—
VI. Economic and technical assumption used by Committee for Budget Enforcement Act estimates	15,000	31,300	−29,500
On-budget current level	1,187,484	1,131,115	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining			
Over budget resolution	—	—	—
Under budget resolution	1,731	1,281	1

Note.—Numbers may not add due to rounding.●

COMMENDING CHRISTOPHER J. MANGI

● Mr. D'AMATO. Mr. President, I rise today to congratulate Christopher J. Mangi on being presented with the American Red Cross Certificate of Merit.

This citation is the highest award that is given by the Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a Red Cross course. Mr. Mangi was trained in Red Cross CPR at the Nassau County Chapter. He performed CPR on a victim of an apparent heart attack, Frank N. Rocco, and continued this lifesaving effort until relieved by advanced medical personnel.

The Certificate of Merit, which is signed by President Bush, commends Mr. Mangi for selfless and humane action in saving a human life. I would like to take this opportunity to salute this fine individual for performing such an heroic deed.●

MEASURE PLACED ON THE CALENDAR—H.R. 751

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 751, the National Literacy Act, it be placed on the calendar.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 17. James E. Denny, to be an Assistant Commissioner of Patents and Trademarks; Calendar 18. Maurice O. Ellsworth, to be U.S. attorney for the District of Idaho; Calendar 19. Montgomery Tucker, to be U.S. attorney for the Western District of Virginia; and Calendar 20. Ronald G. Woods, to be U.S. attorney for the Southern District of Texas.

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

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

James Edward Denny, of Maryland, to be an Assistant Commissioner of Patents and Trademarks.

DEPARTMENT OF JUSTICE

Maurice Owens Ellsworth, of Idaho, to be U.S. attorney for the District of Idaho for the term of 4 years.

E. Montgomery Tucker, of Virginia, to be U.S. attorney for the Western District of Virginia for the term of 4 years.

Ronald G. Woods, of Texas, to be U.S. attorney for the Southern District of Texas for the term of 4 years.

LEGISLATIVE SESSION

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

EXECUTIVE CALENDAR UNANIMOUS-CONSENT AGREEMENT

NOMINATION OF ROCKWELL A. SCHNABEL

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that the Committtee on Commerce, Science, and Transportation be discharged from further consideration of the nomination of Rockwell A. Schnabel to be Deputy Secretary of the Department of Commerce and that the Senate proceed to the immediate consideration of the nomination; that the nomination be confirmed; that the motion to reconsider be tabled; and that the President be notified of the Senate's action.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

COMMENDING THE PEOPLE OF MONGOLIA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 21, commending the people of Mongolia on their first multiparty elections, submitted earlier today by Senators CRANSTON, MITCHELL, PELL, KERRY, AKAKA, GORE, KENNEDY, ROBB, SIMON, LUGAR, MOYNIHAN, and PACKWOOD and now at the desk.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 21) commending the people of Mongolia on their first multi-party elections.

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

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

Mr. CRANSTON. Mr. President, it is with great pleasure today that I submit a concurrent resolution with the support of Senators MITCHELL, PELL, KERRY, AKAKA, GORE, KENNEDY, ROBB, SIMON, LUGAR, MOYNIHAN, and PACKWOOD commending the people of Mongolia on the first multiparty elections.

I have the honor of being the only United States Senator to have visited Mongolia, and since my 1987 visit, it is with great pride that I have watched the growth of this infant democracy.

In the past year, Mongolia has taken major strides toward completing a peaceful transition to a democratic government and embracing free market and trade principles. At present, elected officials in Mongolia are drafting a new constitution. As the International Human Rights Law Group observed last November, "the electoral process fundamentally changed the landscape of Mongolian politics."

I am pleased to note that United States-Mongolian relations have increased steadily over the last 3 years. Most recently, the congressional leadership welcomed the President of the newly elected government on his first state visit to the United States. During this visit the United States and Mongolia signed a trade agreement, providing most-favored-nation status. Furthermore, the Peace Corps has recently sent its first delegation of volunteers to Mongolia and the Agency for International Development [AID] is beginning a small technical assistance program. These represent small, positive steps toward a close relationship for which the administration is to be commended.

Soviet-Mongolian relations also have changed. The Soviet Union has been removing its troops from Mongolia and has stopped its foreign aid program to Mongolia. Mongolia owes the Soviet Union a billion rubles. Mongolia has therefore asked several members of the international community for economic assistance to bolster its movement toward democracy and economic reform.

Mr. President, during this critical phase of its development Mongolia is in need of support as it finds a place in the New World Order.

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

The concurrent resolution (S. Con. Res. 21) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 21

Whereas the people of Mongolia had the first multiparty elections of their seventy year history in July of 1990 and have taken great strides toward a multiparty, pluralistic, and democratic government;

Whereas the newly elected government of Mongolia has pledged to continue a peaceful transition to a democratic government and has committed to accept and implement free market and free trade principles;

Whereas the congressional leadership welcomed the President of the newly elected government on his first state visit to the United States in January;

Whereas President Bush has requested the granting of most-favored-nation status to the Mongolian People's Republic;

Whereas Mongolia has asked for economic assistance to bolster its movement toward democracy and economic reform;

Whereas Mongolia presents the world with an admirable example of the peaceful conversion to free world values and democratic principles: Now, therefore,

Resolved by the Senate (the House of Representatives concurring), That the Congress

(1) hereby offers its congratulations to the people of Mongolia for a generally free and fair election process and looks forward to growth and development of United States-Mongolia relations on issues of mutual inter-

est, such as regional stability, trade and human rights.

(2) commends the political leaders and parties of Mongolia that worked together to achieve the creation of democratic pluralism and free market institutions and urge the United States Government to continue to grant all appropriate economic and technical assistance to Mongolia and its people.

(3) welcomes the people of Mongolia into the community of free nations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President and requests that he further transmit such copy to the Government of Mongolia.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. I also ask unanimous consent I be made a cosponsor of the resolution.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Republican leader be recognized to address the Senate and that upon the completion of his remarks, the Senate stand in recess, as under the order, until 9 a.m. tomorrow morning.

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

The Republican leader is recognized.

CAMPAIGN FINANCE REFORM

Mr. DOLE. Mr. President, I want to speak about campaign finance reform.

The Senate Rules Committee held its first hearing on the politically contentious issue of campaign finance reform.

Two more hearings are scheduled for later this week.

Once the hearings are completed, the Rules Committee will undoubtedly report out S. 3, the democratic campaign finance reform bill introduced this past January.

At the committee markup, I am afraid it is going to be a strict party-line vote—9 Democrats versus 7 Republicans, no amendments, no compromise, no bipartisanship, and a far cry from the recent recommendations of another committee of the Senate; the Ethics Committee.

ETHICS COMMITTEE RECOMMENDATIONS

In its preliminary report on the so-called Keating five investigation, the Ethics Committee "urges the leadership of both the Senate and the House to work together in a bipartisan manner to address the urgent need for comprehensive campaign finance reform."

That is a direct quote.

It is not my recommendation, nor is it the recommendation of the Republican Policy Committee.

It is a recommendation of the Ethics Committee, and it is one that I fully endorse.

Mr. President, if we are to achieve meaningful reform this session, we must have the commitment to place the national interest above partisan political advantage.

That is why I proposed the appointment last year of a six-member bipartisan panel of campaign finance experts.

That is why I introduced a bill earlier this year, whose provisions are closely modeled after the bipartisan panel's recommendations.

And that's why I have written to the distinguished majority leader.

I want to say that Senator MITCHELL has very graciously and positively responded to my letter and agreed we must continue to search for a compromise solution that will break the partisan deadlock in the Senate.

Mr. President, I planned on testifying before the Rules Committee but because, I think, due to the pro forma nature of the hearings, with a parade of witnesses with a foregone conclusion, that it would probably be in the better interest to try to save that time and use it to negotiate when that bill reaches the floor.

I might add, I have spoken with the distinguished Senator from Oklahoma [Mr. BOREN] who certainly is prepared, as he has been in the past, to sit down and work out a bipartisan compromise. I had a feeling in today's Republican policy luncheon that it was pretty much the same attitude. The White House, represented by Chief of Staff John Sununu also indicated that if there could be some consensus reached, that he thought it might have the backing of the White House, of the President.

Let us face it. There are some basic differences, public financing and expenditure caps. And there may be some way to resolve those. It seems to me there are opportunities we have not explored. It cannot happen unless we have bipartisanship. Maybe it is necessary just to have the pro forma hearings to get something to the floor. I have no particular quarrel with that.

I do not know when the bill is coming out of the committee. I understand there may be some interest in moving to campaign finance reform earlier rather than later. Certainly we have no objection to that. But I wanted to indicate to anybody who had an interest, I am interested in working out a bipartisan campaign finance reform package.

ETHICS COMMITTEE AND SOFT MONEY

Mr. President, I might add—as a footnote—that one of the key issues in the Ethics Committee's investigation centers around the solicitation of funds for so-called tax-exempt, get-out-the-vote organizations.

The facts show that these funds were solicited from Charles Keating and theoretically used for nonpartisan purposes.

No proposal can legitimately bear the name reform if it fails to purge this sewer money from the campaign finance pipeline.

This is the worst kind of money in politics—undisclosed, unregulated, and, in many instances, virtually unlimited.

"CUT-AND-PASTE" VETO STRATEGY

Mr. President, last year, both the Senate and the House each passed partisan campaign finance reform bills.

Both bills, however, were victims of Congress' failure to work out the major differences in conference.

Now, some may suggest that last year's Senate and House bills ought to be passed again, but with a new twist.

Instead of making an effort in conference to draft a comprehensive set of rules for the entire Congress, the theory goes that two different sets of campaign finance rules ought to be established—one for the Senate and a second set of rules for the House.

This strategy would allow the Democratic majorities in both Houses to pass their partisan bills on a fast-track basis, and quickly send the combined product to President Bush for the expected veto.

Mr. President, this cut-and-paste veto strategy may be good politics.

But it makes for lousy policy.

It will be unacceptable to the President, and it will be unacceptable to the American people, who are demanding nothing less than a comprehensive, bipartisan reform package.

I am interested, as is the majority leader, in bipartisanship. I think we demonstrated that last year. I am prepared to do what I can on this side, although I must say my views may not be shared by every Republican, just as the majority leader's views may not be shared by every Democrat.

I guess the point I would make today is let us not have partisan bills unless everything else fails. Then I would certainly agree with anyone on the majority. If the Republicans in this case, the minority, fails to participate and cooperate, whatever, then there is not much left to the majority leader except to pass what he can. We might not appreciate that, might object to it, but we would understand that is the case.

With 1992 coming up, I know there are a lot of Members who must dread getting into fundraising again without some light at the end of the tunnel, without some way to figure out what we are going to be able to do and whether we can do anything with broadcast time, whether we can limit the source of campaign contributions by reduction in PAC contributions, by eliminating the amount we might raise out of State, and the question of how much you can raise in your own State. They are all questions which I believe

are crying for answers that can be found if we work together.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to address the Senate.

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

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his comments and assure him and all Members of the Senate that we really do want to try to achieve a bipartisan consensus on campaign finance reform this year. The legislation that will be reported by the committee is, as the distinguished Republican leader described, a beginning, a first step in a process that we hope will reach passage of a bill that a broad and large majority of the Senate on both sides of the aisle can support.

The distinguished Republican leader and I have been engaged in this discussion now for 2 years, and I must say that although we did not reach agreement finally last year, we surely all learned a lot more and did close the gap significantly.

While, as the Republican leader has pointed out, there still remain substantial and honest differences between the two parties on the best method of achieving reform, there is I think a very widespread consensus on the need for reform and the desirability for reform.

So I just wanted to say that as I responded positively to the Republican leader's letter to me, I also wanted to respond positively to his statement. It is my hope that we can get together very shortly—I have already asked my staff to contact the Republican leader's staff; I believe that has been done—and get perhaps another working group of Senators to see if we cannot go that last step and reach that final agreement but, if not, at least close the gap still further. So that remains my intention.

I do not believe that is inconsistent with action relatively early in this session. This is a high priority, and I do hope to bring it forward as soon as possible. But I certainly do not intend to do that in any way that would foreclose the kind of continuing effort to achieve a bipartisan agreement as has been suggested. So I simply want to assure the Republican leader and all Senators of my hope and intention in that regard.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. I think the record should reflect that we have started staff negotiations already, a member of my staff and a member of the majority leader's staff. I know there is interest among other members on the Rules Committee and off the Rules Committee. I have discussed this with the distinguished Senator from Kentucky [Mr. MCCONNELL] who has been a leading spokesman on the Republican side. There is no doubt in my mind it is probably going to end up to be the responsibility of the leadership in the final analysis to then see if we can sell it to our colleagues. We may not be able to. I do not know where we come down. But I think we are both prepared to make the effort.

I thank the majority leader.

Mr. MITCHELL. Yes; I want to assure the Republican leader that the distinguished Senator from Oklahoma [Mr. BOREN] who has been, of course, the author of the legislation before us in the last two Congresses, is also very much interested in proceeding with the effort to achieve bipartisan consensus.

SIGNING OF SENATE PROCEEDINGS

Mr. MITCHELL. Mr. President, I ask unanimous consent that on tomorrow, from 9 to 9:30 a.m., a signer for the hearing impaired be permitted to sign during the session of the Senate.

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the Senator from Idaho, Mr. CRAIG, to the Commission on Security and Cooperation in Europe, vice the Senator from Idaho, Mr. McClure.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow, and that the Journal of proceedings be deemed approved at that time; that the time for the leaders be reserved for their use later in the day; that there be a period for morning business until 11 a.m. with Senators permitted to speak therein, with the hour between 9 a.m. and 10 a.m. to be under the control of the Republican leader and the time between 10 a.m. and 11 a.m. to be under the control of the majority leader.

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

PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators, we had hoped to be able to proceed to S. 578, the authorization bill for the Desert Storm supplemental appropriations bill, and for other purposes, notably including benefits for military personnel and their families, and we made good progress on the matter today. But rather than delaying the Senate further, and to give us more time to complete our preparation for consideration by the Senate of the measure we are going to go out shortly for the evening. It is my expection and intention to proceed to that measure tomorrow morning at or around 11 a.m. following the morning business to which I have just alluded. I will be meeting later this evening with the distinguished Republican leader and possibly with other interested Senators in that regard.

So the Senate should be aware that I expect that we will be on that bill tomorrow throughout the day and into the evening. I apologize for any inconvenience caused to Senators by our inability to complete our discussions on the matter and have it ready for today. I know the distinguished chairman of the Armed Services Committee is ready and anxious to proceed with the bill, and I hope we will be able to do so at or about 11 a.m. tomorrow.

Mr. DOLE. Let me underscore what the distinguished majority leader has indicated. We are hopefully very close to some agreement on the so-called benefits package. We have agreed on, I think, the major outlines of the package. There are one or two issues that remain. I would hope we would reach the agreement. It is a responsible package. It is not one that is wide open, so I think it is a responsible package. I hope we can conclude that this evening; if not, tomorrow morning.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9 a.m. tomorrow.

Thereupon, at 6:10 p.m., the Senate recessed until Wednesday, March 13, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate March 11, 1991, under authority of the Order of the Senate of January 3, 1991:

THE JUDICIARY

WILLIAM HAROLD ALBRITTON III, OF ALABAMA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA VICE JOEL F. DUBINA, ELEVATED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. EDWARD W. CLEXTON, JR., U.S. NAVY, XXX-... X...

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be captain

VICTOR H. ACKLEY
ROGER CLINTON ADAMS
JOHN LOUIS AHART
TIMOTHY MICHAEL AHERN
GIDEON WILCOX ALMY, III

JAMES BENJAMIN ANDERSEN
ROBERT EARL ANNIS
KEITH STUART ARMSTRONG
JOHN SCOTT ATKINSON, JR
SIMEON HAILE AUSTIN
KERMIT ARNOLD AYRES
ORDALE PAUL BABIN, JR
WILLIAM BRADLEY BACON
STEWART ROLAND BARNETT, III
GARY ALLEN BARRETT
JOHN MICHAEL BARRY
WILLIAM EDWARD BAUMGARTNER
DON FRANKLIN BEACH
DREW WENTZ BEASLEY
LARRY VERNON BEATTY
CHARLES BARRY BECKMAN
ROBERT DENTON BERGER
RICHARD ALLEN BLACK
JAMES ANDREW BOLCAR
PHIL WARREN BOLIN
MICHAEL OSCAR BORNS
EDWIN HARRY BOUTON, JR
JOHN CHARLES BRANDES
THOMAS LEINBACH BREITINGER
JOHN RICHARD BROWN
RANDALL RAY BROWN
TOMMY RAYMOND BROWN
JAMES BRANTLEY BRYANT
GREGORY CLINTON BUTLER
CYRUS HUGH BUTT, IV
JOHN THOMAS BYRD
EDWARD FRANCIS CAFFREY, JR
CHARLES DANIEL CAREY, III
RODNEY LEN CASEY
LEE WESLEY CHAMPAGNE
JOHN VICTOR CHENEVEY
AUGUSTUS WALTER CLARK, III
JOHN HERBERT COCOWITCH
CHRISTOPHER WARREN COLE
FRED GORDON COLE
ROBERT SAMUEL COLLINS
ROBERT JOSEPH COLUCCI
LARRY EARL COOK
ARTHUR THOMAS COOPER
WARD JOSEPH COOPER
THOMAS CHARLES CORCORAN
KEVIN JOSEPH COSGRIFF
RICHARD ALLEN CROSBY
ROBERT EDWARD CYBORON
CHARLES JOSEPH DALE
THOMAS LEE DANIELS
JOHN RAY DAVIS
CAROLYN FAYE DEAL
WILLIAM NELSON DEAVER, JR
MARGARET SUZANNE DEBIEN
RICHARD HOWARD DEJAEGHER
JOHN PARR DINGER
FRANK JOSEPH DOBRYDNEY
JACK DAVID DODD
JAMES EDWARD DOLLE
LEO G. DOMINIQUE
DALE MARTIN DOORLY
WILLIAM EDWARD DOUD, JR
TERRY SCOTT DOUGLAS
RICHARD ARTHUR DRYDEN
RAYMOND ANDREW DUFFY
DAVID WAYNE DUMA
MICHAEL GORDON DUNCAN
FRANKLIN THOMAS DUNN
PATRICK WILLIAM DUNNE
MANUEL YGNACIO DURAZO, JR
JAMES LEIGHTON DURHAM
DAVID ALAN DUVAL
RONALD JAMES EDINGTON
JOEL MARTIN EDMONDSON
JOHN KARSON ELDRIDGE
DEAN WILLIAM ELLERMAN, JR
DAVID ROY ELLISON
MORRIS EUGENE ELSEN
RICHARD HAROLD ENDERLY
JOSEPH EARL ENRIGHT
DANIEL EDWARD ERNDLE
DAVID ALAN ERSEK
GREGORY WILLIAM ERTEL
EDWARD JOSEPH FAHY, JR
MICHAEL EDWARD FEELEY
TOM STEVEN FELLIN
WILLIAM WOODROW FETZER, JR
MICHAEL PATRICK FINN
CHARLES PARKER FINNEY
CHARLES BAXTER FITCHET
THOMAS JOHN FLAHERTY
PETER ANDREW FLANNERY
DONALD LAMAR FOULK, JR
JOHN WILLI FRANCIS
POWELL ALEXANDER FRASER, JR
THOMAS LEE FREELAND
MICHAEL FRIMENKO, JR
WILSON JOHN FRITCHMAN
THOMAS WILLIAM FROHLICH
VERONICA ZASADNI FROMAN
RICHARD HARRISON FUNKE, III
DANIEL EVANS GABE
DANIEL WEBSTER GABRIEL, JR
MICHAEL GATTRELL GAFFNEY
CHARLES THOMAS GAMBER
CHARLES EUGENE GIGER
CHARLES RODNEY GIRVIN, III
JOE ANDERSON GOODMAN
GARY ANTHONY GRADISNIK
KEVIN PATRICK GREEN
MICHAEL JEFFREY GREEN
BRENTON CLAIR GREENE
EVERETT LEWIS GREENE
CHARLES HENRY GRIFFITHS, JR
LINDA KATHERINE GROVES
FRANCIS BUNYAN GRUBB, JR
STANLEY DOUGLAS GUERTIN
JERRY MICHAEL HAGGERTY
KEITH DENNIS HAHN
GARRY RICHARD HALL
WILLIAM LAWRENCE HAMILTON
SUSAN COLBETH HAMMER
LYNNE ELLEN HANEL
WILLIAM RICHARD HANSELL, JR
GREGORY PAUL HARPER
DAVID THOMAS HART, JR
BRADD CROUCH HAYES
JAMES ALFRED HAYES
KENNETH FLOYD HEIMGARTNER
WILLIAM HELFEN
MARC ARNOLD HELGESON
JOHN WILLIAM HENSON
RONALD EDWARD HEWETT
ROBERT ARTHUR HIGGINS
GEORGE THOMAS HODERMARSKY
GERALD LEE HOEWING
MARK ALLAN HOKE
JAMES WARREN HOLLENBACH
JAMES CURTIS HOLLOWAY
GARRY HOLMSTROM
ROGER KEITH HOPE
DAVID CLAY HULL
ROBERT LEO HUME
JOHN PAUL JARABAK, JR
JOHN PHILLIP JEFFCOAT
WILLIAM FROST JENKINS
CHRISTOPHER HARRY JOHNSON
LARRY CHARLES JOHNSON
DARRELL WAYNE JONES
KENNETH STERLING JORDAN
MELVIN KAAHANUI
MICHAEL HERBERT KACZMAREK
TIMOTHY JOHN KEATING
JAMES DAVID KEEN
MICHAEL JOHN KEHOE
EDWARD WILLIAM KELLY
CURTIS ALLEN KEMP
DAVID CARL KENDALL
JAY ROSS KISTLER, JR
WILLIAM EDWARD KRAYER
WILLIAM ROBERT LARGE, III
DAVID ALLEN LARSON
GREGG DAVID LARSON
LARRY DEAN LARUE
PATRICK HUBERT LAWLESS
JEFFREY ALLEN LEHMAN
BRUCE STUART LEMKIN
GERARD THOMAS LENNON, JR
KIRK THOMAS LEWIS
STANLEY JOHN LICHWALA
BRUCE RICHARD LINDER
JAMES EARL LINQUIST
DONATO ANTHONY LIUZZI
WALTER RICHARD LOHRMANN
MICHAEL WILLIAM LONGWORTH
KEVIN FRANCIS LOVER
ROY ALAN LUNDEEN
DENNIS MICHAEL LUNGHOFER
WILLIAM DANIEL LYNCH
LAWRENCE JOHN MACK, JR
THOMAS LYLE MACKENZIE
JAMES FREDERICK MADER
THOMAS WALTER MADER
STEPHEN LAURANCE MADEY, JR
VAUGHN EUGENE MAHAFFEY
JAMES RAYMOND MARIS
RICHARD BRUCE MARVIN
WALTER BLACK MASSENBURG
MICHAEL GEORGE MATHIS
JOHN DONALD MAXEY
JACK BRIAN MAYBERRY
MICHAEL PATRICK MCBRIDE
MICHAEL J. MCCABE
MICHAEL JAMES MCCAMISH
THEODORE KERSHAW MCCARLEY
FRANKLIN BOYD MCCARTY
JAMES LENUS MCCLANE
BRUCE PATRICK MCCLURE
RYAN JOSEPH MCCOMBIE
MICHAEL PATRICK MCGAHAN
JOHN BURKE MCGILL
JOHN WILLIAM MCGILLVRAY, JR
JOHN CHRISTIAN MCMACKEN
JAMES HENRY MCPHEETERS, JR
GEORGE RANDOLPH MCWILLIAMS
JOHN THOMAS MEISTER
JOSEPH A. MEYERTHOLEN, JR
MICHAEL EDWARD MIDDLETON
DAVID DAMIEN MILLER
DONALD PETER MILLER
DONALD KEEPERS MISKILL, JR
GEORGE LARS MOE
FRANK WILLIAM MONTESANO
GLENN HAROLD MONTGOMERY
RONALD BERTRAM MOORE
JOHN THERRELL MORRIS
JOHN PRESCOTT MORSE
STEPHEN E. MOTOLENICH, JR
GARY STEVE MOWREY
DENNIS GEORGE MURPHY
CRAIG HARLAND MURRAY
ALBERT CLINTON MYERS
LINDA GAIL NEVINS
MICAJAH WILSON NEWMAN
RAYMOND JOHN NICHOLS, JR
WILLIAM JEFFREY NIEDENTHAL
EUGENE KEITH NIELSEN
CHRISTOPHER ALAN NINTZEL
JOHN BYARD NOLL
THOMAS FRANCIS NOONAN
RICHARD DOUGLAS NORRIS
WILLIAM AUGUSTINE NURTHEN
KENNETH LEROY OBANNON
PAUL ODELL, JR
BRENDAN JAMES ODONNELL
RICHARD EARL ONEAL
DALE EVERETT ONYON
RICHARD BERRYMAN ORMSBEE
DWAYNE ARTHUR OSLUND
VERNON HOLMES OVERALL
RUSSELL TILLMAN PALSGROVE
RICHARD JOSEPH PARISH
EDWARD JAMES PARKS
JOHN JAMES PAULSON
ROBERT LEE PAYNE, JR
STEPHEN PELSTRING
THOMAS ARCADE PERKINS, III
JAMES SMITH PERRY
OLIVER HAZARD PERRY, III
MICHAEL EDWARD PERSSON
RONALD RAY PETERMAN
WAYNE ALBERT PETERS
JOHN NOEL PETRIE
STEVEN EARLE PILNICK
DAVID PIERCE POLATTY, III
RICHARD HARLEY PORRITT, JR
GEORGE ALVA POWELL
DAVID WAYNE PRATHER
JESSE ALLEN PRESCOTT, III
HENRY SLATER PREVETTE, JR
DAVID ALAN RANNELLS
DALE ARTHUR RAUCH
FRANK WILLIAM REIFSNYDER, JR
ISAAC EUGENE RICHARDSON, III
KENNETH ALAN RICHARDSON
MICHAEL EUGENE RIORDAN
ROBERT DAVID RISH
JAMES ANDREWS ROBB
WILLIAM HENRY ROBERSON, III
DANA ALAN ROBERTS
TIMOTHY ARTHUR ROCKLEIN
RICHARD LEE RODGERS
SCOTT CRAIG RONNIE
JIM ALLISON ROSS
RONALD ARTHUR ROUTE
ROBERT CHARLES RUBEL
DENNIS LEO RYAN, III
JACK JOSEPH SAMAR, JR
JOHN RUSSELL SANDERS
TERRY LEE SANDIN
JOHN BENJAMIN SANDKNOP
PETER WILLIAM SCHEMPF
JOHN R. SEELEY, JR
PETER JAY SELDE
PAUL SCOTT SEMKO
MARVIN THOMAS SERHAN
DAVID REGINALD SHAW
HAROLD LEO SHEFFIELD
WILBUR FRENCH SHEPHERD
MICHAEL DAVID SHUTT
STEPHEN DOUGLAS SITLER
CHARLES RICHARD SKOLDS
STEVEN GREGORY SLATON
PATRICK JOHN SLATTERY
DOUGLAS ARTHUR SMARTT
AUDREY LORRAINE SMITH
CHARLES HUGHES SMITH
RICHARD MARKLEY SMITH
PHILLIP LEE SOWA
ROBERT GEORGE SPEER
WILLIAM WARREN SPOTTS
THOMAS ALON STARK
CHARLES NEWTON STARNES, JR
PAUL HAROLD STEVENS
FRANK WOOD STEWART
RICHARD MAXWELL STEWART
WILLIAM DAVID STEWART
LARRY RODGER STRATTON
CLIFFORD JOHN STROHOFER, JR
STANLEY ROBERT SZEMBORSKI
KEVIN JAMES TACKETT
RICHARD WILLIAM TALIPSKY
DENZIL DELANE THIES
DOUGLAS SCOTT THOMPSON
ARNE RAYMOND THORGERSON
WILLIAM ROBERT TOWCIMAK, JR
THOMAS LEE TRAVIS
MICHAEL ALBERT TRUDELL
WILLIAM CHARLES TURVILLE, JR
GEORGE EDMUND VOELKER
JAMES BARRY WADDELL
RANDALL DOUGLAS WAGNER
ROBERT CHARLES WAGONER
MARY ANNE WALKER
DAVID KITTS WALLACE
CHRISTOPHER EDWARD WEAVER
CARL EUGENE WEISCOPF
CHRISTOPHER LEE WEISS
DAVID CRAIG WELLING
MARK DONALD WESSMAN
RICHARD ELLIOTT WESTCOTT
DEWEY LALAND WHITMIRE
BRYAN DOUGLAS WIGGINS, JR
RONALD LUTHER WIGGINS, JR
TED SHANNON WILE
ROBERT FREDERICK WILLARD
GARY EUGENE WILLIAMS
THURMAN LAMAR WILLIS
THOMAS MICHAEL WITTKAMP
WILLIAM WARREN WITTMANN
GREGORY CARROLL WOOLDRIDGE
JON ROBERT WRIGHT
JAMES MEREDITH WYLIE, JR
PAUL ANTHONY ZAMBERNARDI
WILLIAM BEIGLER ZELL, JR
THOMAS STEPHEN ZYSK

ENGINEERING DUTY OFFICERS

To be captain

JAMES DEVENS BARRON, JR
JOSEPH ANTHONY CARNEVALE, JR
OSIE V. COMBS, JR
JON RICHARD CUMMINGS
JAMES BRUCE GALLEMORE
MICHAEL THOMAS GEHL
JAMES MAX HADDOCK
WILLIAM LLOYD HATCHER, III
DENNIS DEAN HERGENRETER
DANIEL GEORGE HICKEY
JAMES HARVEY HOFFMAN
PETER JOHN IBERT
ANTHONY WILLIAM LENGERICH
MICHAEL REX MAIXNER
ROBERT STEPHEN MEYETT
HENRY EDWARD MONTGOMERY, JR
VICTOR ADELBERT J. MORTENSON
WILLIAM FREDERICK NOLD
KATHLEEN KOEHLER PAIGE
JEFFERY MARK PERIN
DAVID JAMES REILLY
ALLAN RUTHERFORD
KENNIS LEE SIGMON
CARL NEILSON STRAWBRIDGE
TERENCE JEROME ULASZEWSKI
DANIEL ROY WELCH

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be captain

TERRY PAUL EARGLE
ROBERT NORMAN FREEDMAN
ROBERT WILLIAM JACOBS
JAMES WILLIAM LOISELLE
JOHN HARVEY LONG
PATRICK MICHAEL OCONNELL
DAVID CARLYLE OFFERDAHL
WILLIAM LENARD POSNETT, III
MICHAEL DENNIS REDSHAW
FREDERICK G. SCHOBERT, JR

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be captain

WILLIAM PATRICK ENGLEHART
SHARON MCCUE GURKE
STEPHEN CRAIG HEILMAN
MICHAEL CHRISTIAN KIEM
DONALD S. RICE
GALBRAITH DENNY WILLIAMS, JR

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

WILLIAM DAVID HENRY
JOHN PATRICK ONEILL, JR
CHARLES FREDERICK POPIKAS
GEORGE MARKS SCHU
KENNETH ERVIN VERBRUGGE
JERRY EUGENE WALTON

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

MARCIA MATARESE BARKELL
DONALD HALL BARRETT
MICHAEL PATRICK DERUSSO
JACOB FREDERIC KNECHT, JR
WAYNE IRVIN PERRAS
PERRY MICHAEL RATLIFF
DENNIS ALLAN WINTER

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

STEPHEN HARVEY CLAWSON
MARK DICKENS NEUHART

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

ROBERT THOMAS PEARSON
DONALD A. ROMAN
WILLIAM LEROY SHUTT

LIMITED DUTY OFFICERS (LINE)

To be captain

ROBERT SAGELEY ERSKINE
ELMER HEATH MANN
WILLIE J. MEAD
THOMAS JOHN PRUTER
CARL EMORY RHUDY

Executive nominations received by the Senate March 12, 1991:

SMALL BUSINESS ADMINISTRATION

PATRICIA F. SAIKI, OF HAWAII, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE SUSAN S. ENGELEITER, RESIGNED.

THE JUDICIARY

MARILYN L. HUFF, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE WILLIAM B. ENRIGHT, RETIRED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

WELDON W. CASE, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1993, VICE CLARENCE J. BROWN.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 12, 1991:

DEPARTMENT OF COMMERCE

JAMES EDWARD DENNY, OF MARYLAND, TO BE AN ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS.

ROCKWELL ANTHONY SCHNABEL, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF COMMERCE.

DEPARTMENT OF JUSTICE

MAURICE OWENS ELLSWORTH, OF IDAHO, TO BE U.S. ATTORNEY FOR THE DISTRICT OF IDAHO FOR THE TERM OF 4 YEARS.

E. MONTGOMERY TUCKER, OF VIRGINIA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF 4 YEARS.

RONALD G. WOODS, OF TEXAS, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

HOUSE OF REPRESENTATIVES—*Tuesday, March 12, 1991*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 12, 1991.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
House of Representatives.

PRAYER

Rev. Edgar Cooper, pastor of the New Hanover Lutheran Church, New Hanover, PA, offered the following prayer:

Almighty God, the power and the glory are Yours. With profound joy we offer praise and thanksgiving that You are righteous and good.

Created to be daughters and sons in Your own image, accept our humble gratitude for the freedom of choice with which You have endowed us. As children resemble their earthly parents, grant that we may accept the gifts of the Spirit which are akin to Your own.

Guide this generation safely through the brief span of time allotted in Your unfolding story of an ongoing creation. Help each one here and throughout our Nation build upon the positive contributions of our forefathers and forge a new link in the chain of blessing.

Surround our lives with Your providence and fatherly care that both individually and as a nation we may honor and respect every rightful authority in acknowledgment of Your benevolent rule through Him who has all power on Earth and in Heaven. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. WEISS] for the purpose of leading the House in the Pledge of Allegiance.

Mr. WEISS led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 991. An act to extend the expiration date of the Defense Production Act of 1950, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 419. An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means.

REV. EDGAR COOPER

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

Mr. SCHULZE. Mr. Speaker, I rise today to welcome our guest chaplain, Rev. Edgar Cooper, and his guests from New Hanover Township, in the great Commonwealth of Pennsylvania.

I am especially pleased that Reverend Cooper is with us this day to ask God's guidance and blessing upon America and our work in the House of Representatives.

It is fitting, Reverend, that you are with us today because 1991 is the 250th anniversary of the New Hanover Township.

Just as Reverend Cooper, the first Speaker of this House was also the pastor of the New Hanover Lutheran Church. The first Speaker was Frederick Augustus Muhlenberg, the same Muhlenberg who signed the Bill of Rights in 1791.

Mr. Speaker, for these reasons, I am proud to welcome our guest chaplain, Rev. Edgar Cooper.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair advises Members that 1-minute speeches will be limited to 10 per side.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 1991.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, H-204 Capitol, Washington, DC.

DEAR MR. SPEAKER: I have announced my decision to resign from Congress in order to run for Mayor of the City of Dallas. I have attached for your records a copy of the formal letter of resignation which I have submitted this date to Texas Governor Ann W. Richards.

Under the guidance of Donnald K. Anderson, Clerk of the House, I will take the necessary steps to facilitate the transition of my office to the Office of the Third District in order to serve the people of the District until the election of my successor.

It has been an honor and a privilege for me to represent the citizens of Texas' Third Congressional District in the House of Representatives for over 8 years, and it has been a pleasure working with you and other Members of Congress during that time. Thank you for your courtesies and assistance during my tenure.

Sincerely,

STEVE BARTLETT.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 1991.

Hon. ANN W. RICHARDS,
Governor, State of Texas, Austin, TX.

DEAR GOVERNOR RICHARDS: As you may be aware, I have announced my decision to resign from Congress in order to run for Mayor of the City of Dallas. Accordingly, effective immediately, I hereby resign as a member of the United States House of Representatives for the Third Congressional District of the State of Texas.

I am submitting my resignation to you at this time in order to provide to you ample opportunity to call for a timely and orderly election to fill the vacancy created by my resignation.

Should I be elected Mayor of the City of Dallas, I look forward to working with you on matters of common interest and concern for our city and state.

Sincerely,

STEVE BARTLETT.

WHAT IT MEANS TO BE A CITIZEN OF THE UNITED STATES

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

Mr. WEISS. Mr. Speaker, today marks the 53d anniversary of my arrival in this country with my mother of blessed memory and my sister, Claire. So it was a special honor for me to lead

the House in the Pledge of Allegiance today.

I will be taking a special order later today to talk about what it has meant to me to be welcomed into the United States, and I will be talking at greater length at that time.

Those of us privileged to be granted American citizenship never forget the gift of life bestowed on us, nor our obligation to defend and protect the Constitution of the United States.

PASSING A CLEAN RESOLUTION TRUST CORPORATION FUNDING BILL

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

Mr. GINGRICH. Mr. Speaker, as the sign to my left indicates, as of today the Democratic leadership has wasted $96 million in pure waste by failing to pass the Resolution Trust Corporation funding to pay for depositors' insurance which we all know we have to pay for.

I understand today there will be two amendments or two substitutes offered. One will be the first straight tax increase vote of this year, mandating $40 billion in tax increases, according to the Treasury. The other will be the first straight quota vote this year, requiring 25 percent quotas according to an analysis.

I would urge the Democratic leadership to help us on a bipartisan basis defeat these two substitutes, keep the Resolution Trust funding clean so that the President will sign it, and end the waste of money which has already reached $96 million so that we can go ahead and pass a bill that is inevitable and must be passed. I would urge every Member to join us in voting for the Wiley base bill and getting a clean funding mechanism through the Congress so that we can end this waste of the taxpayers' money.

□ 1210

IT IS TIME FOR SUCCESS AT HOME

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

Mr. VISCLOSKY. Mr. Speaker, America has recently succeeded abroad; it is time for success at home. It is imperative that we now focus our attention on the problem of unemployment which last month reached a 4-year high of 6.5 percent.

During February 208,000 jobs, including 125,000 manufacturing jobs, disappeared in the private sector mostly because of layoffs. Further, since last August, 1.2 million jobs have disappeared, and, with them, more than $52 billion in wages and salaries.

In addition to the rise in unemployment, the most recent Department of Labor statistics indicate that 5.5 million Americans holding part-time jobs would prefer to work full time, if they could find such a job.

But the problem transcends the number of jobs. We must also focus on the quality of jobs available.

Median family income has been stagnant since 1979.

Real average hourly and weekly earnings declined during the decade of the 1980's.

The percentage of young families who can afford to purchase a home continues to erode.

It is time to harness the energy , talent and commitment that we clearly demonstrated in the gulf in order to make every American family secure in their future.

After all, it is tough to be secure in a home you cannot afford.

TRIBUTE TO WYOMING'S LEADERSHIP AND EDUCATION DEVELOPMENT PROGRAM

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

Mr. THOMAS of Wyoming. Mr. Speaker, I rise this morning to recognize Wyoming's leadership and education development program.

This year's class is a group of 18 adults who work in Wyoming agriculture, and their two supervisors—one from the University of Wyoming and the other from the Mid-America World Trade Center.

These folks are in Washington this week as part of their participation in a 2 year program that exposes them to local, State, National, and international influences on agriculture, culminating next year in a visit to Romania and Russia.

This is the fourth lead group from Wyoming. They are highly motivated, well informed rural leaders who will act forcefully, serve effectively and speak articulately for agriculture and Wyoming communities.

As part of their trip this week, they will be meeting with officials at USDA, Interior, Congress, the White House, Russian and Romanian embassies, commodity organizations and the World Trade Center.

Mr. Speaker, I am proud of the commitment these people have to the future of agriculture, to our State of Wyoming, and to our country. I am pleased to welcome them today.

DIRECT NATIONAL COMMITMENT TO EDUCATIONAL SYSTEM NEEDED

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

Mr. PETERSON of Florida. Mr. Speaker, in the past weeks, we have had much to be grateful for. But last week's report on unemployment from the Department of Labor was certainly nothing to cheer about.

Unemployment is at a 4-year high. Last month nearly half a million Americans lost their jobs and today over 8 million are out of work.

The numbers are staggering and they are just the tip of the iceberg. In parts of my State nearly 1 out of every 10 Floridians cannot get a job.

We face a tremendous problem. And, yes, there are no simple solutions. But there is a fundamental starting point: Invest in education.

The answer to this job crisis begins in our classrooms. For far too long, we have separated the job market from the world of education.

And now we are paying a costly price. Businesses are feverishly seeking people to come and work for them, but we do not have a trained work force to meet their needs.

When President Bush declared himself the education president, this country was ecstatic. Today we need more than words. We need a direct national commitment to an educational system which looks over the horizon and meets the needs of our emerging industries.

BOLIVIAN CONTRIBUTION TO THE WAR AGAINST DRUGS

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

Mr. GILMAN. Mr. Speaker, I rise today to note the recent critical events in Bolivia which affect our Nation's war against drugs. On March 1, 1991, President Bush submitted to Congress his international narcotics strategy report which proposes $171.5 million in foreign aid to fund the war against drugs abroad. Proposed direct aid to Bolivia is $15.7 million.

In considering aid to Bolivia, we must not overlook some troubling actions undertaken by the current Bolivian regime. On March 4, 1991, Minister Faustino Rico Toro, under pressure from the United States Government, resigned from his position as head of the antinarcotics force in Bolivia. While we all welcome this man's resignation, the fact that he was ever appointed to that position is very disturbing.

Rico Toro was publicly accused of being involved in narcotics trafficking and in perpetrating human rights abuses, he allegedly worked with Klaus Barbie, the gestapo chief in Lyon,

France; and he headed army intelligence for Maj. Gen. Luis Garcia Meza, who is now a fugitive convicted of, among other crimes, genocide. How could the current regime ever consider someone with such a questionable record to head an antinarcotics force?

The Bush administration certified Bolivia as having fully cooperated in an antinarcotics effort. Should Congress, acting in its oversight capacity, choose to approve the Bolivian certification, I urge the administration to continue to carefully evaluate the Bolivian commitment to an antidrug effort and not to hesitate to suspend aid should any other unscrupulous, potentially corrupt individual be given a similar position of authority.

The international anti-drug war cannot afford any weak links.

GIVE THE AMERICAN WORKER A SHOT AT A JOB IN THE DESERT

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

Mr. TRAFICANT. Mr. Speaker, Kuwait and Saudi Arabia need money to rebuild. As a result, they have decided to cut production of oil, thus raising the price of oil, which means that Americans are going to pay higher fuel prices and basically help to rebuild the gulf.

Now, the White House says, "Do not worry. That is not that bad, because America is going to get the lion's share of the contracts to rebuild those countries." "Not so," says the Washington Post. They say that American companies are going to get the contracts. But, guess what, American companies are going to hire cheap foreign labor, not American workers.

Ladies and gentlemen, now, if it was good enough for Americans to die in the desert, it is good enough for Americans to get a job now over in the desert.

Congress should be telling these big American companies who are making big megabucks to not forget their roots and give the American worker a shot at a job in the desert.

INTRODUCTION OF THE CORN AND GRAIN SORGHUM BASE CLARIFICATION ACT OF 1991

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

Mr. BARRETT. Mr. Speaker, my distinguished Nebraska colleague, Mr. BEREUTER, and I have recently introduced H.R. 980, the Corn and Grain Sorghum Base Clarification Act, to expressly provide the Secretary of Agriculture the authority to allow producers to interchange corn and sorghum base acres.

Under the 1985 farm bill, producers could plant corn or grain sorghum on a combined corn and grain sorghum base in a manner that best suited their rotation and production needs. Unfortunately, the 1990 farm bill unintentionally took away that flexibility. The 1990 act separates corn and sorghum base acres and does not allow their interchange—eliminating the farmer's ability to undertake the best management practices in the farm operation.

The loss of this flexibility could have a dramatic impact on Nebraska's economy. The value of our corn and grain sorghum production reaches over $2.2 billion annually, and generated more than $1.8 billion in cash receipts in 1989 for Nebraska farmers. If Secretary of Agriculture Clayton Yeutter had not found a way to provide for the fair and equitable establishment of corn and sorghum bases during the 1991 crop year, we could have seen a decline in farm income.

Mr. Speaker, to permanently correct this unintended effect of the 1990 farm bill, I urge my colleagues to join with me and cosponsor H.R. 980, the Corn and Grain Sorghum Base Clarification Act of 1991, to fully restore a farmer's ability to combine feed grain bases through the 1995 crop year.

MAKE AMERICA AN ECONOMIC SUPERPOWER AGAIN

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

Mr. SMITH of Florida. Mr. Speaker, this country is celebrating the return home of our servicemen and women from the Persian Gulf. Their efforts helped to reestablish America as the military superpower we are and our pride in them is overflowing.

But we cannot afford to forget them once the music dies down and the crowds thin. We owe it to them, their children, and the cause they fought for to make America an economic superpower again.

Last Friday's Labor Department statistics told us that over 8 million Americans are out of work. In February 450,000 new registrants applying for unemployment brought the unemployment level to 6.5 percent, the highest in 4 years.

Not only are there no jobs for civilians but there are no jobs for our returning heroes as well.

This administration's tolerance for unemployment is unsettling. Democrats have zero tolerance for joblessness.

Mr. Speaker, there is nothing more wasteful than a person who wants to work, and who can work, but who cannot get a job.

In 1 week the following four things happened:

Chrysler went a week without making a car.

A Saudi Arabian prince bought 15 percent of Citicorp Bank.

Chase Manhattan sold its asset management business to a bank in Switzerland.

Sixty percent of the microchips sold in the American market were foreign made.

These figures do not bode well—they mean that capable people are not working. They mean that the Government is spending millions of dollars taking up the slack, and they mean that the economy is in a recession.

Let us rejoice in the safe return of our veterans to an America with a strong economy where they can get a good job. They need to work in peacetime, too.

HOLD SADDAM HUSSEIN ACCOUNTABLE

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

Mr. ANDERSON. Mr. Speaker, on Friday, Saddam Hussein announced that those who threatened to, and I quote, "undermine the security" of his nation "will pay." We have a clear indication here that Saddam has endorsed the concept of war reparations and liability for aggression and atrocities. If he threatens his own people with dire consequences for their rebellion, should not we hold him to the same standard? Clearly, the people of Iraq have risen up against his tyranny, his internal repression, and his foreign aggression. While we in no way want to get involved in internal Iraqi politics, should not we lend our moral weight to the struggle of those Iraqis striving to be free from this ruthless dictator? Let us seek justice for the crimes of Saddam Hussein by bringing him before a world court so that he too may pay for his crimes against peace and humanity. It is a standard he has held his own people to. Now let him stand accountable for his actions.

□ 1220

MOVE QUICKLY ON CRIME PACKAGE

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

Mr. McCOLLUM. Mr. Speaker, last week in his address to the joint session of Congress, President Bush said that if our troops in the Persian Gulf war could win the ground war in 100 hours, surely Congress could pass his crime bill in 100 days. I think that is justified.

Yesterday, he submitted his crime bill to Congress which will be introduced today, and I see no reason why this body and the other body cannot pass that crime package in 100 days. Last October, the four key components passed overwhelmingly in this body and in the other body. The votes on the floor of the House to pass the exclusionary rule changes to allow more evidence in more easily was passed 265 to

157. Death penalty restoration, the procedures for restoring the death penalty, passed 271 to 159. The new death penalty for drug kingpins was passed 295 to 133. The reform of habeas corpus laws that would end the endless appeals that death row inmates take through our court systems, passed by a vote of 285 to 146.

The challenge is out there. It behooves all Members to move toward meeting this challenge. One hundred days is not too long to pass a major bill like this. It is too short, in reality. We need to get on with it. We need to pass it. We need to do what we need to do, and let Members not take even 100 days to do it in. Let Members pass the crime bill the President has submitted now.

KENNEDY-SLATTERY SUBSTITUTE

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

Mr. KENNEDY. Mr. Speaker, today the House considers more funding for the savings and loan bailout. No one relishes the prospect of voting for what may be the country's least popular program. The American people are outraged by this scandal. And rightfully so. Average citizens neither caused nor benefited from the looting of the S&L industry. Yet, now they've got to pay through the nose for the wrongs of a few. And to add insult to injury, they've got to pay with interest. This method of Treasury borrowing triples the cost of the bailout. And it perpetuates an immoral scheme of sending today's bills to tomorrow's taxpayers—our children and their children.

As much as we may not want to act, this is not the time for inaction. The Government must fulfill its obligation to insured depositors. The question is not whether to provide more funds, but how to do so in the cheapest and fairest way possible to the American taxpayer. Today, House Members will have an opportunity to vote for a cheaper, fairer bailout. The Kennedy-Slattery pay-as-you-go substitute will reduce the cost of the bailout by $120 billion in costly interest payments—Treasury. It will cut the budget deficit by $170 billion over 4 years—CBO. It will force the RTC to be more careful about how it spends taxpayer dollars. And most importantly, it will free our children from the shackles of S&L debt, so they can build a better future for themselves and for America.

A vote for Kennedy-Slattery is a vote for fairness and fiscal responsibility. I urge my colleagues to support it.

REPUBLICAN CIVIL RIGHTS LEGISLATION

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

Mr. BALLENGER. Mr. Speaker, President Bush has taken the lead in proposing dramatic reforms in our employment discrimination laws. The President's bill will be introduced this week by our Republican leaders.

Unlike legislation being advanced by the Democrats, our bill will not force employers to adopt race-based quotas for their hiring and promotion practices; or create a bonanza for trial lawyers through open ended compensatory and punitive damages. It will significantly strengthen employment discrimination laws by providing a new monetary remedy for victims of on-the-job sexual harassment with equitable damages of up to $100,000.

Make clear, also, that the new remedies will be awarded by judges, and not by juries.

I ask my fellow Congress Members to support this legislation.

PAY-AS-YOU-GO PAYMENT PLAN

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

Mr. SLATTERY. Mr. Speaker, later today this body will consider the Resolution Trust Corporation reauthorization. This will certainly be one of the most important bills that comes before this Congress during this session.

I will be joining my colleague, the gentleman from Massachusetts [Mr. KENNEDY] in offering a pay-as-you-go proposal that proposes to pay for the savings and loan mess for fiscal year 1992 and beyond. We offer this amendment with one principle in mind: We believe that we should pay our bills. We believe it is wrong to pass all the bills for savings and loan mess on to our children and grandchildren.

This borrow-and-spend approach is politically popular and politically easy. We understand that. But it is economically destructive, and more importantly, it is morally wrong.

I urge Members to support the Kennedy-Slattery amendment and to vote for pay-as-you-go funding. It is a vote for financial accountability. Most important, it is a vote that will save the taxpayers $120 billion. The taxpayers in this instance happen to be our children and grandchildren, who will not be here today. They will not be represented in this debate, unless we vote for Kennedy-Slattery, and vote to put the bills on the table, and debate how we will pay for them. I urge your support.

SUPPORT RADIO FREE CHINA

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

Mr. PORTER. Mr. Speaker, last week I introduced legislation to establish Radio Free China, broadcasting designed to beam uncensored news and information to the Chinese people.

Even though blatant persecution of the Chinese people continues unabated, an active underground movement continues in China to struggle for basic human rights.

Authorities are trying to destroy this movement by convicting many innocent people who were involved in Tiananman Square of counterrevolutionary activities.

In addition, the Tibetan people are now being threatened with execution solely for their political beliefs. Last week a Tibetan monk, originally sentenced to 19 years for translating into Tibetan human rights documents including the universal declaration of human rights has had his sentence changed to execution.

The only crime of these innocent people is speaking freely. To convict them, and in some cases to execute them, is absolutely outrageous and unacceptable. Mr. Speaker, if the Chinese people cannot speak the truth, we must speak it for them.

Providing radio broadcasting of uncensored news and information to the Chinese people would help to end this oppression. I urge Members to cosponsor my bill for Radio Free China.

WINNING A WAR FOR HUNGRY CHILDREN

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

Mr. HALL of Ohio. Mr. Speaker, while we were busy winning the war, it appears that hungry women and children were being denied food by the Federal Government.

We all read in the paper this morning that nutritionally at-risk women and children in the Washington area are being kicked off the WIC Program.

Last year, higher food prices threatened to push as many as a quarter of a million people off WIC. I introduced a bill that passed that extended the borrowing authority of State WIC programs. I had language in the bill that required a monthly food-cost report by USDA, so that WIC wouldn't get caught in this same bind twice.

But, Mr. Speaker, here we go again. The most recent USDA report says nothing about any problem in the Washington area.

I can't believe that we can win a war half way around the world, and we can't feed hungry kids in our own backyards. There is just no place for malnourished children in a country as strong as America is.

For myself, I'm sick and tired of saying "no" to hungry children. In a few weeks, I'm going to introduce a bill

that sets out a schedule for fully funding the WIC Program by 1996. The bill is called the "Freedom From Want Act."

If you believe that hungry children ought to be fed; I urge you to support the Freedom From Want Act.

□ 1230

KEY TO PEACE IN THE MIDDLE EAST

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

Mr. BURTON of Indiana. Mr. Speaker, I am very concerned with the tone of some of the postwar pronouncements. The key to peace in the Mideast is the same as it has always been: Arab recognition of Israel's right to exist. Putting pressure on Israel to make unilateral concessions is not the way to peace. The tragic killings this week of four women in Jerusalem by Palestinian terrorists proves yet again that Israel's enemies are interested only in one thing, its destruction.

Also, why, Mr. Speaker, are we cozying up to Syria? Hafez Assad is no better than Saddam Hussein. Yet the A.P. reported this week that we are considering giving captured Iraqi weapons to Syria. That is the same Syrians who destroyed Lebanon, the same Syrians whose allies continue to hold American hostages in Lebanon, the same Syrians who killed over 20,000 civilians at Hama, the same Syrians who will point their weapons in only one direction, the direction of our ally, Israel.

We made the mistake of coddling Saddam Hussein before he invaded Kuwait. Let us not make the same mistake again with Syria.

MORE TIME FOR DEBATE ON RTC

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

Mr. OWENS of New York. Mr. Speaker, today we will be considering legislation which will provide for almost $80 billion in funding for the RTC, authorization for the RTC, $80 billion. The RTC legislation deserves at least a full day's work by the House. At present only about 4 hours is scheduled. We should at least double that amount of time so that every Member of the House who wants to speak on this very important legislation will be allowed a chance to speak.

There is nothing we will do this year which is more important than this piece of legislation. It is important to take this opportunity to review what is happening with the Resolution Trust Corporation. It is important to examine what is happening with prosecutions of people who are criminals in high financial circles. It is important to look at the corruption that is taking place in the RTC itself and decide what to do about that. It is important to have time to consider the impact of an $80 billion bill on the rest of the domestic budget.

Now, $80 billion, that is an average of $10 billion per hour. At least we should take 8 hours to discuss that $80 billion.

I appeal to the leadership of both sides of the House to allow a debate to take place for at least 1 day, 8 hours.

IN SUPPORT OF THE PRESIDENT'S ANTICRIME BILL

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

Mr. SCHIFF. Mr. Speaker, yesterday when the President announced that he is sending an anticrime package over to this House and to the other body, he made a great contribution in the fight against crime. That contribution was not just in the contents of the President's legislative package, although I support most points the President has made and I look forward to working on that package as a member of the Criminal Justice Subcommittee of the Committee on the Judiciary; but the real contribution is the fact that the President selected the fight against crime for his first specific legislative package following the Persian Gulf war.

We fought a war to protect the security of Americans and of other people against international aggression, but we also have to protect the security of Americans right here on America's streets. Despite winning the war, Americans are not safe if they cannot walk down their streets safely, if they cannot remain in their homes safely.

The President realizes that we cannot hope to solve our other pressing problems, whether they are in the economy or in education or in health care, if we are not safe simply to go about and do our business.

Mr. Speaker, I am very pleased that the President has selected domestic security for his first postwar domestic goal.

BURDEN SHARING NEEDED IN S&L BAILOUT

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

Mr. KANJORSKI. Mr. Speaker, later today we will be taking up the administration's funding bill for the RTC. The administration's bill will provide an additional $30 billion to hold us over until September 30 of this year, even though the administration has told us they will need an additional $50 billion for next year and they do not know the number of billions of dollars they will need in the years thereafter.

Mr. Speaker, 2 weeks ago in the House Banking Committee, I offered a responsible amendment asking for burden sharing from the States whose policies are most responsible for the S&L losses for which we are now paying. Today, even though that amendment passed the committee with a majority on the Republican side and a majority on the Democratic side, even though it was approved 28 to 16, we are being denied by the rule an opportunity to discuss and debate it on this floor.

Mr. Speaker, when 45 percent of the loss of the S&L crisis is the result of the failure of States to properly regulate and administer their State-chartered institutions, and when Federal taxpayers are now asked to bail out the States for their mistakes, it is inexcusable that this Congress will not even address or consider that issue.

Mr. Speaker, I respectfully request that because this rule does not even allow us to debate, much less vote on, this important amendment which passed in committee with broad bipartisan support, that the rule and the bill both receive a no vote until this House has the opportunity to fully discuss the S&L disaster.

THE ADMINISTRATION'S CIVIL RIGHTS BILL

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

Ms. MOLINARI. Mr. Speaker, today the Republican leadership in both the House and Senate will be introducing the President's Civil Rights Act of 1991. I am pleased to say that I am an original cosponsor of this legislation.

This was not a decision I came to precipitously nor easily. It is, however, the only decision I could reach in good conscience.

The time has come to acknowledge the damaging inequities and painful attitudes confronted by women on a daily basis. The time has come to deal with these acts of prejudice and protectionism resulting in a nation of denied opportunities with a sad history of lost contributions.

The time, my friends, has also come to play straight with the women of this country—not as political pawns—or the minority of the moment.

The Democrats' civill rights bill will unavoidably set quotas by encouraging litigation in the workplace based solely on numbers and percentages.

The President's bill, on the other hand, does not promote "statistical equality," it promotes real equality and real opportunity for all Americans.

Susan B. Anthony once said during her drive for equality, "I shall work for

the Republican party and call on all women to join me, precisely * * * for what that party has done and promises to do for women."

Well, Susan B., your time has come and it is once again because of the Republican Party.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore. (Mr. McNULTY) laid before the House the following communication from the Clerk of the House of Representatives:

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 1:36 p.m. on Monday, March 11, 1991, and said to contain a message from the President whereby the transmits proposed legislation entitled the "Comprehensive Violent Crime Control Act of 1991" and a section-by-section analysis.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk House of Representatives.

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES H. DOC. NO. 102–58

The SPEAKER pro tempore laid before the House the following message from the United States, which was read, and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary, the Committee on Ways and Means, the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Banking, Finance and Urban Affairs, and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, March 12, 1991.)

PERMITTING USE OF ROTUNDA FOR HOLOCAUST CEREMONY

Mr. FROST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 45) permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust, as amended.

The Clerk read as follows:

H. CON. RES. 45

Whereas the United States Holocaust Memorial Council has designated April 7 through April 14, 1991, and April 26 through May 3, 1992, as "Days of Remembrance of Victims of the Holocaust": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust. The ceremonies shall be conducted on April 11, 1991, from 8 o'clock ante meridiem until 3 o'clock post meridiem and on April 30, 1992, from 8 o'clock ante meridiem until 3 o'clock post meridiem. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. FROST] will be recognized for 20 minutes and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend my colleague, Mr. YATES, for introducing this important resolution, and I am honored to manage the measure on the floor today. I also want to thank the U.S. Holocaust Memorial Council for all their efforts in planning the Days of Remembrance.

The resolution authorizes the use of the rotunda of the Capitol for Holocaust commemoration ceremonies on April 11, 1991, and April 30, 1992.

Just 50 years ago, the "final solution" was confirmed. Throughout the year 1941, Hitler laid the groundwork and gave the orders for total destruction. Anyone wearing a yellow tin disc on the sleeve went to the death camps—the German Jews would go, the Russian Jews would go, the Polish Jews would go.

It is painful to remember that half a century ago in January, the Nazi leader was cheered when he talked of the war that "can only bring about the final annihilation of Jewry."

Just 50 years ago today, the Aryanization policy was instituted to confiscate all Jewish property in The Netherlands. Daily, Jews were forced into ghettos in Poland and deported to concentration camps such as Aushwitz.

The year 1941 brought a host of anti-Jewish decrees to all of Europe: The SS ordered Jews to wear yellow badges, sidewalks were off-limits, curfews were imposed, radios and telephones were removed from Jewish homes, and Jewish businesses were shut down. Jews were forbidden to use public transportation, visit parks, theaters or libraries, or attend public schools.

As summer approached, Germany invaded the Soviet Union and occupied the capital of Lithuania. June 27 is known as Red Friday in the town of Bialystok in Poland where several thousand Jews were burned alive in the street. In Hungary, 6,000 Jews were retained as slave laborers while 11,000 were deported to the Ukraine and murdered.

On July 31, the chief of the Reich Security Office was ordered to prepare a "final solution" to the "Jewish question." The Nazis experiment with poisonous gas and searched for methods of mass extermination.

It hurts to recall the cruelty of the Holocaust—the hatred, the racism, the torture that humans can inflict on one another is grueling enough in memory. Yet it is so necessary that we reflect upon this hideous time in world history so that we dare not forget. Five short decades ago, people fell in line behind a sick and clever tyrant, a man who tried to eliminate from the planet all that he did not like.

We can never be sure, especially in the aftermath of the Persian Gulf war, that the dictators are only in the history books. Clearly, they are still in our midst. Clearly, we have a responsibility to keep a watchful eye and prevent the injustices of the past from recurring in our lifetimes.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my privilege today to rise in support of House Concurrent Resolution 45, to permit the use of the U.S. Capitol rotunda for ceremonies of the Days of Remembrance of Victims of the Holocaust.

The U.S. Holocaust Memorial Council was created by Congress in 1980, and charged with perpetuating the memory of the 6 million Jewish victims of the Nazi Holocaust.

The Days of Remembrance of Victims of the Holocaust has become an important part of the Council's continuing effort to remind us of history's darkest chapter. And passage of this resolution will mark the eighth consecutive year that Congress has approved commemorating the event with ceremonies in the rotunda.

The use of the rotunda for this purpose, and the timing of this resolution, are altogether appropriate. In the Halls of the heart of our democracy, it gives us the opportunity to reflect and contemplate an unprecedented tragedy; it is a time for all Americans to mourn, to remember, and to affirm our resolve that history will not be allowed to repeat itself.

A period of indifference and silence led us into the Nazi Holocaust. Remembering that mistake will help us avoid it in the future.

And I find it appropriate to bring this resolution up now, just a few days after we have silenced a Middle East tyrant, who pointed a finger at the Jewish people and again threatened their survival. When the world united against Saddam Hussein's naked aggression in Kuwait, he tried to divide and undermine the determination and resolve of the allied forces by trying to make Israel the issue, and the Jewish people once again the scapegoats of the

world's political turmoil. But not again, Mr. Speaker; never again.

I thank my colleague for bringing this resolution to the floor today, and I urge my colleagues to give it their unanimous support.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for bringing my bill to the floor for consideration by the House of Representatives.

As the gentleman from Nebraska [Mr. BARRETT] has pointed out so well, it is very appropriate at this particular time that the bill be brought up and that the ceremony be allowed to take place in the rotunda of the Capitol.

The U.S. Holocaust Council is mandated by the statute which created it to observe days of remembrance for victims of the Holocaust. It is equally appropriate for the U.S. Congress to take such steps as are necessary to permit the ceremony marking or remembering those murdered in the Holocaust to take place in the Capitol of the United States where it has taken place for 8 years preceding this one.

This bill will allow it to take place again this year and the following year.

I want to associate myself with the eloquent statements of both the gentleman from Texas [Mr. FROST], and the gentleman from Nebraska [Mr. BARRETT]. Both gentlemen have pointed out very clearly the traditions, the adherence to the traditions of the United States in celebrating this ceremony.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the remarks of the gentleman.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 45, which authorizes the use of the Capitol rotunda on April 11, 1991 for the commemoration ceremony for the Days of Remembrance of the Victims of the Holocaust. I would like to thank our distinguished colleague, the gentleman from Illinois, Congressman YATES, for introducing this legislation, thereby ensuring this important ceremony. His invaluable service on the Holocaust Memorial Council over the years is appreciated by all of us. The Council's decision to once again conduct the ceremony in our beloved rotunda is indeed appropriate, and I want to take this opportunity to lend my support to this request.

The Days of Remembrance ceremony is an annual event sponsored by the U.S. Holocaust Memorial Council. Each year during the program, six memorial candles are lit. These flames honor the memory of the more than 6 million Jewish men, women, and children who perished at the hands of the Nazis. Though they are no longer among us, their legacy lives on. It is a legacy that reminds us and requires us to be forever vigilant to racism, bigotry, and ignorance.

Though it has always been painful to confront the realities of the Holocaust, the lessons learned are too important to ignore. Each year we become more cognizant of the evils and persecutions which exist in this world. This year the world stood up to another brutal dictator, Saddam Hussein. Yet in 1933, that was not the case. The result was the horrifying brutality of the Holocaust. The Holocaust Memorial Museum, currently under construction, will be a testament to the memory of all those killed during those dark years. Our Congress' Days of Remembrance ceremony to the victims of the Holocaust will remind mankind that we must forever be vigilant in upholding human rights and in fighting intolerance, bigotry, and genocide.

It is said in the Old Testament "to save one life is to save the world."

Mr. YATES. Mr. Speaker, I thank the gentleman from New York for his remarks and commend and compliment him.

Mr. BARRETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend from Texas [Mr. FROST] for yielding the time, and I rise in support of this measure.

Mr. Speaker, I also rise to extend congratulations to my friend from Illinois [Mr. YATES] who is the prime sponsor of this bill, which would, as Congress has done for the last 8 years, provide for a commemoration to be held in the rotunda, which is just a few yards from where we are speaking, to commemorate the Days of the Holocaust.

Again, it has been said by many, this is the perfectly appropriate time to consider this bill in view of what has just recently happened. The gentleman from Nebraska [Mr. BARRETT] said the same thing. This is the appropriate time to bring the bill up even as we are seeing the end of this terrible war in the gulf region involving a person who may well have transgressed the rules of God and man to a degree similar to those transgressions which occurred in the Second World War which we term the Holocaust.

□ 1250

So, Mr. Speaker, let me just salute the gentleman from Texas [Mr. FROST] on bringing this up, and I urge all my colleagues to vote unanimously in favor of this bill.

Mr. CHANDLER. Mr. Speaker, I rise today in support of House Concurrent Resolution 45. It is a fitting use of the Capitol rotunda to remember the millions of victims of the Nazi Holocaust.

In January 1942, Hitler had been in power 9 years—9 years of terror and persecution of the Jewish people. Hitler deputy Reinhard Heydrick spoke of a "final solution." The "experience of history," Heydrick said, called for destroying the Jewish race. Auschwitz, Maidanek, and other concentration camps are sad reminders of Nazi policy.

Yes, Mr. Speaker, we should see the experience of history. We should learn from it and never forget. We must remember the victims of the Holocaust. Remember their suffering.

Mr. SCHEUER. Mr. Speaker, I rise in support of House Concurrent Resolution 45, which permits Holocaust Memorial ceremonies to be held in the Capitol rotunda.

Traditionally, the rotunda is a place where bodies of individuals who have made lasting contributions to civilization lie in state.

Mr. Speaker, 6 million people perished in the Holocaust. In their death we find a lasting contribution to civilization.

We find the lessons that govern our lives today, and will serve as a guide for future generations.

We sent legions to the Persian Gulf partly because we saw in Saddam Hussein a fleeting resemblance to Adolf Hitler.

We decry racists like David Duke and Louis Farakhan, and we confront their abhorrent lies, because we know what happens when you turn the other cheek.

We take responsibility for our own shortcomings, because we know that there are no scapegoats.

And out of the ashes of the Holocaust we find a reinforcement of the justness of the principles this Nation was founded on.

Mr. Speaker, there is no more just a purpose for the Capitol rotunda to serve than to be the sight of ceremonies honoring and commemorating the 6 million.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 45), as amended.

The question was taken.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 42, as follows:

[Roll No. 37]

YEAS—389

Abercrombie	Alexander	Anderson
Ackerman	Allard	Andrews (ME)

Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bellenson
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Petri
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walker
Walsh
Washington
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—42

Archer
Barnard
Bateman
Berman
Bevill
Boxer
Clinger
Cox (IL)
Dickinson
Dorgan (ND)
Dymally
Engel
English
Fields
Fish
Flake
Gingrich
Hammerschmidt
Hefner
Horn
Horton
Houghton
Hunter
Marlenee
Mfume
Miller (OH)
Moody
Mrazek
Nagle
Peterson (MN)
Pickett
Sanders
Sikorski
Stark
Tanner
Torricelli
Traxler
Udall
Volkmer
Waters
Wilson
Wise

□ 1313

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution permitting the use of the rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SIKORSKI. Mr. Speaker, during rollcall No. 37 on House Concurrent Resolution 45 I was unavoidably detained. Had I been present I would have voted "yea."

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, during the week of February 25, 1991, due to personal reasons, I was unavoidably absent from the Capitol during rollcall No. 25 and rollcall No. 26. Had I been present I would have voted "yea" on both rollcalls.

PERSONAL EXPLANATION

Mr. COX of Illinois. Mr. Speaker, during rollcall Vote No. 37 on House Concurrent Resolution 45 I was unavoidably detained. Had I been present I would have voted "yea."

PERSONAL EXPLANATION

Ms. HORN. Mr. Speaker, during rollcall Vote No. 37 on House Concurrent Resolution 45 I was unavoidably detained. Had I been present, I would have voted "yea."

RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 105 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 105

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1315) to provide additional funding for the Resolution Trust Corporation, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed sixty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part one of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except the amendments printed in part two of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and may be offered only by the Member specified or his designee. Said amendments shall be considered as having been read and which shall be debatable for the time specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment. All points of order against the amendments printed in the report are hereby

waived. If more than one of the amendments is adopted, only the final amendment which is adopted shall be considered as fully adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, or recommit with instructions if offered by Representative Michel of Illinois.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 105 is a modified closed rule providing for the consideration of H.R. 1315, the Resolution Trust Corporation Funding Act of 1991. The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Banking Committee.

The rule makes in order as original text for purposes of amendment the text of H.R. 1315 as ordered reported by the Banking Committee and printed in part 1 of House Report 102-13 accompanying this resolution.

In addition, the rule makes in order three amendments in the nature of substitutes which may be considered in the order specified, shall not be subject to amendment and shall be considered as read. All points of order against the amendments printed in the report are waived. The amendments are as follows:

First, the amendment by Representatives SLATTERY and KENNEDY or their designee, debatable for 1 hour with the time to be equally divided and controlled by the proponent and a Member opposed to the amendment;

Second, the amendment by Representative WYLIE or his designee, debatable for 1 hour with the time to be equally divided and controlled by the proponent and a Member opposed to the amendment and;

Third, the amendment by Representative GONZALEZ or his designee, debatable for 1 hour with the time to be equally divided and controlled by the proponent and a Member opposed to the amendment.

Mr. Speaker, the rule makes more than one substitute in order in what is sometimes referred to as a king-of-the-hill procedure. Under the king-of-the-hill procedure provided in this rule, each of the three substitutes can be considered, even after adoption of a prior substitute. Only the last substitute adopted will be reported back to the House.

Finally, Mr. Speaker, the rule provides one motion to recommit, or recommit with instructions if offered by Mr. MICHEL.

Mr. Speaker, H.R. 1315 provides an additional $30 billion to the Resolution Trust Corporation to cover the losses of savings and loans that are closed, sold, or merged by the Resolution Trust Corporation in fiscal year 1991. House Resolution 105 is a good rule that will allow expeditious consideration of the Resolution Trust Corporation Funding Act of 1991. I urge its adoption.

□ 1320

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 105, providing for the consideration of H.R. 1315, the Resolution Trust Corporation funding bill. This rule is the product of bipartisan consultation, and I want to commend Chairman MOAKLEY and Mr. DERRICK for their willingness to work with those of us in the minority to develop a fair and reasonable rule.

In most circumstances, it would be easy for me to oppose this rule because of its restrictive nature. However, our leadership approves of the rule, and no Republican Member who appeared before the Rules Committee seeking recognition of their amendment was denied an opportunity to offer it. I also believe it is an appropriate rule, given the controversial nature of the issue being addressed, and the time constraints we face.

The RTC has said that, in the next few days, it will run out of funds to continue closing down the more than 180 insolvent savings and loan institutions that remain open. Every day we delay will add more than $8 million to the cost of the cleanup.

Mr. Speaker, before being appointed to the Rules Committee, I served 9 years on the Banking Committee, and I remember very well the difficulties the committee had to overcome to pass legislation to close down insolvent thrifts and recapitalize the savings and loan insurance fund. Thus, when the Banking Committee was asked to come up with the second installment of $30 billion to continue the resolution process, nobody expected the process to be easy.

The rule we are considering today offers a clear-cut choice between a clean funding bill, as requested by the administration, and two other proposals that threaten to bog down the resolution process and add millions—perhaps billions—more to the cost of the cleanup. For example, the Kennedy-Slattery substitute authorizes, but does not appropriate any funds to continue the cleanup of insolvent thrifts. If enacted, it will virtually force the RTC to shut its doors.

The Gonzalez substitute contains onerous mandates on the RTC that will delay the sale of assets by up to 6 months, and will add hundreds of millions of dollars to the RTC's operations. One provision in particular will force the taxpayers to subsidize wealthy tenants in rent-controlled properties. The RTC, for example, owns nine units in a building located in one of Manhattan's most exclusive neighborhoods. The tenants are paying rents as low as $475 a month for 2,100 square foot apartments. If the Gonzalez substitute passes, the RTC will lose over $18,000 a month on those nine properties, and may never be able to sell them.

Mr. Speaker, the RTC must be allowed to retain its authority to abrogate those ludicrous rent control contracts that provide large taxpayer subsidies to the wealthy. Our No. 1 priority is to protect depositors by cleaning up the savings and loan mess with the least amount of cost to the taxpayers. We must not allow the RTC to become embroiled in a maze of costly social welfare regulations.

Again, I want to commend Chairman MOAKLEY and Mr. DERRICK for their bipartisanship in developing this rule. I urge adoption of the rule, and support for a clean RTC funding bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in reluctant but nonetheless very strong opposition to the rule that is before us.

I believe that in my 12 years in Congress, this represents only the third occasion that I have taken to the floor to speak in opposition to a rule. But, Mr. Speaker, I feel that the rule before us is blatantly unfair and must be defeated.

Mr. Speaker, the bill we are about to consider is a result of the most costly financial debacle in American history. The American people are still shocked and outraged by the soaring cost of the savings and loan scandal. However, the rush to sweep this mess under the rug should not prevent us from pursuing a measure of accountability from those most responsible for this financial wreck.

From 1988 through October 1990, the Government has closed 520 insolvent thrifts at an estimated eventual cost of $73.7 billion in net present value terms. Of this amount, almost half, or $32.8 billion, of the cost can be attributed to State-chartered but federally insured thrift institutions.

It turns out that one State alone, the State of Texas, caused 68 percent of the costs associated with the failure of State-chartered thrifts. Because Texans pay only 6 percent of the Nation's taxes, the committee's bill has asked

Texas' taxpayers to pay only $1.5 billion toward the bailout.

Make no mistake about it, this was not the result of a natural disaster. This was a manmade disaster. What we saw in the State of Texas was fraud on a monumental scale We saw a total failure of the regulatory system that was in place in that State, and it is the taxpayers of the rest of the country that are now being asked to pick up that particular tab.

Mr. Speaker, during the first Committee on Banking, Finance and Urban Affairs markup of the bill, an amendment seeking to promote fairness and increase State accountability passed easily, 28 to 16, with overwhelming bipartisan support. The amendment was offered by the gentleman from Pennsylvania [Mr. KANJORSKI] on behalf of the Northeast-Midwest Congressional Coalition.

But this is far more than a regional issue. There are many States scattered throughout our country—including South Carolina, Missouri, Louisiana, and New Mexico—that did not contribute 1 penny to the State-chartered savings and loan problem. They are now being asked to assume a lion's share of the responsibility for this multibillion dollar bailout.

That amendment was identical to H.R. 5323, a bill I introduced in the 101st Congress and that was cosponsored by over 100 Members of this body on both sides of the aisle. However, the rule before us today will not make that amendment in order, and it will deny the full House free debate an issues of fairness and accountability that are central to this bailout.

The amendment simply says that those States that have been home to excessive costs resulting from the failure of their State-chartered thrifts pay a special Federal deposit insurance premium if that State's State-chartered industry is to remain eligible for Federal deposit insurance.

Mr. Speaker, I ask: Why should the House be denied free debate on this central question of fairness and accountability, a question that is fundamental to the health of our dual banking system?

Why should the House be denied the opportunity to consider an amendment that passed the Committee on Banking, Finance and Urban Affairs with strong bipartisan support and which would make passage of this bill much easier to achieve? With the inclusion of the Kanjorski-Wolpe amendment, we could at least make the point to our own constituents that some effort was made to establish a minimum measure of accountability, a minimum measure of fairness.

Why should the House be denied the privilege to decide for itself the best way to prevent this debacle from ever happening again?

The amendment that we want to offer would send a clear message to State legislatures and State regulators that future abuse of the Federal-State partnership will not be without consequence.

In addition, it will reduce the burden on taxpayers in States which have not inordinately contributed to the cost of the bailout due to inadequate regulation at the State level.

The rule before us today does not allow us to accomplish these things, because it does not make that amendment in order. It is a central element of fairness that I am asking the Members of this body to consider. We have every right to have this House debate this issue.

Our friends from Texas have argued that this amendment promotes regionalism over nationalism. If it were passed, the U.S. Government would still be paying 89 percent of the cost of bailing out State-chartered thrifts, even though Texas alone is responsible for 68 percent of that cost. Some of my colleagues mention the Chrysler bailout as an example of the entire country salvaging one local industry. Allow me to remind you that the Federal Government provided loan guarantees to Chrysler; it never appropriated a single dollar of taxpayer money to assist that corporation.

The savings and loan bailout is going to be enormously costly to the Federal taxpayer.

We owe it to our constituents to engage the entire House in full and free debate on issues of fairness and accountability that are so fundamental to the health of our dual banking system. The rule before us today does not permit open debate; the rule before us today does not allow us to speak for our constituents.

Mr. Speaker, I ask my colleagues for a no vote on the rule that is before us.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], who has been working desperately to bring about a clean RTC funding bill.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to support the rule and also support wholeheartedly the $30 billion in funding for the Resolution Trust Corporation.

Members of the Committee on Banking, Finance and Urban Affairs, on a bipartisan basis, and that was the only way it could be done, worked together to provide and to report from the committee the two RTC funding bills, one by the chairman and one by the ranking member, the gentleman from Ohio [Mr. WYLIE].

□ 1330

Now, a clean bill, make no mistake about it, is what the administration requested. It is essentially what the other body has adopted, and it is the approach the House frankly should adopt today.

Eight million dollars a day of taxpayer's money are disappearing every single day, into the financial equivalent of a black hole in outer space. Tomorrow, tomorrow, and tomorrow, the same terrible avoidable waste will continue unless we do the right thing today.

The specific facts of the three amendments provided for in the rule obviously will be discussed at length during the course of the debate, so I just want to make a couple of general comments. The amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Kansas [Mr. SLATTERY] is clearly contrary to the agreement of last fall declaring the cost of the thrift loan cleanup to be mandatory spending. We went over that. It took several months of deliberations during the deficit reduction budget negotiations. The last thing the House needs is to show lack of resolution by breaking a trust, all in the name of Resolution Trust Corporation.

Another amendment offered by the distinguished chairman contains social goals that will add over $150 million to the costs of resolving this crisis in 1991 alone, with millions more added on in the years ahead.

In my view, only the substitute offered by our friend, the gentleman from Ohio [Mr. WYLIE] gives Members a reasonable and effective compromise. That Wylie substitute provides the $30 billion funding for RTC, but it also includes eight management goals in response to recent GAO criticisms. Included are several very important components: No. 1, reducing the length of time institutions are in the hands of the RTC; No. 2, improving management systems; No. 3, improving the system for tracking RTC's real estate owned assets; and No. 4 the Wylie amendment provides a report on the RTC's implementation and progress on minority contracting provisions of FIRREA.

I know that the chairman feels strongly about the issue of minority contracting and probably wanted something stronger, but in the interest of compromise, I thought the reporting requirements are something everyone can support.

The Wylie approach does not seek to micromanage the RTC or use the RTC as a means to pursuing the social goals not central to the RTC issue.

As we approach the baseball season, it is good to be reminded of a basic rule of doing well: Keep your eye on the ball. We ought to keep our eye on what needs to be done for the taxpayers, and not be distracted by peripheral issues.

Briefly, in conclusion, I frankly cannot imagine that there are not at least half of the Members on our side and half the Members on your side who feel

no taint whatsoever from the S&L scandal. I do not, and a good many Members of this body on both sides of the aisle should not have any fear. We did not cause it. We know what has happened out there, and the culprits are being prosecuted by the Department of Justice.

The bulk of the money, frankly, is going to reimburse those who had guaranteed deposits. We have no recourse. There is not any other way out of this crisis.

So to think, I just cannot touch this legislation because it says "S&L bailout" is wrong. I do not have any fear of this bill because I did not get involved in the S&L issue in any derogatory way, and any number of Members in this body on both sides of the aisle are in the same shape.

Therefore, I am saying to Members that they ought to stand up here today, do the right thing, and get on with this thing. It is never going to go away. It will be here, and be here, and be here.

I think it would be tragic if we said to all the depositors, "Hey, Uncle Sam will default completely in the role and responsibility to the depositors." Then we have a real debacle on our hands.

I support the rule. I certainly hope the Wylie amendment will be adopted in the final analysis.

Mr. DERRICK. Mr. Speaker, I would like to associate myself with the remarks of the distinguished minority Member. I think it is rather like going to the bank and cosigning a note and then refusing to make good on your guarantee. The damage has already been done. What we are trying to do is to take care of the depositors.

Mr. Speaker, for the purposes of debate only, I yield 3½ minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise today in opposition to the rule. I do so because this rule excludes a very important amendment that originally passed in the Banking Committee with strong bipartisan support. The State chartered thrift deposit insurance premium amendment, or what I'll call the regional equity provisions, deserves the chance to be heard and voted on in the House.

These provisions are needed because the taxpayers of my State of Ohio and the entire Northeast-Midwest region are still being forced to bear too great a share of the Savings and Loan bailout. In essence, they are having billions of their tax dollars diverted to pay for collapsing institutions in other parts of the country. In fact, the 18 States that make up the Northeast-Midwest region are being forced to pay 47 percent of this bailout, about $11.7 billion, even though the entire region has incurred only $1.4 billion in costs associated with state-chartered thrifts. In stark contrast to this, the State of Texas has cost the taxpayers over $22.4 billion, that is over 68 percent of the costs for this bailout, yet Texas is only paying 6 percent of the bill, hardly their fair share.

In light of this disparity, it is important to restore some equity in the funding of this bailout. The State chartered thrift deposit insurance premium provisions would require those States that have incurred such high costs to pay a Federal deposit insurance premium to cover the expense of insuring their State chartered thrifts.

This amendment does not promote regionalism over federalism; it seeks to send a message to State legislatures and regulators that future abuse of the Federal-State partnership will not be without consequence. If this amendment were enacted, the Federal Government would still pay 89 percent of the cost of bailing out State-chartered thrifts, despite the fact that Texas alone is responsible for 68 percent of that cost.

However, this rule will not even allow such an important amendment to be offered for debate, and to restrict the debate in such a way, restricts your ability to legislate. Therefore, I urge you to vote against the motion to order the previous question and give yourselves the chance to debate this amendment thoroughly. The amendment in no way is a killer amendment, rather it acknowledges, the serious regional disparity inherent in the legislature and addresses it forthrightly. Vote no on the rule!

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE] the distinguished ranking member of the full committee, who, like the minority leader, has been working diligently to try to bring a clean RTC funding bill to this floor.

Mr. WYLIE. Mr. Speaker, I rise in strong support of the rule on H.R. 1315. The rule makes in order legislation to provide more funding for the S&L cleanup. While I traditionally support open rules, I think this rule balances all interests, and gives all interested parties a chance to express themselves and to have the House work its will on differences of opinion as to our role here today.

Mr. Speaker, one does not need to be a genius to figure out that this is not a popular issue in the Congress nor throughout the country, for that matter. To put it in perspective, why we need this legislation, the Washington Post ran an editorial, an excellent editorial, may I say, on Sunday that I think says better than I the need for this bill, and a point which the gentleman from Illinois, our distinguished minority leader, Mr. MICHEL, made very effectively a little while ago.

> Congressmen * * * complain that the government is spending billions that buy nothing. To the contrary, the S&L cleanup money is buying financial and economic stability. It is the first time that the country has gone through a financial collapse on this scale without being dragged into a depression by it. If you think that the S&L cleanup is costly, you might want to consider the cost of a depression. Deposit insurance is one of the reasons why a downward spiral like 1933 has never happened again. All those in favor of maintaining that record ought to be eager to vote to keep the S&L clean up going at full speed.

I believe this editorial is right on point. This is a difficult issue to explain, but there can be no doubt what has to be done. Regrettably, the Congress has been avoiding the issue since last June when it was known that more S&L money would be needed. Now we are at a point where the RTC has completely shut down some operations and will shut down completely some if we do not act. It will cost the American taxpayers more and more and more as time goes on.

Here are a few facts to keep in mind: On June 14, 1990, Secretary Brady told Members that more money would be needed. Now here we are 9 months later, still debating, not so much the issue, but the method of additional funding.

Currently we are losing $8 million a day because RTC does not have the money to pay off the depositors in failed thrifts that need to be shut down. Bill Seidman estimates that by taking over insolvent thrifts now, losses can be cut by 40 percent.

At a recent hearing, we were told the resolution of 95 thrifts had already been delayed because of Congress' failure to authorize funds in October 1990, the end of last fiscal year.

□ 1340

Only through a glitch in the law has the RTC been able to fund itself for operating expenses, and now that money is gone.

Mr. Speaker, finally, with respect to the rule, three substitutes are being made in order. I must urge a vote against both the Slattery-Kennedy and the Gonzalez substitutes.

First, the Slattery-Kennedy substitute specifically violates last year's budget agreement, which exempted deposit insurance funding, and Desert Storm from the pay-as-you-go provisions. The CBO stated this in a letter to Senator RIEGLE on February 7, 1990. No one more than I would like to see this Government balance its budget, pay as you go, if you please; but the problem with the Slattery-Kennedy substitute is that it attempts to require subjective determinations as to what programs will be cut or where the taxes will be increased. That is the reason the budget agreement last year excluded RTC funding from its provisions.

The OMB says that the Gonzalez substitute will increase the cost of the cleanup.

Worse yet, a provision in the Gonzalez substitute will prevent the RTC

from breaking leases in upper income rent control buildings which it has taken over, one of which is shown here.

The gentleman from California [Mr. DREIER] referred to this in his opening statement a little while ago.

Right now, the RTC is involved in a case involving an apartment building in the most exclusive neighborhood in Manhattan, "Suttan Place." In fact, one of the apartments in this building is the apartment of clothing designer Bill Blass, and I must say, he designs very nice clothes. I have worn some of his suits myself. In fact, Marilyn Monroe once lived in this building.

This section will cause the American taxpayer to be subsidizing wealthy New York East Siders so they can enjoy relatively low rents and live in luxury. One tenant, for example, is paying only $475 a month for a 2,100 square foot apartment in this building. Bill Blass, may I say, pays the market rent, but currently the RTC is losing almost $19,000 a month on this building. Rather, I should correct my statement and say the American taxpayer is losing about $19,000 a month on this building.

I am informed by the RTC that they have an offer of over $1 million if the buyer could buy it without rent control.

Provisions in title III will force the RTC to keep certain properties off the market for as long as 6 months, while nonprofit groups in the name of environmental protection simply ponder whether they would like to buy them or not. Is this really the least expensive way to go?

Finally, title IV of the Gonzalez substitute requires strict quotas to be met for minority and women contracting, a 25 percent quota. I support minority outreach, and the RTC is doing a good job of this, but to meet a certain quota means that costs of the cleanup will go up.

Finally, the OMB says that the Gonzalez substitute will drastically change the method of resolutions for the RTC, and probably will require more cash payouts.

Mr. Speaker, I think the rule is a fair one, giving all Members an opportunity to be heard on this issue, and I urge adoption of the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. Speaker, I thank the gentleman for giving me this time.

Mr. Speaker, I rise in opposition to the bill and the rule under which this bill would be considered, as fatally flawed. The greatest financial scandal in the history of the modern world is ongoing and out of control, piling debt on debt, burdening hard-working American taxpayers and their children and grandchildren to pay for someone else's excesses, someone else's theft, and someone else's mistakes.

In 1989, we were told that $50 billion cash and a few hundred million working capital would do the job. Now we are being told, well, another $30 billion cash, offbudget, of course, does not count against the deficit, only comes out of the taxpayers' pockets, and $47 billion in working capital might do the job, but they might have to come back again, and we are going to pay this money without making the basic reforms that need to be made to prevent this problem from recurring.

Where is the regional equity? Where is the burden sharing? Nearly 50 percent of this problem was caused by State-chartered savings and loans, mostly in two States. Let those who created the greatest part of this problem at least carry a little bit more of the burden.

To big to fail? Do the Members of this body really believe that we should not address the issue of some banks are too big to fail, but a few others, perhaps those minority-owned or those in other parts of the country, are not too big to fail?

Multiple insured accounts, brokered off Wall Street, still going on today, moneys seeking the worst place to go, the place that pays the highest rate of return.

Foreign deposits fully insured, pitifully few of the guilty parties behind bars or making restitution.

It is not an issue of basic building blocks and deposit insurance. I believe in that and I know every Member of this body and every American does, but the least cost option should be brought before this body, and we should bring before this body a bill which will make those who are most responsible pay at least an additional part of the price of cleaning up this mess and preventing it from recurring, and this bill does not do that.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, some of my colleagues may think that this proposed rule allows the House to fully debate the key changes needed to reform the troubled S&L rescue, but in truth, it is a gag rule. It prevents debate on the single most important amendment necessary for fairness in paying the $500 billion price tag.

This is the regional cost-sharing amendment, which some of us have worked for since the rescue plan was enacted in 1989. We started as a very small group on the Banking Committee. Now we have more than 100 Members as supporters.

We are ready to offer our amendment, but some do not want to debate this issue. The leadership wants to prevent the House from working its will. We cannot allow that. The House must be allowed to work its will on the single most important amendment that can come before this House.

The leadership wants to railroad through a $30 billion direct appropriation, putting the cost on the taxpayer, without any real reform.

The leadership does not want any discussion of the fact that my taxpayers in my State and the taxpayers in some 36 other States are paying to clean up a mess that they did not create. The truth is that nearly half of the S&L failures were in State-chartered institutions.

Let me repeat that. The truth of the matter is that nearly half of the S&L failures were State-chartered institutions, and most of those failures were a handful of States which did not properly regulate their institutions. Why should our taxpayers have to pay for that? These few State governments fostered a wide-open, anything-goes, frontier-town atmosphere that attracted thousands of crooks, con artists, financial gunslingers, and plain ordinary incompetents. These few States must share the onus for the biggest regulatory failure in American history.

But the leadership of this House wants to stick most of the cleanup bill on the taxpayers in other States, States which did not cause this problem, States which properly regulated their S&L's, like those in my State, and whose citizens pay most of the taxes in this country.

We have an amendment to instill a measure of fairness. Our amendment is based on a simple principle: That those who caused this debacle should pay a share of the cleanup costs, not all the costs, not half the costs, just a portion; but if this rule is adopted, our amendment cannot be offered and the people of Wisconsin and the people in your States will be left with a bill for a problem they did not create.

So I urge my colleagues to defeat this gag rule and allow us to offer our fairness amendment, because without our amendment this bill is a big reward to those State governments which had lax regulations and caused this problem. We must be allowed to offer our fairness amendment. There must be a recorded vote on this issue.

I have been preaching about this concept for several years now. The S&L debacle was a big issue in the last election. It will be a big issue again in this election.

By a vote of 28 to 16, this amendment passed in our committee, in the Banking Committee, but the Rules Committee intercepted the committee will.

Mr. Speaker, let me make a prediction. If the congressional will on this amendment is stymied, one of the substitutes will get a majority vote and the entire day will be one of self-flagellation and futility. The Congress must be allowed an up-or-down vote on this issue.

Mr. Speaker, I ask you to vote "no" on this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, first of all, let me make it very clear that this gentleman understands very clearly that we have a fundamental responsibility to protect depositors. I support that and I hope that everybody in this body understands the need for us to do that, and I believe they do.

The debate today is not over whether we should protect depositors.

□ 1350

The debate is over the question of who should pay the bill for protecting the depositors? More importantly, when should the bill be paid?

Mr. Speaker, I urge my colleagues to take a hard look at the Kennedy/Slattery amendment that is made in order under this rule because under the Kennedy/Slattery proposal we propose to pay the bill now.

I understand that this is going to set the stage for a very painful political debate, it will set the stage for a very divisive debate, but it will also set the stage for us to do what is right, and that is to pay our bills and not to ask our children and grandchildren to pay $120 billion in interest payments.

That figure, my friends, is not disputed by anyone. That is the additional interest payments that will be incurred on the 30-year payment plan that the President and the supporters of a clean bill would have you support.

The other point that I would make in the Slattery-Kennedy proposal is that the $30 billion that the President is asking for this year, will be available. All he will have to do is submit a plan setting forth how he proposes and how he would like for the Congress to pay for any additional costs beyond the $30 billion. And there is even an escape hatch: In the event that the economy is not performing well, then we can deficit-spend as the President is suggesting.

Now, some have said this violates the budget agreement. Well, I find this almost a laughable argument to make. The fact of the matter is I do not believe there is anybody in this body who believes that the budget agreement last year is the end-all debate on that question of fiscal policy.

What this does is merely build upon it, improve upon the budget agreement. It would reduce the deficit by some $170 billion over the next 4 years, $170 billion, that is real progress in dealing with the deficit.

So any suggestion that this is violating the budget agreement last fall is really laughable.

Mr. Speaker, I would conclude by observing that for those who say vote for a clean bill, I would say to them a clean bill in this instance is a dirty deal for the American taxpayers and, more important, Mr. Speaker, it is a dirty deal for our children and grandchildren.

Let us do the right thing; let us vote for pay-as-you-go, and let us set the stage for a tough debate to address this question of how we are going to pay our bills.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank my good friend and colleague, the gentleman from California, for yielding this time to me.

My comments are of the small pond, I guess, variety as compared to the torrent and tide of debate that has been heard to date relative to the roar of the RTC ocean, who got wet and who is going to pay for it.

I had an amendment, and the reason I am taking the time of the House with regard to the debate on the rule is I had hoped my amendment would be made in order. But to get the depositors paid and to move the bill, I decided to hold off on the legislation.

I just want to illustrate one problem with the RTC's operation that must be corrected once we fund this.

In Salina, KS, which is in my district, the People's Heritage Federal Savings & Loan Association fell under the jurisdiction of the RTC. The RTC had the savings and loan's furniture in that building appraised and then transferred it to the RTC's office in Kansas City for its own use. This was pretty expensive furniture, to say the least.

The RTC then credited only $18,000 to the books as recovered. This occurred despite the fact that everybody in Salina, everybody who knew what kind of furniture it was, were willing to add an additional $100,000 to the bids on the building if the furniture was included.

Now, following my inquiry to the RTC asking for a clarification of the RTC's bid policy, the RTC put up the furniture for public auction. They advertised in the local newspapers; great, large advertisements, as you can see from this one column by 2 inch ad on the back pages.

They said, "We are going to put the furniture back up for auction." They received a bid from the First National Bank in Salina and sold the furniture for $82,000. Right there in Salina, KS—one example, thousands of dollars, not billions of dollars but we saved the taxpayers about $62,000.

In addition to opening up the bid and selling the furniture, the RTC issued a new policy with regard to the purchase of furniture. But it does not go far enough, as far as I am concerned.

I intend to introduce legislation that will require the RTC to comply with regular procurement policies within the U.S. Government.

Now, the RTC is a $50 billion agency that was created overnight as the result of the Financial Institutions Reform and Recovery Enforcement Act. The agency oversees assets from over 450 failed thrifts, amounting to over $160 billion, and it is facing great obstacles in disposing of these assets.

Now, managing and disposing of this portfolio is and will continue to be a tremendous task. First and foremost, not only do we have to fund this—and we are talking about billions and billions of dollars in this debate—but we must also sit down and look at how this agency operates and assure that the taxpayers are not billed twice.

Mr. Speaker, in a town where we speak of billions and millions, I know that $62,000 does not sound like much, but it represents an attitude I do not like.

I wonder how many of my colleagues have seen a similar situation where the RTC has latched onto very expensive furniture and has simply gone ahead and said that the value of that furniture was x when, in fact, if it could have been set in an open-bid policy, it could have been much more.

Now I have legislation that will cure this. I am going to introduce it next week. I ask for my colleagues to cosponsor this legislation.

I thank the gentleman again for yielding me this time.

Mr. DREIER of California. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I rise in reluctant support of the rule. I think it is probably the only thing that we have that is going to move the process forward, and that is probably useful.

But I would like to focus a little bit on the process that is being moved forward by the rule.

If we take a look at what we are doing here today, we find out that this year we are spending $330 in this bill for every taxpayer in the country. Every person who pays taxes is being charged $330 by what we are about to do today, by anybody's measure that comes before us under this rule; $330 is a lot of money for those families. They think long and hard how they are going to spend that kind of money. We today on the floor will decide to spend that much for them.

So it is a process that maybe ought to be examined a little bit because it may not be the right process; because the fact is that we are so intent in Congress on playing political games that we often lose track of the macroeconomic impact of the political games that we play.

For example, in this particular area, there is some question as to whether or not we ought to proceed with the RTC arrangements or whether or not we

would not be better off to do what is necessary in order to refinance real estate in this country or recapitalize real estate in this country and then, by recapitalizing real estate, save a lot of the savings-and-loans that otherwise would go under and that the RTC would have to pay for.

Nearly any investment banker, at least many of them, will tell you that if you could recapitalize real estate in the country, most of the S&L's that now exist would not fail. We have gotten rid of most of the bad ones, we have already paid the bill for them.

So what is necessary to be done is to recapitalize real estate.

How do you do that? The best way to do that is to pass the capital gains bill, pass the capital gains tax reduction so you could recapitalize real estate and at the same time save the taxpayers hundreds of billions of dollars of bailing out S&L's.

Now, why don't we do that? Well, because of the political game being played; because it serves the political interests of the majority to beat Republicans over the head about capital gains on rich versus poor. We are not doing what is right; namely, saving the taxpayers some money, cutting taxes so that we can get some things done that are necessary, such as getting the S&L problem solved.

And I think that the American public ought to examine that process; it ought to question why it is we cannot do what is right, what we always do is political.

Now, if we were in fact to proceed on the proper course of action here instead of dealing with billions of dollars of additional taxes—and when the gentleman from Kansas [Mr. SLATTERY] got up and talked, he did not talk about his approach being a tax approach, but if you take it to its logical conclusion, it could very well end up being additional taxes for the American people.

□ 1400

Mr. Speaker, I say to my colleagues, "If you just take this year, it's $330 of additional taxes for every family." Now, if that is the case, it seems to me that we ought to examine the other side, we ought to look at the other side, to see whether or not a tax cut, principally a capital gains tax cut, might not do the same job and do it in a way that would save us having to come back time and time again for the same kind of RTC approach.

But we will not do that because we want to have this argument about fairness, or rich versus poor, so what we are going to do is we are going to tax the American people in the name of fairness. I do not think they regard that as fair, and how are we going to use the taxes?

Mr. Speaker, I say to my colleagues, "If you listen to the gentleman from Ohio, he'll tell you of one of the ways that that tax money is going to get used is to subsidize the rich. The very rich that we keep hearing so much about whenever we're talking capital gains, we're going to end up under at least one of the approaches before us here today, subsidizing those people to the tune of thousands of dollars a month while they live in their luxury apartments in New York City."

I do not think the American people regard that as particularly fair either, so I would plead with my colleagues that maybe we ought to take a look at the larger issues involved in some of these things, stop playing politics with these issues here and do what is right for a change.

What is right in this case would be to recapitalize real estate in this country so that we can, in fact, save savings and loans and not charge the taxpayers.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. WALKER] very much for yielding.

Let me just say to the gentleman that he made some very valid points about this whole question of capital gains with respect to this solving the RTC problem, but let me also point out to the gentleman that we need to recognize that this next year, if it costs $50 billion to deal with the RTC problem, and if we have to cut things or raise some additional revenue to come up with it, that is $50 billion. If we do not deal with it next year, then the taxpayers, I would say to my good friend, we are going to have to come up with $120 billion in additional taxes in outyears to pay for it.

Mr. WALKER. Mr. Speaker, I certainly understood what the gentleman from Kansas [Mr. SLATTERY] had to say in that regard. The point is, however, that a tax increase in the economy right now, in order to do whatever we regard as good, would in fact be a disaster. We already, by raising taxes last fall, helped deepen the recession that we are now in. Every dime of taxes that is coming out, we have now raised the tax burden as a percentage of GNP to 20 percent. That is having a devastating impact on the economy.

Mr. Speaker, one of the reasons why people are out of work, why we cannot have a competitive economy, is because of being dragged down by last year's taxes, and now the gentleman's approach would take us the next step toward possibly additional taxes on top of the problem we already have and drag down the economy even more. That is not an approach that I regard as being a responsible way of handling the present problem.

Mr. SLATTERY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Speaker, I would like to work with the gentleman from Pennsylvania [Mr. WALKER] if he has an approach to come up with $50 billion in spending cuts. I would like to see it.

Mr. WALKER. Mr. Speaker, I would say to the gentleman from Kansas [Mr. SLATTERY] that I can probably find $50 billion. I do not think many people on his side would probably vote for it.

In addition, I would also suggest to the gentleman from Kansas that what we need to do right now is cut capital gains taxes.

Mr. DREIER of California. Mr. Speaker, it is costing $8 million a day as we delay this process. What we need to bring forward is a clean funding bill so that we can close down those insolvent institutions. The full faith and credit of the Federal Government is behind those deposits. That is the reason that we are here trying to do this, to ensure the depositors do not lose their investment.

Mr. Speaker, I hope very much that we can support this rule, move ahead with a clean bill without piling it up with all of these multifarious provisions which will only enhance the possibility of a Presidential veto and add further cost to the problem. So, I hope we can move ahead.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, the gentleman who preceded me in the well, the gentleman from Pennsylvania [Mr. WALKER], made an interesting point about recapitalizing real estate so that it is worth more. I think there is some merit in that notion, but the conclusion that he came to, that the capital gains tax cut was the way to do it, is not the conclusion I would draw. It would seem to me far more appropriate for us if we were interested in making real estate more valuable for us to reexamine the depreciation schedules and passive loss rules, changes that we made in the past that wound up depressing real estate values. They would be far more direct in terms of their impact on real estate and far better, in my view, in terms of dealing with this crisis than the scatter gun approach of capital gains reductions.

Mr. Speaker, I rise in strong support of the approach of the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Massachusetts [Mr. KENNEDY]. While we spend a lot of political time trying to blame one party or the other for this S&L debacle, we come away from such a debate with very few endearing truths. The one endearing

truth that the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Massachusetts [Mr. KENNEDY] have come up with is that, if we borrow this money or put it off budget, it will cost future generations more money. Off budget borrowing is a unique way to screw middle class and upper middle income kids for the next 30 years. We, as a nation, already do a very bad job in caring for poor children. Now we have figured out a way to pass on the costs of profligacy of this generation to future generations.

Clearly, if we want to save money, if we want to engage in an honest debate about what our priorities should and must be, the approach of the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Massachusetts [Mr. KENNEDY] is the way to do it, to face squarely these costs today, this generation dealing with this generation's problems.

To suggest, as some of my Republican friends have, that taxes today are inimical to the way to deal with this crisis—I would simply say that these tax increases are just being deferred. They are not being forestalled, and they are only being made larger, not smaller, and there is a very heavy price today for a government that borrows money. It robs investment capital for people who want to use that money to invest.

Mr. Speaker, clearly the approach of the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Kansas [Mr. SLATTERY] is the only way for us to honestly face this crisis, and I commend the gentleman from Kansas and the gentleman from Massachusetts for their amendment.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I spoke earlier today on this very question. What we have before us right now is a rule, and it's an interesting thing. To those in the American public who do not known what a rule is, it is how we control debate and how we limit the amendments which can be offered to a bill in this Chamber. The objection that some of us have to this rule is that it is too strict a rule. It is particularly interesting to listen to my friends on the minority side argue that what we need is a closed rule and a clean bill, with few amendments and little or no opportunity for change. It is an interesting phenomenon to listen to the minority on this because for 6 years I have been sitting here listening to rules come before this House, and for 6 years my friends on the minority have said what we really need is open rules and unlimited authority to revise and amend legislation, and to express opinions on the floor. The minority has consistently attacked the majority party when we do not allow open rules and open debate. Now, all of a sudden, the minority would like a very closed piece of legislation to go through without amendment, without changing things, without the opportunity to change the approach. Without ever a reasonable opportunity to debate important issues.

Mr. Speaker, I have criticized the minority leadership and their position. Let me now also criticize the majority leadership in their position. What they have told us is they do not want us to act in any way to change the administration's request or the fundamental underlying law to correct the dissatisfaction of the American people to see that the proper people should pay for the S&L bailout. The way they have accomplished this is by just not allowing us to offer an amendment that would call for burden sharing.

What is burden sharing, it is saying that those people who cause the problems should share in the burden of paying for the problem. Is that unfair? Is that unreasonable? Is that not accountability?

Why should we give a free ride to the State of Texas? A few irresponsible States in years past, in the eighties, passed bills and gave powers to their S&L's, so that they could do almost anything with the money in an S&L, and they caused 45 percent of the loss of the funds in this country, which will amount to hundreds of billions of dollars. All of a sudden those of us from the Northeast Midwest Coalition, a majority of the Republicans on the Committee on Banking, Finance and Urban Affairs, a majority of the Democrats on the Committee on Banking, Finance and Urban Affairs, and more than a hundred Members of this Congress, who cosponsored this amendment as a freestanding bill, are being denied an opportunity to represent our constituents. The leadership or the Democratic side and the Republican side, the Committee leadership on both sides, the administration, they do not want the American people to ever hear the debate on this important issue. They fear a government of the people, for the people, and by the people.

But right now that is the message that goes out to the American people. That there is something unique about the S&L disaster that their legislators should not be entitled to talk to them about and inform them on. If ever I found a wrong principle, this is it. I ask the hundred Members of this Congress who cosponsored the burdensharing, bill, the majority and minority Members that supported my burdensharing amendment in committee, to vote no on this rule, and no on the bill until we are given an opportunity to bring equity and justice to the S&L bailout.

□ 1410

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I say this: We can stand here all afternoon and possibly the rest of the week and argue about the S&L situation, which is an abominable situation, probably the worst I have had to deal with since I have been in Congress. However, that has nothing to do with the rule that we are about to vote on here this afternoon.

This is a broad-based rule. Three major substitutes are available to choose from, with a wide range of alternatives about how we want to handle the S&L situation. I frankly do not think that anyone in this body can be responsible and say that we do not have that obligation to handle the S&L situation. I do not like it, no one else likes it, but let me tell the Members that if we say to the American people that we are no longer going to guarantee their bank deposits, we will have the worst financial crisis this country has ever known.

We have already spent the money. We guaranteed the deposits. The note is due, and we have to pay. That is what all this is about. Voting against the rule is not going to have anything to do with it. It is a good rule, it is a broad-based rule. So I say that we have to live up to our responsibilities and vote for this rule.

Mr. MOODY. Mr. Speaker, the vote today is about picking up the pieces of a decade of idealogically driven deregulation combined with declining Federal and State supervision.

But not all States followed this disasterous example: Wisconsin, for instance, never adopted the practice of "forebearance"—a practice akin to the classic shell game played with taxpayers money.

Unlike the a real game, however, most State regulators did not even try to find the prize—real capital. They were content to take the charlatans at their word. These officials' actions to correct their oversights were, to say the least, a day late and a penny short—trillions of pennies short.

In my State of Wisconsin, Mr. Speaker, regulators did not play that game. Our financial institutions are extremely strong: Banks have an average of 9.3 percent capital; S&L have an average of 9.13 percent capital.

I cannot support a bailout package that does not ask more of those who created more of the problem.

Now we are being asked to pay another $30 billion to correct their mistake.

I urge my colleagues to let the House decide the question and defeat this rule.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

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

Mr. WOLPE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 146, not voting 13, as follows:

[Roll No. 38]

YEAS—272

Abercrombie	Fawell	Mazzoli
Ackerman	Fazio	McCandless
Anderson	Feighan	McCollum
Andrews (ME)	Fields	McCrery
Andrews (TX)	Frank (MA)	McCurdy
Anthony	Franks (CT)	McDade
Archer	Frost	McDermott
Armey	Gallegly	McEwen
Atkins	Gallo	McMillan (NC)
AuCoin	Gekas	McMillen (MD)
Baker	Gephardt	McNulty
Ballenger	Geren	Meyers
Barnard	Gibbons	Mfume
Barrett	Gilchrest	Michel
Barton	Gillmor	Mineta
Bateman	Gingrich	Moakley
Bellenson	Gonzalez	Molinari
Bennett	Goodling	Montgomery
Bereuter	Gordon	Morella
Berman	Goss	Morrison
Bevill	Gradison	Murphy
Bilirakis	Grandy	Murtha
Bliley	Gray	Myers
Boehner	Hall (OH)	Natcher
Bonior	Hansen	Neal (MA)
Boucher	Harris	Nichols
Boxer	Hastert	Oakar
Brooks	Hatcher	Olin
Broomfield	Hayes (LA)	Ortiz
Browder	Herger	Orton
Brown	Hoagland	Owens (UT)
Bunning	Hobson	Oxley
Bustamante	Hochbrueckner	Pallone
Callahan	Horn	Panetta
Campbell (CA)	Hoyer	Parker
Cardin	Hubbard	Payne (VA)
Carper	Hyde	Pease
Chandler	Inhofe	Pelosi
Chapman	Ireland	Penny
Clement	Jenkins	Peterson (MN)
Coble	Johnson (SD)	Pickett
Coleman (MO)	Johnston	Pickle
Coleman (TX)	Jones (GA)	Price
Collins (MI)	Jones (NC)	Quillen
Combest	Kennedy	Ravenel
Condit	Kennelly	Ray
Cooper	Kleczka	Reed
Cox (IL)	Kolbe	Regula
Coyne	Kopetski	Rhodes
Cramer	Kostmayer	Richardson
Cunningham	Kyl	Riggs
Darden	Lagomarsino	Roberts
de la Garza	Lancaster	Rogers
DeLay	Lantos	Ros-Lehtinen
Dellums	LaRocco	Rose
Derrick	Laughlin	Rostenkowski
Dickinson	Leach	Roukema
Dicks	Lehman (CA)	Rowland
Dingell	Lehman (FL)	Roybal
Donnelly	Lent	Sabo
Dooley	Levine (CA)	Sarpalius
Doolittle	Lewis (CA)	Saxton
Downey	Lightfoot	Schaefer
Dreier	Livingston	Schiff
Dwyer	Lloyd	Schroeder
Early	Lowery (CA)	Schulze
Edwards (CA)	Lowey (NY)	Schumer
Edwards (OK)	Luken	Serrano
Edwards (TX)	Manton	Shaw
Emerson	Markey	Shays
Engel	Martin	Shuster
English	Martinez	Sisisky
Erdreich	Matsui	Skaggs
Fascell	Mavroules	Skeen
Slattery	Synar	Weber
Slaughter (NY)	Taylor (NC)	Weiss
Slaughter (VA)	Thomas (CA)	Weldon
Smith (FL)	Thomas (GA)	Wheat
Smith (NJ)	Thomas (WY)	Whitten
Smith (OR)	Thornton	Williams
Smith (TX)	Torres	Wise
Solarz	Torricelli	Wolf
Solomon	Traxler	Wyden
Spence	Unsoeld	Wylie
Spratt	Vander Jagt	Yates
Stallings	Visclosky	Yatron
Stearns	Volkmer	Young (AK)
Stenholm	Walker	Young (FL)
Studds	Walsh	Zeliff
Sundquist	Waters	Zimmer
Swett	Waxman	

NAYS—146

Allard	Hall (TX)	Owens (NY)
Andrews (NJ)	Hamilton	Packard
Annunzio	Hancock	Patterson
Applegate	Hayes (IL)	Paxon
Aspin	Hefley	Payne (NJ)
Bacchus	Hefner	Perkins
Bentley	Henry	Peterson (FL)
Bilbray	Hertel	Petri
Boehlert	Holloway	Porter
Borski	Hopkins	Poshard
Brewster	Horton	Pursell
Bruce	Houghton	Rahall
Bryant	Huckaby	Ramstad
Burton	Hughes	Rangel
Byron	Hutto	Ridge
Camp	Jacobs	Rinaldo
Campbell (CO)	James	Ritter
Carr	Johnson (CT)	Roe
Clay	Jontz	Roemer
Clinger	Kanjorski	Rohrabacher
Collins (IL)	Kaptur	Roth
Conyers	Kasich	Russo
Costello	Kildee	Sanders
Coughlin	Klug	Sangmeister
Cox (CA)	Kolter	Santorum
Crane	LaFalce	Savage
Dannemeyer	Levin (MI)	Sawyer
Davis	Lewis (FL)	Scheuer
DeFazio	Lewis (GA)	Sensenbrenner
DeLauro	Lipinski	Sharp
Dixon	Long	Sikorski
Dornan (CA)	Machtley	Skelton
Duncan	Marlenee	Smith (IA)
Durbin	McCloskey	Snowe
Dymally	McGrath	Staggers
Eckart	McHugh	Stokes
Espy	Miller (CA)	Stump
Evans	Miller (WA)	Swift
Fish	Mink	Tallon
Foglietta	Mollohan	Tauzin
Ford (MI)	Moody	Taylor (MS)
Ford (TN)	Moorhead	Towns
Gaydos	Moran	Traficant
Gejdenson	Nagle	Upton
Gilman	Neal (NC)	Valentine
Glickman	Nowak	Vento
Green	Nussle	Vucanovich
Guarini	Oberstar	Wolpe
Gunderson	Obey	

NOT VOTING—13

Alexander	Jefferson	Udall
Dorgan (ND)	Miller (OH)	Washington
Flake	Mrazek	Wilson
Hammerschmidt	Stark	
Hunter	Tanner	

□ 1434

Mrs. JOHNSON of Connecticut, Messrs. ROHRABACHER, GAYDOS, GILMAN, MILLER of California, and GEJDENSON, Ms. DELAURO, and Messrs. RITTER, FISH, TOWNS, MOLLOHAN, and DORNAN of California changed their vote from "yea" to "nay."

Mr. EDWARDS of Oklahoma changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY]. Pursuant to House Resolution 105 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1315.

□ 1435

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1315) to provide funding for the Resolution Trust Corporation, with Mr. CARDIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think that the issue or issues before the House are very clear. What Members have been listening to during the debate on the rule was, of course, confusing and not pertinent to the rule, and much that really tended to cloud the issue was uttered. All of the bills, including the substitutes that will be considered under the rule, I want to remind my colleagues, each one of these substitutes provides for 1 hour of debate.

□ 1440

Each one of these bills and substitutes provide the $30 billion to the Resolution Trust Corp. to pay for savings and loan losses. There is no difference on that point.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WYLIE. Mr. Chairman, I have a resolution here on H.R. 1315. The chairman indicated that there was 1 hour provided for each of the substitutes. In mine it says 1 hour of general debate and then that the amendments will be considered under the 5-minute rule.

Mr. GONZALEZ. Mr. Chairman, I am glad the gentleman is clarifying that.

Mr. WYLIE. Mr. Chairman, it is in the 13th line.

The CHAIRMAN. The rule that was adopted provides for 1 hour maximum debate on each of the substitute amendments, by reference to debate limits stated in the accompanying Rules Committee report.

Mr. WYLIE. The rule that we just adopted?

The CHAIRMAN. That is correct.

Mr. WYLIE. Mr. Chairman, then, that is different from the copy of the rule that I received here.

I thank the Chair.

Mr. GONZALEZ. Mr. Speaker, I thank my colleague for clarifying that point, because there has been some confusion here, and I wanted to make sure that every Member would realize that no matter what his predilection is for the particular substitute he would be for, he should have ample time to be heard.

But at this time, I think much good can be done not only for the Congress but for those we represent if we emphasize that the $30 billion that we are discussing here in this legislation is not for the bailout of any institution, any stockholder, any bondholder, any investor. As the minority leader so eloquently said it, this is what in the technical jargon is called loss funds, that is, $30 billion to resolve the near 200 or better than 200 institutions that the RTC has got to resolve this year alone, and nothing else.

What do we mean "resolve"? It means honoring the commitment that everybody in America takes for granted that if they have up to $100,000 in an insured depository institution that the Government's word is behind that insurance. At this point it cannot be if you do not have the money with which to honor that commitment. So we have no options now. This is something that as distasteful, as politically unpalatable as it is and always has been and will be, we were elected to, and we volunteered to, take the hard cases and make the tough decisions, and then in the environment of free and untrammeled debate make the points.

But I wanted to make that point, that the $30 billion are for lost funds. However, of all of the bills you will have or whatever you want to call them, substitutes, one of them provides what we consider to be true responsible substantive reform for the agency that will be receiving those $30 billion, and that bill is H.R. 1221, the substitute that I will be offering.

The so-called clean bills before the House, meaning clean in the sense that the money is going to come forth, and that is it, no accountability, no way of saying wait awhile, and this has not worked perfectly. It has not been infallible.

This Committee on Banking, Finance and Urban Affairs has had more hearings, comprehensive oversight hearings, in the last Congress and in the beginning stages of this new Congress on RTC than this committee had the total 6 years before. So we think we know that the people are reporting to us and the various responsible agents even within the administration are reporting to us that there are some flaws that at least minimally should be corrected before the $30 billion is given with no questions asked, no conditions, no nothing.

So that these so-called clean bills provide neither reform, limited or even fake reforms. It would be the worst kind of public policy to ask the taxpayers to spend another $30 billion and then refuse to provide the statutory changes necessary to ensure the money is spent prudently and that the RTC operates in a more responsive and less costly manner. Money without reform sends an absolutely wrong message to the bureaucrats at RTC, an agency that clearly has not been able to get its act together.

Sales of hundreds of billions of dollars of assets are moving as fast as wool overcoats in a July overheat.

State agencies like the one in my home State, the Texas Housing Agency and Housing Finance Agency have been willing to put up millions of dollars to buy properties only to find that the RTC is unable to provide basic data on the location and condition of the property. The complaints about arrogance and incompetence at RTC are heavy and growing heavier in offices throughout Capitol Hill. I have a pile of letters from my colleagues.

We have had hearings out in the field not only in Texas but in other areas. We continue to get reports from the Northeast, now, in heavy numbers. Now, these are not partisan complaints. They are not partisan concerns. They come from ordinary citizens, from business people, real estate firms, nonprofit organizations and local governments who are trying to make sense out of RTC's complex and everchanging strategies.

One of the House's senior Republicans, our esteemed colleague, the gentleman from Tennessee [Mr. QUILLEN], a member of the Committee on Rules, summed it up when we were before the Committee on Rules last week, and he summed it up well concerning this growing tide of complaints during the Committee on Rules hearing on this legislation. In his characteristically blunt language, the gentleman from Tennessee [Mr. QUILLEN] described RTC as a fiasco and suggested the agency "ought to clean house and start over again." His comments were on the mark, and echoed voices we are hearing from all over the land.

A vote for reform is not a partisan vote. It should be a bipartism vote if it is going to be for a better and a more economical way of performing the resolutions which must be done if the system is to prevail. it would be sad, indeed, if the House turned its back on the problems and handed the Resolution Trust Corporation a vote of approval in the form of one of the clean or near clean bills pending before us.

My amendment, in substitute, that is, does say that change is needed, and let me say that they are minimal. There were other amendments that I had proposed in the committee, some of them accepted; one of them was not.

□ 1450

I deleted them from the minimal version that is before Members now. However, I want to list them: First, the appropriation of $30 billion for losses; second, requirements for a detailed plan to be submitted by RTC on how additional funds are to be expended. We have never been able to get that. That is why we are so immersed in this swamp now. Third, requirements that RTC use the least costly method in resolving failed savings and loan cases. I notice that one of the speakers on the rule, who is on this make the States pay binge, mentioned that we ought to have a least cost. Well, we have it right here. Members can vote for it. Fourth, improvements that speed up the sales in the affordable housing program by including housing in conservatorship. Now, I remind Members, that means a tremendous real estate inventory, and the elimination of minimum pricing requirements for eligible properties. Protections are included to avoid the arbitrary wipeout of valid residential leases and unnecessary displacement of qualifying families. I was rather surprised that my esteemed colleague, the gentleman from Ohio [Mr. WYLIE] should hand pick an apartment that is not within the contemplated area of action and remedy, to avoid the expulsion and being thrown into the streets, hundreds of families. His site in New York is not at all the main area of concern where we have that problem. We had problems, we have had witnesses, and New York alone is not the only State affected.

Fifth, improvements in the handling, cataloging and sale of properties that have natural, cultural, recreational, or scientific values of special significance. Sixth, improvements in RTC contracting to ensure specific goals for including minority- and women-owned companies they are contracting with. Let me emphasize, these are not quotas. The language here is minimal. I will hope, and I will give the opportunity to our esteemed colleague from California [Mr. TORRES], who is the author of this version. This is no different from what it says in almost every single Federal agency or department now as a matter of statute, but it is not a quota. However, he can explain it better than I.

All of these provisions address specific complaints that have come to the committee's attention in oversight hearings and from Members and from the public, as I have said. There are additional reforms that are needed, and the Committee on Banking, Finance and Urban Affairs is committed to continuation of full oversight of the RTC

in this session. We are asking the taxpayers to come up with hundreds of billions of dollars before it is all said. By faltering, we will perhaps contribute to an eventual price tag that could topple $500 billion. We owe it to them to do our very best to make this program operate in the public interest and at the least possible cost, as I am sure my amendment will do under these circumstances at this time here and now.

Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1315, legislation to provide funding to continue the operations of the Resolution Trust Corporation. As the original text for consideration, H.R. 1315 is a clean bill which provides $30 billion in funding for the RTC. It does provide what I regard as necessary reporting requirements on the expenditure of funds by the RTC, and I want to commend the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] for his willingness to work together to keep the process moving. The chairman has some strongly held feelings about affordable housing which I respect. I just do not think that this is the vehicle for low-income housing legislation. May I respectfully suggest to the chairman that my substitute does include budget reforms, which the chairman and I have worked on, and I thought that we had agreed to. I would respectfully suggest that the chairman's substitute does not have those same reforms.

RTC is not kicking out any low-income families. They are not kicking anyone out of these apartments or houses, since they take over if they are within a range of 115 percent of median income. I thought the record should be corrected in that regard.

We have now reached a critical juncture in the continued operation of the RTC and the timely resolution of the S&L crisis. In a letter dated February 28, 1991, the Chairman of the Resolution Trust Corporation, L. William Seidman, stated that:

> If additional funding is not provided, the resolution process will come to a halt * * *. This means that insolvent and unprofitable thrifts that would be shut down if funds were available to close them will continue to operate, piling up losses that will eventually have to be borne by the American taxpayer.

Mr. Seidman's letter of the 28th goes on to say that:

> We estimate that delay costs the taxpayer $250 million to $300 million for the first quarter. An additional quarter's delay would raise the cost by an estimated $750 to $850 million or at least $1 billion in the aggregate. The reason that each quarter's delay is more expensive than the last is that the longer the delay the longer it takes to catch up.

Mr. Chairman, the delay which has already taken place in failing to act expeditiously in adopting an RTC funding bill is costing the American taxpayers an estimated $8 million per day as we speak. We must adopt the RTC funding bill. We have no choice. The only alternative is an abrogation of the Federal Government's commitment to stand behind depositors. This point has been made over and over again and it deserves emphasis by repetition.

If we do not, the unfortunate result will be the loss of confidence in our banking system, and increased losses to the taxpayer.

On March 4, a Wall Street Journal editorial aptly summed up the situation this way:

> The S&L bailout is about recouping money owed to depositors. The depositors are going to be paid because the federal government assured them that they would be.

The consideration of legislation to fund the RTC is not a political issue, I submit. Neither Republicans nor Democrats should seek political advantage from fulfilling the unpleasant job that we all know must be done. Partisan bickering has no place in this process. It only serves to divide the House. We must resist the temptation to overlegislate on what is, in effect, an emergency funding bill. There is no time to debate ad infinitum extraneous matters that will only slow down the process.

While no Member is pleased about having to appropriate more money for the S&L process, I think it is important to bear in mind the progress which has been made thus far by the RTC. In a little more than a year and a half the RTC has seized 557 failed S&L's, and of that number it has resolved 373. Secretary Brady testified in the other body this past June that of the $273 billion in assets which have come under the RTC's control since its inception, the RTC has sold or liquidated 127 billion dollars' worth of assets.

While I realize that everyone would like to see more progress by the RTC, I believe that we must be realistic and we must keep the magnitude of the S&L resolution process in perspective. The RTC became overnight the largest financial institution in the United States, having more assets than Citicorp, and I think that we should keep that in mind.

I support H.R. 1315 which is a clean RTC funding bill. I urge Members to vote against the Slattery-Kennedy amendment and the Gonzalez substitute.

Mr. Chairman, I reserve the balance of my time.

□ 1500

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER].

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

Mr. Chairman, I rise in support of this legislation.

Let me say that this is not an easy thing to vote for, but voting against it is not very easy, either.

Where are we? We have the S&L crisis. As has been stated before, the problems that created that crisis are way back in the middle 1980's and late 1980's.

Now we have only one thing left to tell the people who put their $5,000 and $10,000 and $15,000 and $20,000 in their banks, in their thrifts, that Uncle Sam is going to make good on the promise. That is all this legislation does.

Now, if you want to cause real discombobulation in the banking system and in the thrift system, vote this bill down.

There is only one good thing that has happened in the S&L crisis so far, and that is that there have not been runs the way there were runs in the Great Depression. That is because people knew and still know at this point that for all the other problems Uncle Sam has had in this banking and thrift business, that Uncle Sam will make good on the promise that up to $100,000 of your money is safe.

We are simply being asked to make sure we can make good on that promise today, no more, no less, and if we are to start fiddling around with it, we are going to do something that might possibly cause the kind of problems that we will never be able to undo.

For 50 years, Federal deposit insurance has built confidence in this country ever since it was founded. To monkey around with it by not giving the money that is needed could undo that confidence in a week, in a month, in a few months, and we will never get it back. The genie will have been taken out of the bottle and not be put back in the bottle.

So I would say to my colleagues on the bill, it must pass. Whatever one's opinions are on the various amendments, and I will be supporting the Gonzalez amendment, but whatever the opinions are on the various amendments, we must pass a bill, plain and simple. We have no choice.

I tell my colleagues who were here in 1987, money was needed. It was not granted, and it cost the taxpayers not tens of billions of dollars, but hundreds of billions of dollars.

Right now we have only one choice my colleagues; pay a little now or pay even more later. It is not a little, so I would strike that. I would say pay something now or pay even more later, but that is really the only choice.

You can say, "No, I will vote no and hope my colleagues will pass it." That is a time-honored method of voting; but let me tell you, on this legislation if it is not you, there are not going to be many of your colleagues to pass it.

So I hope we will pass this bill. There is nothing wrong with it substantively.

Everyone knows we are right to vote for this bill. Politically, it is tough.

Should the RTC be doing a better job? Sure. You set up a huge organization—I have been a critic of the RTC, but they are beginning to make progress, as the GAO report shows. They have more progress to make.

Simply by giving them no money will not make them do their job any better. It will make them do their job even worse.

So in conclusion, I say to my colleagues, this is really a test in a sense of being a responsible legislator.

It is not one of those easy votes. It is not one of those votes you go home to, but it is the reason really we are all ultimately here.

So I ask my colleagues to think about it, to listen to the debate and then to find it within themselves to do the only thing we can do, to do the right thing, to do the thing that if it is not done today we will have to come back and do it in a week or a month, to vote for this difficult piece of legislation.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Chairman, everybody in America understands that the S&L trauma represents the greatest financial scandal of modern American history. It is Teapot Dome to Abscam times a factor of a hundred.

Everybody in America also understands that this body is responsible in no small part for the hole we have dug. Let us at least agree in responsible comity not to dig a deeper hole, not to allow the system to continue to hemorrhage $8 million every day we bicker and dawdle.

As much as any bill any of us will ever vote on, the observation about there being no such thing as a free lunch is in order.

On the other hand, we must all understand that some meals are more expensive than others.

One amendment before us today is designed to cause more spending, another potentially to raise taxes. These are not nickel and dime issues. They carry extraordinary ramifications.

At issue is a deepening recession if Congress plays political games with amendments. Precipitating more spending or more taxes at this time risks a loss of confidence in the economy, macroeconomic tremors of dangerous proportions.

Worse yet, at issue is a certain depression if we refuse to face up to our responsibilities and walk away from depositor obligations.

What distinguishes the 1990's from the 1930's is the existence of deposit insurance, of a Federal safety net that guarantees when a bank fails, the elderly who have put their life savings in a certificate of deposit will not be financially ruined.

There is something very tantalizing about both the Gonzalez and the Kennedy-Slattery amendments. One compassionately calls for more social programs, the other hard-headedly calls for paying the costs up front. I am frankly respectful of both approaches, particularly the second; but so there is no misunderstanding, each brooks a Presidential veto. Each will cause further delay in resolving the mischief that Congress has wrought.

Is it not time we put ideology and excuse behind and simply grit our teeth and pass a clean bill, a bill the White House will sign, a bill that gives some hope that we can at least say that we have done the honorable thing in the 1990's, after letting the public down so badly in the 1980's.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise today in support of H.R. 1315, the Wylie legislation to appropriate $30 billion for the Resolution Trust Corporation, which will allow the RTC to continue the process of closing down insolvent S&L's—and pay off those depositors which the government insurance program guarantees.

This is an installment on the savings and loan bill [FIRREA] which Congress passed to its credit. It was tough politically to do so and to the credit of all—the President, the Treasury, and the bipartisan leadership in Congress, it was passed with relatively little partisan acrimony.

Now for some inexplicable reason that statesmanship and comity has broken down. We should have passed this bill last October. We did not.

To the credit of the other body and after full debate, they passed a clean bill last week.

But here we are after 2 weeks of wrangling over everybody and their brothers pet projects and parochial interests and after full airing in two lengthy committee markups we are still unable to get a committee endorsed bill to the floor.

Today we have three legislative hurdles to pass before we get to our goal. And, I am told we might not have the votes here today for any appropriation—clean or otherwise.

I would like to urge my colleagues to do the right thing—vote for the Wylie clean $30 billion appropriation. We must understand the basic essential: That delay equates into added costs, upwards of $8 million per day of delay.

Now for those of my colleagues who simply do not support any RTC funding bill, I can only ask what is their alternative? The cost of the cleanup is not something new. We debated this matter at length when we considered the FIIRREA bill 2 years ago. It was clear from the beginning that the S&L cleanup would cost the American taxpayer.

Yes, the S&L debacle was an indictment of a deregulation frenzy that went awry. And yes, it was a sorry commentary on our regulatory process and even on our role as congressional overseers.

However, there is no alternative. As the Washington Post wrote yesterday in its editorial:

> These billions of dollars are buying fairness. Without them, the costs of the S&L failures would fall on depositors. People would lose their savings. Depositors should not bear the cost of public policy errors.

We know the history of this debacle. Now we must face the reality of our commitment to the depositors, not the S&L crooks.

Again, as the Post said, the money we are expending today is buying fairness and is providing financial and economic stability. If we are not prepared to accept this alternative, what is the answer?

Since its inception, the RTC has taken over some 531 troubled thrifts and has sold or liquidated 353 of these. Within the total of thrifts sold or merged, it would have cost the Government almost $38 billion just to pay off the depositors of those failed institutions. But because of RTC actions, this expense was not necessary to a large degree.

On the fraud side, the Justice Department has achieved convictions of over 500 defendents, representing over 700 years of prison sentences and the assessment of nearly $300 million in restitution and fines.

In other words, the RTC works, maybe not as rapidly or as effectively as some would want. But it does work and it does need funding.

Finally, on the amendments we will consider today, I can only suggest that it would be better to stick to a clean funding bill.

The Gonzalez substitute is not reform legislation. It will only serve to slow the process, not make it more efficient.

The Gonzalez substitute will, as a result of its least cost provision, require an immediate cash outlay of an additional $3 to $10 billion and would require additional borrowing of between $10 to $15 billion for the acquisition of additional assets.

This bill will subsidize upper income tenants in rent controlled apartments in the name of tenant protection, will hold certain properties under RTC control off the market for upwards of 6 months, and would require the establishment of a minority quota system for RTC contracts. Clearly, these are not reforms designed to implement efficiency or speed.

Mr. Chairman, this is no time to interject politics and pet policies into such an important piece of legislation as this.

I urge my colleagues to reject these unnecessary provisions and support a simple, straightforward and clean RTC funding bill so we can get on with the job of cleaning up the S&L mess.

Each day that passes makes this a more expensive proposition. Lets call a halt to the partisan games and act as responsible custodians of the public trust.

□ 1510

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, two things: I would like to ask Mr. WYLIE a question in light of the statement he made about Chairman Seidman's letter. But I wanted to say before we go into that, say to our very distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] the ranking member on our committee, with respect to the Subcommittee on Housing, I am not motivated by charitable, social, or ideologic reasons. These are the results of an attempt to be for the people, but I realize that sometimes I have a hard time convincing not only Members on that side but some of mine, which reminds me of Dorothy Parker's little ditty:

Higgledy piggledy, my little white hen, she lays eggs only for gentlemen. I can't persuade her with pistol or lariat to come across for the proletariat.

Try as I may, I must say this is not for the proletariat, because the proletariat does not have even a thousand dollars in the depository savings institutions.

The average deposit in a bank or an S&L or other depository institutions in the United States is less than $8,750 overall, median average. So the real hard numbers are less than that, I wanted to say that I am not motivated by soft-headed, do-gooder intentions. These are bare minimal requirements that we feel will bring the resolution of these tax-funded institutions, and will continue to be more or less subsidized, closer to the intent that we all express when we want them to serve the greatest overall general public interest.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I thank the chairman for yielding.

Mr. Chairman, I want to be clear, and I am sure my chairman understands this, but I want to be sure my colleagues understand that nothing in my statement was meant to impugn the motives of our chairman. There are honest differences of opinion over how this should be done. I know the Treasury Department and the President are absolutely convinced about the merits of their proposal and feel that it would really be in the best interests of all depositors to see this done.

However, I do understand that although the gentleman from Texas has a heart of gold, he does not make soft-headed decisions.

Mr. GONZALEZ. I thank the gentlewoman.

Mrs. ROUKEMA. I certainly understand that, and that the gentleman is operating out of the best of intentions and the highest motives and he has given very clear and thoughtful consideration to his proposal.

Mr. GONZALEZ. I thank the gentlewoman from New Jersey.

Mr. Chairman, I address this to the gentleman from Ohio [Mr. WYLIE]: In the letter he referred to, as receiving it from Mr. Seidman, was that the one dated March 11?

Mr. WYLIE. If the gentleman will yield, the letter that I referred to was a letter of February 28, and it was addressed to Chairman RIEGLE over in the Senate. But I received another one identical to it dated March 4.

Mr. GONZALEZ. I want to read, not read but refer to the one we received yesterday, on March 11, in which he said that the only complaint he had about my substitute amendment was that it did not apply the least cost test by the RTC to transactions involving failed thrifts as it does not in the case of banks. What he was saying is that he had no complaints about the amendment other than its methodology with respect to the least cost test. He says that he would like the same procedure to be used in the case of the S&L's and the banks, where he does not have a least-cost procedure. What I wanted to clarify was the fact that he is not against the amendment, per se, other than with that one objection. Of course, we are for this method being used in the case of banks and S&L's.

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

Mr. GONZALEZ. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding.

I understand where the gentleman is coming from. Mr. Chairman, I think maybe he has softened his tone a little bit in this letter of March 11 to the gentleman from Texas. He also sent an identical letter to Mr. MICHEL, may I say, which I just now received a copy of. But back on February 25 he referred to the language in the bill and suggested that we omit section 102(a) of the bill because the proposed methodology would be difficult to apply and would fall short of effectively dealing with the goal of having uninsured depositors share in more of the losses.

Mr. GONZALEZ. All right. I was a little bit——

Mr. WYLIE. As I say, I think he has softened his tone a little bit, but the point I wanted to make is that this still applies; I think we could do it more swiftly with a clean bill and not have confusion in the process with the RTC properties.

Mr. GONZALEZ. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 4½ minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I was going to ask how much time did we consume in this dialog?

The CHAIRMAN. Approximately 5½ minutes.

Mr. GONZALEZ. I was going to ask the gentleman from Ohio [Mr. WYLIE] if he would be willing to share the cost of that dialog.

Mr. WYLIE. Mr. Chairman, I have enough requests to use all of my time, but I would be willing to split the time in order to clear up the record.

Mr. GONZALEZ. If the gentleman has the time.

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

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I have a unanimous-consent request. Thus far, every speaker who has gotten up has spoken for the bill. No one has received time who has been in opposition.

I would like to move—I ask unanimous consent that the opposition be given one-half hour.

The CHAIRMAN. Unfortunately, such a request would be out of order in the Committee of the Whole.

Mr. ANNUNZIO. This is a unanimous-consent request I have asked.

The CHAIRMAN. The Committee of the Whole cannot, by unanimous consent or otherwise, modify the special order adopted by the House on the control of general debate.

Mr. ANNUNZIO. Well, you know I have been here a long time. With unanimous consent you can drive an elephant right through this Hall. You know it and I know it. It is just not fair what is being done here today.

The CHAIRMAN. The gentleman's point has been made.

Mr. ANNUNZIO. Mr. Chairman, I renew my request. I ask unanimous consent that the opposition to the legislation be given 15 minutes.

The CHAIRMAN. The Chair rules that that request would not be in order in the Committee of the Whole.

The Chair recognizes the gentleman from California [Mr. TORRES] for such time as he may consume.

Mr. TORRES. Mr. Chairman, I stand here today in support of the legislation, Mr. GONZALEZ' substitute legislation, and I oppose Mr. WYLIE's.

My colleague from New Jersey talked earlier about the collegiality that we have previously to this, the statesmanship that we deployed in the last session when we voted out $50 billion. We are being asked again to vote $30 bil-

lion to resolve RTC's program of adjusting S&L losses and the making whole of the American depositors. Yet there is a lot of turmoil this second time around. Why? Simply because there are large inequities in this new request if Members of Congress are to vote out $30 billion. The legislation today seeks to make whole American depositors; to make whole the faith of the American people in their financial institutions, and in this case it is the savings and loans, not the banks.

□ 1520

Mr. Chairman, this is not a banking bill. We are talking about S&L reform, but reform with teeth in it, and the legislation of the gentleman from Texas [Mr. GONZALEZ] does that in a most modest way, by asking for accountability of how $30 billion are to be spent; by asking for management procedures; with reporting procedures. How are these billions of dollars going to be carried out in the cataloging and the sale of properties? How about the safeguarding of environmental sectors of our land, historical, and other cultural properties?

Mr. Chairman, I am opposed to the legislation of the gentleman from Ohio [Mr. WYLIE] because it does nothing in terms of clear accountability of how these funds are to be spent. His amendment does not provide such accountability as the amendment of the gentleman from Texas [Mr. GONZALEZ] does. The amendment of the gentleman from Ohio [Mr. WYLIE] is well intended, but I believe it is a misguided package of changes that appeared to have advanced numerous reforms, but in reality this does very little.

Mr. Chairman, it purports to provide solutions to the many problems that plague the RTC, but it really only glosses over those problems with a few cosmetic changes. It is an amendment that is characterized as a reform package, but it is really little more, little more than a blank check to the administration, and the biggest deception in the amendment, however, involves the minority-contracting provisions.

Mr. Chairman, the supporters of this amendment, the legislation of the gentleman from Texas [Mr. GONZALEZ], have labeled Mr. GONZALEZ' legislation as a quotas bill, a quotas bill. What a time to take advantage of that terminology. This is not a quotas bill. They claim that by voting for the amendment of the gentleman from Texas [Mr. GONZALEZ] that we will be imposing quotas. Nothing could be further from the truth.

Mr. Chairman, I say to my colleagues, first of all, you have to be reassured here, my colleagues, today that however you vote, you're not voting for a quotas bill. There are no quotas in the Gonzalez amendment. The Gonzalez amendment does not mandate that a certain quota of contracts be awarded to minority and to women contractors. Rather it clarifies and expands the RTC's policies regarding minority and women outreach by providing guidelines to increase the diversity in contracting. It provides us guidelines by establishing a modest goal of 25 percent for contracting with minorities and with women.

Mr. Chairman, it is a goal, not a quota, not a quota. These are targets that we hope and expect that the RTC would hope to reach. They are not rigid quotas because they are not quotas. The Gonzalez amendment does not require that a certain percentage of contracts be set aside for women or minorities. It does not mandate that a certain number of contracts be allotted to women or minorities, and I have explained this to the gentleman from Ohio [Mr. WYLIE], and I have told him, and he indicated to me that he understood this.

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

Mr. TORRES. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I said this about three times. I am going to read from the language.

It says:

> An overall goal of not less than 25 percent of all contracting activities to be entered into with minority individuals or women, or companies owned and controlled by minorities or women, including prime contracts, of which not less than 15 percent of such contract dollars shall be allocated to companies owned and controlled by minorities. Not less than 10 percent of all contracts shall be allocated to companies owned and controlled by women.

The corporation "shall." That is mandatory language, "shall." I am a lawyer. It is not discretionary. "May" is discretionary.

"Shall strictly adhere to such goal when evaluating solicitation of services responses." What is that if it is not a quota?

Mr. TORRES. Mr. Chairman, I say to the gentleman from Ohio [Mr. WYLIE], it is a goal, sir. I restate it. It is a goal.

Mr. WYLIE. It is a mandatory goal.

Mr. TORRES. It is not a mandatory goal. It is not that. It does not require that women and minority contractors be given special treatment by evaluating their contract bids.

Mr. WYLIE. Mr. Chairman, will the gentleman yield one more time?

If the gentleman will yield, I will yield 1 minute to the gentleman from California [Mr. TORRES].

Mr. TORRES. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, the second paragraph says, "The goal shall," and again is it s-h-a-l-l, "apply to every type of procurement and every contracting activity, including conservatorships, entered into by the corporation and by the Federal Deposit Insurance Corporation on behalf of the corporation."

Mandatory language establishes quotas.

Mr. TORRES. Mr. Chairman, again I say to the gentleman from Ohio [Mr. WYLIE] that this is a target, this is a goal. This is not a mandate. This is not a quota, as he has so indicated. It simply just asks RTC to reach a couple of modest contracting goals to ensure that all businesses, large and small, have an equal opportunity to bid on such contracts. They are needed because 2 years ago, when we voted out $50 billion, this body passed legislation that included a provision designed to increase RTC contracting with minorities and women, and since that time in our committee we have heard countless witnesses come forth and say that they are simply frustrated at the lack of meaningful opportunity that is available to women and to minorities in this area.

The CHAIRMAN. The 1 minute that was yielded to the gentleman from California [Mr. TORRES] from the gentleman from Ohio [Mr. WYLIE] has now expired.

The gentleman from California [Mr. TORRES] has 4 minutes remaining on the time allotted from the gentleman from Texas [Mr. GONZALEZ], which will be all the time from the gentleman from Texas.

The gentleman from Ohio [Mr. WYLIE] has 15½ minutes remaining.

The Chairman recognizes the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, the FDIC recently reported that of the total fees awarded by RTC to date, as I speak, to date, only 3 percent were awarded to minorities, and for the first quarter of 1990 only 1 percent of the total contract dollars went to women and minority-owned businesses. Quite frankly, quite frankly, this record is appalling.

Mr. Chairman, the only way we are going to improve upon this dismal record is for this body to set some goals, to set some goals by which we can measure the RTC, the RTC's performance. The amendment of the gentleman from Texas [Mr. GONZALEZ] only establishes modest goals, but at least these goals will provide the RTC with a clear expression of how they ought to work at this.

Mr. Chairman, women and minorities played no great role in causing the S&L crisis, but my colleagues can rest assured that they will be paying their share of the bailout, and for this reason alone they should be assured equal access to the economic opportunities that have resulted from this crisis. By simply asking the RTC for progress reports, the amendment of the gentleman from Ohio [Mr. WYLIE] falls short of ensuring such access.

We are not breaking new ground in contracting with the amendment of the gentleman from Texas [Mr. GONZALEZ]. Congress already requires most Federal

agencies to try and attain specific contract goals for minority and women owners. The Department of Defense, the Department of Transportation, NASA, the State Department, the Agriculture Department, and the EPA; they all have these goals.

Mr. Chairman and my colleagues, it is time for the RTC to implement the type of contracting procedures that are required of every agency of our Federal Government, and finally, on a final note, as I prepared my remarks today for this debate, I was really overcome by the feeling of sadness that this issue must be a part of a debate.

Mr. Chairman, our country has just witnessed and emerged from an enormous victorious military conflict during which we watched with pride as our men and women stood out valiantly and outstandingly. On CNN every night we saw white, black, Hispanic, Asian, male, female—all working side by side for the common goal, for the good of this country. Will we now tell the minorities, as they return from a job so well done, that we would not vote to ensure them equal economic opportunities at home? I hope not.

□ 1530

Mr. Chairman, I hope that this kind of debate on ethnicity is someday just a footnote in history so we do not have to engage in this kind of discussion again, but until then, I urge my colleagues to defeat the Wylie amendment, support the Gonzalez amendment, and adopt this much-needed piece of legislation.

Mr. WYLIE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I respectfully suggest that the gentleman from California was wrong on another account when he said there is no mechanism for accountability in my original bill.

I have a substitute which will provide for several mechanisms for management reform. In my original bill, I said this:

> Requests for additional funding.—Any request for legislative action to provide new or additional financial resources for the Corporation shall— * * * be submitted in writing to the Committee on Banking, Finance and Urban Affairs * * * and, * * * contain a complete and detailed financial plan for spending such resources and any relevant information described in paragraph (5)(B) and (6)(A).

Which are already contained in the statute.

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

Mr. WYLIE. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I was fascinated by the debate here a moment ago between the gentleman and the gentleman from California, in which the gentleman seemed to be reading language which sounded suspiciously to me like it was absolutely mandatory, so, therefore, it would constitute a quota. Now, we are hearing a lot of talk on the whole civil rights bill about the fact that it was not really a quota, but it would just have that effect. Yet it sounds to me as though they are writing a specific quota.

Will the gentleman quote that language for me again? It sounded to me very much like an absolute mandate of a quota.

Mr. WYLIE. I would be glad to quote the language, and the gentleman is absolutely correct. It says this:

> An overall goal of not less than 25 percent of all contracting activities to be entered into with minority individuals or women or with companies owned and controlled by minorities or women * * *.

Mr. WALKER. So it says "not less than." So it means absolutely you would have that many people under every category of contract.

Mr. WYLIE. The gentleman is exactly right. Then it says this:

> The Corporation shall strictly adhere to such goal when evaluating solicitation of services responses (from any source).

Mr. Chairman, I do not see how it could be anything else but a quota.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. Mr. Chairman, I thank the ranking member for yielding this time to me.

Mr. Chairman, the Federal Government has made a commitment to the people of the United States.

That commitment is that the Federal Government will stand behind those who work and save their money.

The legislation we are considering today is necessary to enable the Government to honor that commitment.

The Resolution Trust Corporation needs money to protect the funds of innocent depositors and to close insolvent savings and loans.

The price tag is very high—but the alternative is far more expensive.

Without deposit insurance, institutions that went broke would simply turn off their lights and lock their doors.

Millions of Americans would lose their life savings. Our economy would collapse, and the Depression of the 1930's would look like the good old days.

That's why I support H.R. 1315 as introduced by the gentleman from Ohio [Mr. WYLIE].

Politically, this is a tough vote.

Those who think it politically expedient to simply vote against what's been called the S&L bailout should hope that their constituents don't figure out that the alternative is the end of deposit insurance, loss of depositor confidence, massive runs on financial institutions, and economic collapse.

We will consider three different options this afternoon.

The Slattery amendment is highly controversial—not to mention, unworkable.

It treats deposit insurance as a discretionary program.

It calls for start-and-stop funding of the RTC, which will do little to instil depositor confidence, and the uncertainty and delay will only cost the taxpayers more money.

The Gonzalez amendment is also highly controversial.

In the name of reform, it subjects the RTC to a host of new social programs and requirements.

That, too, will mean delays and higher costs for the RTC, which will have to be paid by the taxpayers.

The Wylie amendment is a clean, straightforward approach.

In fact, I know of no opposition to the provisions of the Wylie amendment.

Those who oppose the amendment do not object to what is in it. They want additional and controversial provisions added to it.

Time is running out. Unless we get something through the House, through conference, and signed by the President, the RTC will have to cease operations, and the American taxpayers will again have to pay for the inaction of Congress.

For that reason alone, the Wylie substitute is the way to go.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield for a question?

Mr. WYLIE. Yes, I am glad to yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, does the gentleman intend to yield to any Member who wishes to speak in opposition to the bill? I ask the question because no Member from the Democratic side who is in opposition to the bill was allowed to speak.

Mr. WYLIE. Mr. Chairman, will the gentleman give me a little slack on that? I have several requests for time on my side, and if there is any time remaining, I will be glad to yield time to the gentleman.

Mr. LAFALCE. Mr. Chairman, I thank the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I would just like to have a colloquy with the ranking member, the distinguished gentleman from Ohio. I would ask the gentleman if he would explain to me the difference between the main bill and his amendment. I believe some of us are concerned that there is no difference, and I think we should bring out that difference or that distinction from the bill on the floor.

Mr. WYLIE. Mr. Chairman, if the gentleman will yield, H.R. 1315 is the bill which I introduced and which uses the basic bill which is subject to

amendment. As I pointed out a little earlier to the gentleman from California, I do have a report in there.

As a matter of fact, I took section 101 of the chairman's bill and inserted it in that. I thought the chairman of the committee had a good point on a report. It was my understanding from the chairman that maybe they did not go far enough, and there may have been a misunderstanding, but I tried to incorporate additional management reforms in the substitute bill which I am going to offer and which I thought was the agreed bill at one time, as agreed with the chairman and with the gentleman from California [Mr. TORRES]. That is having to do with management reforms, and I will get into this a little later on. There are eight of them, including standardized procedures for auditing, goals that no property shall remain in conservatorship for more than 9 months, and to develop and implement an improved information system.

The other thing is that there is a minority contracting reporting provision in there, and it calls for detailed new requirements for RTC semiannual reports on minority and women contracting. There is a 25-percent goal in the provision of the gentleman from California [Mr. TORRES]. RTC tells me they have already reached about a 21-percent limit on minority contracting, so they are not too far off. But they are making note of the fact that some of the contracts ought to be given to minority contractors, and we are asking them for a report as to the extent by which contracts have been awarded to minorities and women in that substitute bill.

Mr. Chairman, I thank the gentleman for asking that question.

Mr. STEARNS. Mr. Chairman, I do have an additional question.

Then in conclusion, the gentleman's amendment has enhanced management techniques in it from the basic bill?

Mr. WYLIE. Yes, it does.

Mr. STEARNS. So when Members are voting for the gentleman's amendment, they are voting for enhanced management provisions and for more accountability?

Mr. WYLIE. Yes, absolutely.

Mr. STEARNS. And, too, the gentleman will have minority provisions in his bill so that it is not devoid of any minority provisions? The gentleman will have them in this amendment that we will be voting on, in addition to that?

Mr. WYLIE. Yes, and we have many reforms, and we have goals to cut the time by which properties can be disposed of. That is one of the criticisms we have heard, too.

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

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. GILLMOR], and I would inquire of the Chairman how much time I have remaining.

The CHAIRMAN. After this speaker, the gentleman will have 5 minutes remaining.

□ 1540

Mr. GILLMOR. Mr. Chairman, I rise in support of H.R. 1315. I want to associate myself with the remarks of the gentleman from Ohio [Mr. WYLIE] and my fellow members from the Committee on Banking, Finance and Urban Affairs who are speaking today in support of a clean, straightforward appropriation for the RTC.

I think it is evident that the policies of the RTC are in need of review, but this bill is not the means for untimely and complex modifications. While I do not support unlimited appropriations to the RTC, I recognize the need to provide RTC with resolution funds, which are needed now, without undue delay. Delay in these appropriations will only add to the cost of the thrift bailout, a bailout that has cost American taxpayers too much already.

Some Members have argued that the modifications are necessary to correct RTC inefficiencies, but in actuality, many of these reforms are not only reforms, but are proposals which will end up costing taxpayers millions and millions of dollars more, and will further delay the disposition of assets by RTC. It is essential that we minimize the cost of this bailout. We should abstain from extraneous provisions that have not been examined through hearings, and therefore leave us with very little knowledge of their practical effects.

Mr. Chairman, I understand the motivation behind the pay-as-you-go, housing, and asset disposition provisions which are found in the substitutes that we will debate shortly. But let us address those provisions in the proper forum and the proper context, during debate on financial services restructuring this year, and refrain from adopting measures other than a clean funding bill.

The Committee on Banking, Finance and Urban Affairs adopted the Wylie bill on a bipartisan vote with a majority of both Republicans and Democrats, and I would urge the House to do the same.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman for yielding the time.

Mr. Chairman, I think at the end of this debate it is appropriate to recapitulate a little bit of where we are as we go into the three major amendments we are going to take up today. I would like to first state that I have not been one who thought RTC in its original version was a very good idea. In fact, I voted against its creation. It is a very complex organization, a huge thing. It is difficult to manage.

But the fact is, it is there; its job is something that Congress desired it to do; we have given it its responsibilities; and now we have the obligation to continue its funding and let it work. Otherwise we have a complete mess out there, and we could not clean up the savings and loan problem.

We have heard today already, and Members will hear much more about it, that we are talking about funding it, hopefully to the tune of $30 billion, for the remainder of this year. It is absolutely essential to pay off the deposits to close the remaining 95 or so savings and loans out there that are now in the state that they are ready to be closed based on the difficulties that are already on the table and that we all know about. It is going to cost $8 million a day. Already $96 million has been cost by the delay in not giving this funding.

Mr. Chairman, Members are going to have three choices today. The simplest and most straightforward choice seems to me to be the obvious one, and that is the Wylie provision as he will amend it, which is simply to plain fund the $30 million, with only a few management changes and suggestions for RTC to improve their accounting.

The other two choices are clearly flawed. The Kennedy-Slattery proposal is going to probably result in a tax increase, and that is not necessary. At the very least it is going to distort the budget process that we have right now and exaggerate the near-term problems that we have and understate the later expenditure problems.

Mr. Chairman, Members are going to hear a lot more about that in debate, but it is a bad proposal, one that is going to fuzz up the process and not help us get on with it.

The Gonzalez proposal that is out here on the floor, Members have heard a lot of debate about. I know quite a bit about that quota question. Believe you me, that language the gentleman from Ohio [Mr. WYLIE] was reading, as much as I respect the gentleman from California, is absolute, it is a "shall," it is mandatory, and it is quotas. Having worked with the civil rights bill, it is worse than the civil rights bill proposal. At least that is subject to some interpretation.

I will say this, too, and it has got to be made clear about the Gonzalez proposal: Presently one-fifth of all the contracts are going to minorities and women, and one-fourth of all of the contract dollars are going that way in RTC contracting right now, under their own provisions. They are holding various conferences with minorities and women. We have been holding their feet to the fire in committee work. Mr. Seidman, the Chairman of the FDIC who was involved in the whole closure process, has urged us by letter, repeated on this floor, and will I am sure again be repeated today, not to clutter

up the process, to leave it sit down, not to add all of this extraneous language and requirements that are different from the bank issues when we go to the S&L closings.

Let RTC do its job. Do not pass the burdensome requirements in Gonzalez. Do not force us into a huge budget debate with respect to the Kennedy-Slattery provision. Let us leave it simple, and let us let it go the right way. Vote for the Wylie provisions. Let us fund it properly and get on with closing these S&L's.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Chairman, I rise today in support of the Wylie substitute.

This Congress cannot and must not continue to allow the economic futures of American families to be sacrificed over partisan politics.

Thus far, the refusal by Congress to act on this RTC funding has cost the American taxpayers $96 million, and that figure rises by another $8 million per day.

Every passing day that the RTC goes unfunded, every day the savings and loan debacle is allowed to grow, is another day that the price tag on the S&L cleanup gets bigger and bigger.

The Wylie substitute we consider today provides $30 billion, funding which the President can sign immediately and the RTC can operate with effectively.

And just as importantly, the Wylie substitute includes reforms to speed up asset disposition and further save tax dollars.

In August 1989, asset disposition by the RTC took an average of 25 weeks, today RTC holds assets for an average of 1 full year.

These provisions do not micromanage, they don't add redtape, they don't increase costs;

Instead, they respond to the RTC's shortcomings, so that failed thrifts can be resolved at the lowest possible cost to the American taxpayer.

The Washington Post, in an editorial on Sunday, correctly pointed out that by approving the Wylie substitute and providing RTC funding, we are protecting the American taxpayers, families, farms and small businesses that have deposits in savings and loans.

When I first came to Congress, a little over 2 years ago, I sought a seat on the Banking Committee to help get to the bottom of the savings and loan fiasco.

Is this Congress now saying it was wrong 2 years ago when a majority of this House approved legislation to liquidate failed S&L's and hold harmless those families with funds in S&L's?

If not, then why has this Congress failed to make the commitment the RTC needs to straighten out this mess?

My colleagues, the time to act is now.

Don't load this important measure with additional pet projects, pork-barrel programs and costly congressional strings which will prohibit the RTC from acting in the capacity that Congress originally set forth.

It is vitally important that we act today and approve the Wylie substitute.

Mr. Chairman, I rise in opposition to the RTC funding legislation. The bill before us is one of the most costly measures we will consider during our tenure in Congress. The necessity of bailing out savings and loan institutions that carried Federal deposit insurance is universally accepted as an unquestionable obligation of the U.S. Government. The sanctity of this obligation, however, should not dissuade us from pursing a small measure of accountability from those who bear greatest responsibility.

The Federal Government is clearly responsible for bailing out insolvent thrifts that are federally chartered. However, a sizable portion of the Nation's thrift industry is comprised of State-chartered institutions which are regulated by the States but receive deposit insurance from the Federal Government. This Federal-State partnership has been flagrantly abused in recent years by a few State regulators who have given thrifts free rein to engage in highly speculative activities with funds backed by Federal deposit insurance. When risky loans and investments soured and these State-chartered thrifts plunged in to insolvency, Federal taxpayers across the Nation were left holding the bag for billions of dollars in losses.

Therefore, Representative KANJORSKI and I asked the Rules Committee to make in order an amendment to this bill that would shift a small portion of the burden to States which bear substantial responsibility for excessive costs due to inadequate regulation of State-chartered thrifts. To date, the only State affected by this amendment is Texas. There is nothing in the amendment that treats Texas any differently than any other State; its liability is merely a reflection of its disproportionate contribution to the problem.

From 1989 through October 1990, the Government has closed 520 insolvent thrifts at an estimated eventual cost of $73.7 billion in net present value terms. Of this, $32.8 billion—or 45 percent of the cost—can be attributed to State-chartered, federally insured thrift institutions.

As cochair of the Northeast-Midwest Congressional Coalition, I am particularly concerned about the impact of this bailout on our region. The 18 States of the Northeast-Midwest region are responsible for only $1.4 billion—or 4 percent—of the $32.8 billion in costs that I just mentioned. But because we pay 47 percent of the Nation's taxes, we will be socked with a bill for at least $11.7 billion. Texas, on the other hand, caused $22.4 billion—or 68 percent—of these costs. But because Texans pay only 6 percent of the Nation's taxes, the committee's bill only asks Texas' taxpayers to pay $1.5 billion toward the bailout.

Mr. Speaker, is it really fair to ask those who have caused 4 percent of the problem to pay for 47 percent of the solution, while those who have caused 68 percent of the problem only pay 6 percent of the solution?

But I must emphasize that this is not a regional issue. There are 17 States outside our region—including South Carolina, Missouri, Louisiana, and New Mexico—which have not caused a single dollar in costs to date for State-chartered resolutions.

The issue of State responsibility for State-chartered thrifts is clearly central to the debate before us. Unfortunately, the Rules Committee did not see fit to allow the full House to consider this admittedly controversial, but crucial, issue.

The State accountability amendment was straightforward and reasonable. A State which is responsible for "excessive costs" to bail out State-chartered S&L's would be required to pay 25 percent of such costs if its State-chartered S&L's were to continue to receive Federal deposit insurance.

Our amendment contained three elements to ensure fairness to States which might bear responsibility. First, a State is found to have "excessive costs" only when its percentage share of the total bailout costs of State-chartered institutions is more than double its percentage share of national deposits in State-chartered institutions in 1980. Second, a State will only be held accountable for 25 percent of "excessive costs," with the Federal Government paying the balance. And third, the amendment is voluntary; States only have to pay for excessive costs if they want their State-chartered institutions to continue to receive Federal deposit insurance.

A primary objective of our amendment was fairness. We sought to reduce the cost to Federal taxpayers in States which have not inordinately contributed to the cost of the bailout through irresponsible regulation at the State level. In addition, we have made every effort to be fair to any State with potential liability.

Another objective of our amendment was accountability. We should be sending a clear message to State governments that the Federal Government will not allow future abuse of the Federal-State partnership without consequence.

National polls indicate that the American people are cynical about government in general and outraged by this bailout in particular. A successful effort to introduce a small measure of accountability and fairness into this RTC funding bill would have been a positive step toward dispelling such feelings. Unfortunately, the rule adopted for the consideration of this bill didn't even allow us the opportunity to try. For this reason, I must oppose the bill that is before us.

Mr. LAROCCO. Mr. Chairman, as a new Member of this body, I am uncomfortable with the legislation before us today.

I am not convinced that the RTC is doing a very good job of resolving the savings and loan crisis at the least cost.

I am deeply disturbed by the regulatory inattention of the 1980's that allowed this situation to develop.

I am astonished at the all-or-nothing approach the administration has taken, demanding a bill with no strings attached—when the

real bill will go to the American people who have concerns about RTC operations that I believe Congress is both entitled and required to address in this legislation.

Early this year Chairman GONZALEZ asked the General Accounting Office to assess the RTC's performance and we received Comptroller General Bowsher's report on February 20. It seems to me that it would have been appropriate to use this legislation to address some of the serious problems the GAO identified, but this was not acceptable to the administration.

I know that we have to come up with the funds needed to assure that insured savings accounts deposited in now-insolvent institutions are paid off. It's not the fault of the depositors that their S&L's went broke. The Federal Government insured those accounts; we owe the depositors. That's a promise we have to keep.

How expensive it is to keep that promise depends on how well the RTC does its job. Every parking lot, desk, executive jet and repossessed apartment building the RTC sells off at a decent price reduces the bill the taxpayers are stuck with. Every time the RTC doesn't return a phone call from a qualified buyer, every time it can't figure out what it owns or what price it wants, the taxpayers lose. And, according to the GAO and what I hear from my constituents, the RTC is doing an inadequate sales job and a poor job of maintaining the value of the properties it is holding.

Fears have been expressed today about the difficulties the Kennedy-Slattery pay-as-you-go provisions might cause. Some members seem to believe the RTC bill will be somehow easier to pay in the future.

What the GAO pointed out is that paying off the depositors can be made less costly now. The better the RTC works, the less the bill will be. The GAO made a number of suggestions for improving the RTC, including:

Creation of a comprehensive securities portfolio;

Better securitization efforts;

More thorough due diligence;

More and better information to potential purchasers;

Marketing eligible loans through the existing secondary mortgage market;

Establishment of a consistent strategy for real estate inventory sales;

More aggressive marketing and outreach; and

Better information systems and contracting systems.

At the administration's insistence, the so-called clean bill does not adequately address these issues. I will reluctantly support this legislation because I don't believe that the depositors should lose their savings because the RTC and the administration have been less than adequate in dealing with this crisis. We must, however, demand that the administration agree to addressing these problems in the future.

Mr. SYNAR. Mr. Chairman, today we were faced with three different options for funding the Resolution Trust Corporation [RTC]. These three options did not leave much room to protect taxpayers.

My Oklahoma constituents and I are as anxious as anyone to have the savings and loan crisis resolved. I have been unhappy with many actions of the RTC and some of its spending activities and I support the continuing Congressional oversight of the RTC. There is no question that speed in resolving this crisis is of the essence. This does not mean that Congress has to roll over and provide unlimited funds with no questions asked.

I also do not believe that the total cost should be higher purely on the basis of the financing method used by the Government to pay for the ever increasing costs of the bailout. During debate on the original bailout bill in 1989, I supported the many reforms for improving the financial integrity of financial institutions. Despite this support and my desire to have the crisis resolved, on final passage I voted against the bill solely because the financing was carried off-budget.

Last Congress, I supported pay-as-you-go budget reforms. Priorities and choices must be made in the budget process and the means of financing these choices must also be addressed. It is not fair to the taxpayer to avoid these choices by carrying programs off-budget. It is clearly unfair to all taxpayers to carry a program off-budget that increases the cost of the program. This is particularly unwarranted when there is no logical reason for the off-budget financing.

None of the three options I voted on today carried the additional new RTC funding on budget. Although I definitely favor today's funding to be on budget, I supported the Kennedy-Slattery amendment as the only means of forcing the administration to stop the money drain. It would require the administration to come back to Congress having made the hard choice on how to finance any future bailout funding on budget and in a manner least costly to the taxpayer. it is time this was done before any additional costs are incurred.

Mr. GOSS. Mr. Chairman, we are faced today with a Hobson's choice—there simply are no good solutions. The bottom line is that the cleanup process of the savings and loan mess is costing this country billions of dollars. That's a given.

What we are here to discuss today is not whether to finance the Resolution Trust Corporation in its mission—but how and under what conditions. And, perhaps most importantly, how do we ensure that such a disastrous situation is never repeated?

We can't just click our heels together and wish this problem away. Without an additional infusion of funds, the need to make good on Federal guarantees for depositors won't go away. It will just get more expensive—more expensive on an order of about $8 million a day in pure, unadulterated waste.

So we've got to move forward in this process now. But despite this pressure to act, I hope the world understands that we are not going to sign a blank check, underwritten by the American taxpayers.

This Congress is going to require a detailed accounting for how the RTC spends its money—and we're going to be watching for clear signs of improvement in efficiency and effectiveness in the RTC's actions.

To be frank, the RTC has not been getting rave reviews from people in my district. My offices in southwest Florida have received numerous complaints from people who would like to be involved in buying some of this property, but can't because of artificial constraints imposed by the RTC. In addition, we've been hearing about cancelled auctions and a general lack of good information regarding the sell-off process—problems that seem to be basic lapses in management.

Mr. Chairman, I do not underestimate the enormous challenge the RTC has undertaken—this fiasco has left our Nation with some monumental problems and it would be naive to assume that we can tackle them without some glitches along the way. But I am adamant about the need for detailed and frequent accounting by that agency as it pursues its mandate, to ensure that our resources are being put to their best possible use. We are not going to fall into a habit of throwing good money after bad—and the people of southwest Florida expect to see significant improvement in this situation.

Mr. Chairman, I believe H.R. 1315 is a necessary step in laying the groundwork for a resolution of the savings and loan mess—and I urge my colleagues support for a clean bill.

Mr. HOAGLAND. Mr. Chairman, 2 years ago, at the request of the Bush administration, Congress established the Resolution Trust Corporation to take over and then sell or liquidate failed savings and loans. The reason for Government's involvement in this enterprise is to make good on our promise to insure the deposits of average Americans at savings and loan institutions throughout America.

The Bush administration is now asking Congress for authority to borrow an additional $30 billion to cover losses incurred in closing another 225 institutions between now and September 1, 1991, the end of fiscal year 1991.

While this is a difficult decision for all of us, the Bush adminstration and Congress really have no choice. Let me explain why.

First, as Paul Volcker, the former Chairman of the Federal Reserve Board, said at the House Democratic Party's Issues Conference in Leesburg, VA, this last weekend, if we want any semblance of economic stability in our Nation, we must stand by our commitment to insure deposits. If we were, for instance to officially repudiate this obligation tomorrow, we would bring on a deep depression tomorrow, with massive runs our depository institutions and the immediate collapse of hundreds of banks and thrifts throughout the Nation.

You may be saying to yourself: "We don't intend to repudiate the obligation. We just don't want to approve additional funding now—it's too expensive."

I certainly sympathize with that. But there are important reasons for providing the funding today. If we do not provide the funds now, the RTC will be forced to stop closing institutions virtually right away. In other words, it will be forced to practice what we call forbearance, allowing insolvent institutions which are continuing to lose money to remain open when they need to be closed.

Lax regulation and excessive forbearance were two of the fundamental causes of the thrift debacle during the Reagan years. Leaving insolvent institutions open drives up the ultimate costs because they continue to lose

money. Secretary Brady testified before the Committee on Banking, Finance and Urban Affairs on January 31 that "forbearance for even one more quarter would cost the American taxpayers $750 to $850 million * * * in addition to the $250 to $300 million already lost due to inaction last fall. This would bring the total cost of delay to over $1 billion."

Many of us have expressed deep reservations about the RTC, its competence, its pace, its ability to sell properties quickly, and its fulfillment of its low-income housing obligations. The fact is we have a right to demand and expect full reporting and accountability from the RTC. But by agreeing to President Bush's request for $30 billion, we will not reduce our ability to obtain that accountability. Our oversight responsibility to maintain close supervision over RTC operations remains.

The General Accounting Office reports that we should get the RTC these funds promptly. We stand to gain nothing by dragging out the problem further by delaying funding or by granting short-term funding that will require that we revisit the subject within a few months.

We need to act today to get the RTC the funds it needs to continue to close insolvent thrifts and to fulfill our Nation's commitment to insure the deposits of the average American.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise today to comment on the Resolution Trust Corporation [RTC] funding proposals before us today. We are caught here today between a rock and a hard place. We are forced to either give the administration a blank check for the next stage of the savings and loan bailout, or lose $8 million a day by allowing the RTC's funding to lapse. This authorization comes at a critical time, and the necessity of this funding is virtually forcing the Congress to relinquish its oversight responsibilities. This is an unfortunate situation.

I am hesitant to support a funding bill stripped of any requirements or instructions, for there are serious structural problems with the bailout. Congress has a responsibility to the taxpayer to ensure that the $30 billion authorization—with the corresponding $47 billion in working capital—is wisely and effectively utilized. This is more than we spent on war in the Persian Gulf! There must be some accountability here.

In light of these comments, I support the Wylie amendment because it does include some of the management reforms which are sorely needed. It standardizes RTC procedures for auditing conservatorships, ensuring that managing agents for conservatorships comply with RTC policies and procedures, and monitoring agent performance. The amendment will also improve the RTC's information resources, its inventory tracking system, and other necessary changes. These are all needed reforms raised in oversight hearings earlier this year.

I would also like to state my support for the Slattery-Kennedy amendment. At issue is whether or not we want to pay for the S&L bailout now, or pass the bill on to future generations. Supporting this amendment is not only the right thing to do, but it is a sound policy decision. Limiting our reliance on borrowing to cover the loss funds will save significant interest costs over the years. Just as we must face up to our oversight responsibilities, we also need to face up to the funding problems. We must resist the tendency, however, to increase taxes but rather seek the funding from reductions in spending.

Regarding the Gonzalez substitute, I commend the Chairman for his efforts and support his intentions in the substitute amendment. While I am supportive of increasing opportunity, and addressing certain environmental concerns, I am concerned over some of the language in the legislation. It remains unclear whether there are enough qualified minority contractors to handle the 25 percent set-a-side goal. This percentage is far higher than the minority contracting programs in other agencies, which range from 1.5 to 10 percent.

Although some claim that the percentage is just a goal, the language itself appears to be very specific:

> The corporation shall establish policies and procedures consistent with the following guidelines to govern contracts * * * an overall goal of not less than 25 percent of all contracting activities (shall) be entered into with minority individuals * * *. The corporation shall strictly adhere to such (25 percent) goal * * *.

This issue represents a very serious policy initiative, which I am concerned has not had thorough discussion and debate.

Again, there are significant managerial and structural reforms which need to be addressed. However, we should not be quick to pass restrictions and policy guidelines in a hasty fashion which could do more harm than good. It is just not clear that the proposals before us really do justice to the issues raised in the oversight hearings earlier this year. Particularly, I refer to the General Accounting Office's testimony before the House Banking Committee on February 20 of this year, which raised a red flag that we should all pay heed.

I realize the tremendous job which was expected of the RTC when it was first established in 1989, and also how overwhelming the sheer volume of assets is which the RTC is attempting to dispose. However, the GAO's comments as to how the RTC may more effectively perform its function—particularly regarding the disposition of assets—need to be acted upon.

The GAO's testimony provided a mixed review of the RTC's performance since 1989, noting that:

> Where RTC used individuals with the appropriate skills and business knowledge, operations went quite well. However, progress was not nearly as good in other areas where RTC did not have, or turn to, individuals with the needed knowledge and skills.

In other words, as the bailout moved beyond its early stages and began to focus on managing and disposing of assets, where the skills lay in the private sector, it did poorly. The point is that the RTC does not have the expertise to do this job. Furthermore, after 1992, the RTC cannot close any more institutions, and will be solely absorbed with getting rid of what it has.

Although the RTC is mandated by law to utilize the private sector "unless such services are unavailable * * * or utilization of such services is impracticable or inefficient," its record has not been good. As the General Accounting Office [GAO] noted in the February testimony:

> Overall RTC's progress has been disappointing in the contracting area. * * * The RTC developed a loosely defined system which it is using to acquire needed services. However, the existing system does not appear to adequately protect the interests of the Government. RTC could have benefitted from reaching outside the agency early to seek help from individuals in the public and private sector in building its contracting system. It did not.

Admittedly, the RTC has been making progress in this area over the last few months, albeit slowly. I have been informed that there are plans to contract out up to 80 percent of the seized assets to the 45,000 registered contractors. For this I commend Mr. Seidman and the RTC. However, I would like to remind my colleagues who complain of congressional inaction on the funding proposal that it took the RTC a year to establish its contracting system.

Although the RTC has made progress in this area, there remain serious concerns. First, quantity does not mean quality. Contracting out to underqualified contractors is not going to save us anything because the job is not going to get done. Second, as the GAO testimony noted, the mindset of the RTC still "undervalues the significance of contracting in the organization," and that the current contracting system could undermine the ultimate effectiveness of the enormous asset disposition effort.

The present contracting system does not have thorough standards, the contract guidance given to contractors is unclear, and the RTC's monitoring of performance is inadequate. These points open the government up to serious financial risks. Even if the quantity of the contractors increases, this does not ensure that the quality is there.

Without standards to evaluate the proposals, the RTC may not select the best contractor. This leaves the RTC vulnerable to certain risks. Since the fee is fixed, an unqualified contractor who mismanages an asset portfolio will attempt to cover itself either through increased costs or diminished services. Also, without a comprehensive system to monitor the performance of its contractors, the RTC is left paying in full for partial or poorly performed services.

As we move into this next stage of the resolution process, the attention will shift away from solving insolvent thrifts, and will focus more on the management and disposition of assets. This is an area where we can hold down the costs of the bailout. Although there is little that can be done regarding the past obligations created by the deposit insurance laws, what does remain in our control is the ability to limit the costs which we continue to accrue by holding on to seized assets.

The RTC currently controls some $140 billion in seized assets. The only way we are going to see any of the billions of dollars which we are authorizing today is if we effectively and efficiently dispose of the assets currently being accumulated.

The FIRREA originally provided $50 billion for the cleanup. The Administration is now requesting $30 billion for fiscal year 1991, and GAO expects the RTC will need at least another $50 billion in loss funds for fiscal year 1992. These kind of figures demand effective

oversight. If we were to go along with the administration and provide permanent funding authority for the RTC, we would be neglecting our responsibility.

Just as we oversee the Department of Defense's expenditures, or any other agency, we will need to hold the RTC's management of funds to the same standards of accountability.

We as Members of Congress, owe it to our constituents to do all we can to limit the costs of the S&L bailout. We cannot write blank checks to the administration. As the GAO pointed out, the RTC should not have open-ended access to the U.S. Treasury. More importantly, before new funding is authorized next year, structural changes and a review of the asset disposition process would be in order. The RTC does not have the manpower, the expertise nor the mandate to adequately complete this last phase of the bailout. The agency itself will cease to exist in 1992. In the final analysis, the effectiveness of the RTC will be judged by its ability to maximize the return on seized assets. It is up to Congress, then, to ensure that the contracting system is effective and the disposition of assets occurs in a fiscally sound and prudent manner so that we may minimize the ultimate costs of the whole S&L bailout.

PARLIAMENTARY INQUIRY

Mr. LAFALCE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LAFALCE. Mr. Chairman, is it correct that after 1 hour of general debate, not one Member of this House who wishes to oppose the bill has been granted even 1 minute to speak in opposition to it?

The CHAIRMAN. The Chair cannot characterize the manner in which Members have been yielded time for debate.

Mr. LAFALCE. Since the proponents of the bill have spoken for 1 hour in support, I ask unanimous consent that opponents of it have an equal period of time to speak in opposition to it.

The CHAIRMAN. As the Chair indicated earlier, that would be a change in the rule that has been adopted by the House. In the Committee of the Whole, it is not in order to modify the rule adopted by the House. Therefore, the request is out of order.

Pursuant to the rule, an amendment in the nature of a substitute printed in part one of House Report 102-13 is considered as an original bill for the purpose of amendment under the 5-minute rule, and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1315

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 "Resolution Trust Corporation Funding Act of 1991".

TITLE I—RTC RESOLUTION PROCESS AND FUNDING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

(a) REQUESTS FOR ADDITIONAL FUNDING REQUIRED TO CONTAIN ADDITIONAL FINANCIAL INFORMATION.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) REQUESTS FOR ADDITIONAL FUNDING.—Any request for legislative action to provide new or additional financial resources for the Corporation shall—

"(A) be submitted in writing to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) contain a complete and detailed financial plan for spending such resources and any relevant information described in paragraph (5)(B) and (6)(A).".

(b) INTERIM FUNDING.—Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 141a(i)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) in the heading, by striking "BORROWING" and inserting "FUNDING";

(3) by inserting after such heading the following new paragraph designation and heading:

"(1) BORROWING.—"; and

(4) by adding at the end the following new paragraph:

"(2) INTERIM FUNDING.—The Secretary of the Treasury shall provide the sum of $30,000,000,000 to the Corporation to carry out the purposes of this section.".

The CHAIRMAN. No amendments to said substitute are in order except those amendments printed in part 2 of House Report No. 102-13. Said amendments shall be considered in the order and manner specified, are considered as read, and are not subject to amendment.

If more than one amendment is adopted, only the final amendment adopted shall be considered as finally adopted and reported back to the House.

It is now in order to consider the amendment numbered 1. In part two of House Report No. 102-13.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SLATTERY

Mr. SLATTERY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SLATTERY: Strike everything after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Funding Act of 1991".

SEC. 2. THRIFT RESOLUTION FUNDING PROVISIONS.

(a) REQUESTS FOR ADDITIONAL FUNDING REQUIRED TO CONTAIN ADDITIONAL FINANCIAL INFORMATION.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) REQUESTS FOR ADDITIONAL FUNDING.—Any request for legislative action to provide new or additional financial resources for the Corporation shall—

"(A) be submitted in writing to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) contain a complete and detailed financial plan for spending such resources and any relevant information described in paragraph (5)(B) and (6)(A).".

(b) INTERIM FUNDING.—Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) in the heading, by striking "BORROWING" and inserting "FUNDING";

(3) by inserting after such heading the following new paragraph designation and heading:

"(1) BORROWING.—"; and

(4) by adding at the end the following new paragraph:

"(2) DIRECT FUNDING.—

"(A) GENERAL AUTHORITY.—There is authorized to be appropriated to the Corporation not more than $20,000,000,000 to carry out the purposes of this section.

"(B) CONDITIONAL AUTHORITY.—

"(i) IN GENERAL.—Subject to clause (ii), and in addition to the sum authorized by subparagraph (A), there is authorized to be appropriated to the Corporation not more than $10,000,000,000 to carry out the purposes of this section.

"(ii) CONDITION.—No amount is authorized to be appropriated to the Corporation under clause (i) unless the President submits to the Congress a plan which—

"(I) describes in detail how all funding for the Corporation that is in addition to amounts appropriated under this paragraph shall be financed in a deficit neutral manner; and

"(II) is based on technical and economic assumptions acceptable to the Office of Management and Budget and the Congressional Budget Office, or, to the extent technical and economic assumptions determined by those offices for purposes of subclause (I) differ, on the average of the assumptions so determined by those offices.

"(C) CONDITION ON ADDITIONAL APPROPRIATIONS AND LENDING.—

"(i) IN GENERAL.—Except as provided in clause (ii), no amount is authorized to be appropriated to the Corporation in addition to amounts authorized by this paragraph, and no loan may be made or credit extended by the Secretary of the Treasury to the Corporation (directly or through the Federal Financing Bank), except to the extent such additional appropriations, loan, or credit extension, as applicable, is financed in a deficit neutral manner.

"(ii) EXCEPTION TO CONDITION.—Clause (i) shall not apply to any appropriation to the Corporation for a fiscal year for which the real growth rate of the economy of the United States is less than 1 percent, as that rate is projected for purposes of the budget submitted to the Congress for that fiscal year under section 1105 of title 31, United States Code.".

The CHAIRMAN. Under the rule, the gentleman from Kansas [Mr. SLAT-

TERY] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kansas [Mr. SLATTERY].

□ 1550

Mr. SLATTERY. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. KENNEDY] who has worked tirelessly for several years on this measure.

Mr. KENNEDY. Mr. Chairman, I want to thank the gentleman from Kansas [Mr. SLATTERY] for the improvements that he has made to the initial amendment that I offered and which passed in the full Committee on Banking, Finance and Urban Affairs.

Mr. Chairman, the Kennedy-Slattery amendment is a simple one. It authorizes the President to borrow the full $30 billion he has requested in loss funds for the current year. The final $10 billion will be released only after the President submits a plan to Congress and the American people to pay for all future bailout funds in a deficit-neutral manner. Starting in 1992, all bailout funding will have to be on a pay-as-you go basis. An exception will be made if the country is in a recession, defined as growth of less than 1 percent after inflation.

The Kennedy-Slattery substitute takes a giant step toward fiscal responsibility and fairness. First, it will cut the cost of the bailout by a whopping $120 billion, based on Treasury's own estimates. That's $120 billion that our country can use to fight crime, build better roads, provide decent health care and housing, or cut taxes.

Second, it will dramatically reduce the budget deficit. The Congressional Budget Office, responding last week to an inquiry by Mr. MICHEL, said that by paying as we go, the deficit will be cut by $170 billion.

Third, it will force more fiscal discipline on the RTC. If the RTC knows that every dollar it spends will have to be offset by a dollar raised or saved, then it will spend its money more wisely. Maybe it will start to sell more of the $144 billion in assets it now sits on. It's high time we put the RTC on a short string. Government by Gold Card is a bad deal for the taxpayer.

Finally, and most importantly, the Kennedy-Slattery substitute puts an end to the immoral practice of sending today's bills to the taxpayers of tomorrow—our children and grandchildren. They will receive no benefits from this bailout, so it's wrong to saddle them with its burdens.

And make no mistake about it: the working families of today are not getting anything from this bailout, either.

The average family in America has less than $2,600 deposited in a thrift or a bank in this country, and yet 28 percent of all of the deposits in savings and loans are deposits in excess of $100,000. Of the $40 billion that has currently been used to bailout the savings and loans out of the $50 billion that has been appropriated, fully $10 billion has gone for the purposes of bailing out the accounts of over $100,000.

This is clearly a hidden tax, a tax that is already on the American people, a tax on the working people and the poor, and culminates in the largest single transfer of wealth from the poor and the working people to the very rich of any tax that has ever been levied in this country.

Charles Bowsher, the head of the GAO and a Ronald Reagan appointee, strongly supports a pay-as-you-go bailout. Paying up front, he said, will—quote—"Be cheaper, no question about it."

He went on to say that the bailout should "be financed like any other Government program."

One thing for sure is that the bailout is not being financed like other programs now. Instead, it benefits from an outrageous budgetary double standard. Every new dollar spent in areas like farm supports, education, and health must be offset by a dollar raised or saved. But when it comes to finding hundreds of billions for the thrift bailout, the administration has no trouble saying we ought to go deeper into debt to do it. Why is this in America that the rich and powerful in our country get an open hand from Government, but the working people get nothing? It is a system of socialism for the rich and free enterprise for the poor.

Some who oppose this substitute say it will lead to an increase in taxes. Others say it will lead to spending cuts. We say it will require some tough choices. But it will also save taxpayers and the programs they support $120 billion.

Today, we just sweep our debts under the rug and stick them on our kids. By God, interest on the national debt now consumes $300 billion per year. This year, up to a quarter of our bills—$400 billion—will be paid with money we don't have.

It's time to stop this wasteful, irresponsible addiction to deficit spending. It won't be easy. But we weren't elected to make easy choices.

Mr. Chairman, the entire country is looking for us to show courage today. For too long we have hidden our heads in the sand. For too long we have tried to pretend that this problem did not exist. It's time for us to stand up and prove to the American people that we can do what's right for the country. A pay-as-you-go plan will force some painful choices, that's for sure. But it's the right way to go. It will save our constituents $120 billion, and help our children build a better future.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. WYLIE. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 30 minutes.

Mr. WYLIE. Mr. Chairman, I yield 6 minutes to my colleague and friend, the gentleman from Ohio [Mr. GRADISON], ranking member of the Committee on the Budget.

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

Mr. Chairman, I rise in strong opposition to this substitute. Passage of this provision would require the administration and Congress to offset future outlays of the Resolution Trust Corporation with additional taxes or reduced spending on other programs. It is vital that the House defeat this substitute.

Passage of this provision would commit Congress to a course of action which it cannot maintain. In doing so, it would endanger the process of resolving failures in the savings and loan industry and weaken public confidence in the Government's willingness to guarantee the safety of insured deposits.

The Slattery-Kennedy substitute undoes the treatment accorded to deposit insurance in last fall's budget agreement by making future outlays of the RTC subject to paygo provisions. These outlays, including working capital, are estimated at $116 billion in fiscal years 1991 and 1992. All of us remember with great pain, I might say, the difficulty Congress had in passing last year's budget agreement. It was imperfect, but, after months of negotiation and debate, it represented the best that could be done at the time. Its failures reflect the deep divisions in this Government over how to reduce the deficit. There is no indication that these differences have lessened since last year.

Yet this substitute commits Congress to raising an additional $116 billion over the next 2 years, at a time when the economy is struggling to emerge from a recession. In doing so, it commits us to a goal we cannot hope to achieve.

This substitute is little more than an attempt to force higher taxes or greater spending cuts whenever the RTC needs additional funds. Congress will then find itself in the impossible position of achieving an additional $116 billion in deficit reduction over the next 2 years or denying RTC funds it desperately needs. Either course is ruinous. The inevitable result will be delay, and we have already seen that delay costs money.

I can predict for you what will happen. Very soon after this provision becomes law, if it goes that far, the administration will find that it must submit a huge deficit neutral package if it is to continue to borrow the working capital RTC needs to continue its operations. Immediately we will reenter the impasse we faced last year. There

is no reason to think that we will emerge from it any sooner or any easier than we did last year. In the meantime, RTC will cease operations; the losses of failing institutions will continue to mount, and if the process drags on long enough, institutions will fail and the RTC will lack the funds needed to honor its commitment to depositors.

But let us assume that somehow we miraculously overcome the differences which have beset us in the past and manage to achieve the deficit reductions called for in this bill. The cyclical effect of these higher taxes and reduced spending will be just in time to burden an already weak economy. The likely result is slower growth and higher unemployment.

It is easy to propose deficit reduction. We should all have learned by now that it is much more difficult to achieve it. By appearing to promise the American people more than we can achieve and by holding hostage one of the primary Government guarantees backing the public's confidence in the financial institutions, we will only bring this body into further disrepute.

I urge you to reject this attempt to barter long-term financial prosperity and deficit reduction for the illusion of an easy way out.

But maybe I'm missing something, Mr. Chairman. Perhaps $116 billion of deficit reduction can be achieved. I would be happy to yield my remaining time to the gentleman from Kansas or the gentleman from Massachusetts to tell us how they would achieve $116 billion of deficit reduction. Gentlemen, which taxes would you raise and which spending programs would you cut?

□ 1600

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

Mr. GRADISON. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me just point out to the gentleman, first of all, his $116 billion figure is way off, because the proposal we are talking about does not deal with the $30 billion this year. In addition to that, I think the gentleman is including working capital for fiscal year 1992. We do not address that either.

What we are really talking about is about a $50 billion problem for fiscal year 1992, and I concede to the gentleman that he is absolutely correct. It is going to be enormously difficult to find that kind of deficit reduction, but I submit to the gentleman that it should and must be done.

Mr. GRADISON. The text of the gentleman's amendment is perfectly clear that:

No loan may be made or credit extended by the Secretary of the Treasury to the corporation, directly or through the Federal Financing Bank, except to the extent such additional appropriations, loan or credit extension, as applicable, is financed in a deficit-neutral manner.

I have had this checked. I have had this point checked over, and my interpretation and the amount which I have used, 116, is agreed to by the Treasury, OMB, and the majority staff of the Committee on Ways and Means. It may be a drafting error on the gentleman's side, but it is 116.

Since my time is limited, let me just point out that the response of the gentleman from Kansas totally avoids the question which I asked: Which taxes would you raise and which spending would you cut to achieve your number if you do not like mine?

Mr. SLATTERY. If the gentleman will yield further, I can certainly tell the gentleman a whole list of spending I would like to see reduced if the gentleman had more time to do that.

Mr. GRADISON. The gentleman has plenty of time on his own to answer the question.

Mr. SLATTERY. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, I believe that everyone in this body clearly recognizes that we must honor the commitments that have been made to the depositors in this country. I certainly recognize that, and there should be no question about that.

The question is not whether we pay the bill that we have incurred because of the commitments made to depositors. That is not the question. The question before us today is, Who should pay the bills, and when should the bills be paid?

I say very simply that we should have a debate this year about when they should be paid and who should pay them, and that is what this pay-as-you-go amendment is all about. Let us not confuse it with a lot of other extraneous issues.

The charts before the Members all make this point very clearly and make the point as to why we should pay as you go. I would draw my colleagues' attention to the chart on my far right and keep these figures in mind. If we would pay as you go on the $30 billion for this year, which I am not even asking us to do, but if we would, we would save future years' taxpayers $2.4 billion each year for 30 long years. That adds up to $72.5 billion in interest payments over 30 years. The total cost, instead of being $30 billion to this year's taxpayers, becomes $102 billion over 30 years. Think about it.

The chart to my immediate right deals with the example of $50 billion for fiscal year 1992. I hope we can sell some assets to reduce that amount of money for fiscal year 1992, but, for example, if we paid the $50 billion in 1 year, that would save future year taxpayers $4 billion a year, $120 billion over 30 years. That is real money, folks. It is going to come out of the pockets of American taxpayers in the future, after the next election, and that is what is so fundamentally immoral about this process that we are going through.

Mr. Chairman, I would just conclude this portion of my remarks by asking one fundamental question: How in the world can we look our children and our grandchildren in the eye and ask them to pay for this mess? How can we do it? I do not believe we can, Mr. Chairman, and I suggest we should have a hard and tough and, yes, divisive debate this year with the President about how to solve this problem.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH].

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

Mr. Chairman, frankly, I think this is a very healthy debate. I personally am extremely attracted by the concept put forth by the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Kansas [Mr. SLATTERY] and, frankly, would be very inclined to support it if I believed Congress was prepared to respond tomorrow to cut $40 billion from the spending that we have already pretty well put in place so that the $330,000 we are squandering every hour by refusing to come to grips with this S&L mess that can be brought to a halt.

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

Mr. LEACH. I am happy to yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I thank the gentleman, my good friend, for yielding.

Mr. Chairman, let me observe that there is a great discrepancy about whether it is costing us $6 or $8 million a day to delay this. The information I get from the RTC indicates they have enough money to get them through this week for sure and possibly well beyond this week, so we are not running up the cost that some have indicated. At least, that is the best information I have.

Mr. LEACH. I appreciate the gentleman's comments, but let me say that the Treasury has indicated, and these are the people that, quite frankly, are quite honorable and with a good sense for the numbers, that we have already lost $250 million by refusing to come to grips with the issue last fall when they requested we come to grips with it, and that even though it is true that we have money to operate for another week or so, that is partly because the whole process has been slowed down and that they have a whole group of institutions they would like to resolve that they cannot today, because Congress has not acted on a timely basis.

Let me go ahead with my comments, and let me just stress there is no evidence of any nature that I have seen on

this floor that the majority party is prepared to exert the kind of discipline for the kind of spending cuts that should be required, and that is why the President has indicated he will veto this bill, if this amendment is adopted, and why this Member thinks we should go with the clean bill even though I would vastly prefer a pay-as-you-go approach.

In this regard, I think it should be clear that the Kennedy-Slattery approach misunderstands the nature of the Constitution. In a way it is kind of a political, and I am exaggerating a bit, cop-out by putting the burden on the President to submit a plan. But what does the Constitution say? The Constitution says it is the U.S. Congress that is obligated to come up with spending authorizations and raise revenue, that is, taxes. If you want to come up with a plan that includes $40 billion in spending cuts, I will look at it. I would like to see it attached to this bill.

Mr. KENNEDY. Will the gentleman yield?

Mr. LEACH. Let me just finish my comments, and then I will be happy to yield to both of the gentlemen.

In any regard, there is no reason that this Congress, as every spending bill comes up, cannot reflect on the burdens of this S&L issue. I speak for this Member, and I am sure virtually everybody in the minority, in saying that we are prepared to cooperate on reducing spending across the board on virtually every program. I, frankly, am very pleased that someone with a liberal background such as the gentleman from Massachusetts has supported this approach, because we look forward to his cooperation as spending bills come up. We assume he will not try to add to them. We assume that when the minority comes up with amendments perhaps to cut 2, 3, 4, 5 percent from various programs, that the gentleman from Massachusetts will support those amendments because of the needs for pay-as-you-go.

All I would say is the proof will be in the pudding of those who support pay-as-you-go, whether they support amendments during this coming year to cut Federal spending so that such amendments can be put in a pay-as-you-go context.

Mr. SLATTERY. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in support of the Kennedy-Slattery pay-as-you-go substitute.

Mr. Chairman, 18 months ago the administration with the help of Congress created a bureaucratic monster called the RTC, gobbling up savings and loan institutions right and left. When the RTC was created, they had an excellent plan to acquire assets, but they had no plan to dispose of those assets.

According to the Government Accounting Office, the RTC still controls more than half of its assets from all resolved thrifts. The GAO also found that the RTC did not even begin executing its policies for disposing of real estate assets until August of last year, 1 full year after enactment of the enabling legislation.

The RTC has grown so monstrous in fact that it can now claim to be the largest owner and manager of assets in the free world. It now controls over $144 billion by its own estimates.

The monster we have created is arrogant, uncooperative, and insensitive.

Let me cite for you as an example, Mr. Chairman, some of the ludicrous bureaucratese the RTC has invented to deal with Members of Congress and their constituents. The most egregious example was my experience when a homeowners' association requested my assistance last year after several unsold units became assets of the RTC after it assumed receivership of a failed savings and loan in Mississippi.

Among its many requests for assistance and information about the RTC's intent and plans, the homeowners' association asked to have a copy of the sales contract by which the RTC finally sold the vacant units. On their behalf, I wrote to the RTC. Two months later, I received a typically bureaucratic response which said that the agency would not provide the information which I had requested. Instead, the RTC said, the homeowners' association should ask the purchaser for a copy of the contract. Should that person not furnish the information, a Freedom of Information Act request would have to be initiated.

Mr. Chairman, I am not sure why it took 2 months to receive such an unresponsive and uncooperative answer. Could it be indicative of the holier-than-thou attitude that often comes with great power and responsibility?

More importantly, and an indication of how insulated from the real world the RTC has become, the response was contrary to the intent of the Financial Institutions Reform, Recovery and Enforcement Act which created the RTC. A legal opinion from the Congressional Research Service held that RTC agreements should be disclosed in response to a request from a Member of Congress and that agency narrowly and rarely construe the public interest exception, which permits such agreements to be withheld.

Another example is when the association asked my assistance in obtaining an answer to two questions: Had a brokerage contract on the RTC-held units been let and how long was the term of that contract?

My staff called the RTC Congressional Affairs Office here in Washington. The Congressional Affairs Office responded to my inquiry by asking whether the constituent was calling for herself or the homeowners' association. My staff member replied that any constituent was secretary of the association. Nonetheless, the Congressional Affairs officer wondered why the president of the association had not called or written or why the RTC's resident property manager was not asked for the information.

Last, this individual said, because a contract was involved, the association would have to write a letter under the Freedom of Information Act requesting the information. Eventually, I was told, it would be publicly released and available in the RTC reading room. But in the meantime, it was only releasable under a Freedom of Information Act request.

Mr. Chairman, as these examples illustrate, the RTC's unwillingness to provide information or to cooperate with individuals and groups adversely affected by failed savings and loans is legendary. If indeed power breeds arrogance and condescension, we have no better example than the RTC.

Mr. Chairman, the American taxpayers know that the savings and loan bailout operation is spiraling out of control and desperately needs reform. Many factors contributed to the creation of this crisis, including: First, deregulation of the industry in the 1980's; second, changes in the 1986 Tax Reform Act which negatively affected the real estate tax provisions; that, RTC's own policies have also contributed the crisis we find ourselves in; and fourth, corruption.

In addition, Mr. Chairman, Tennessee taxpayers will once again be asked to share a disproportionate share of the burden to bailout S&L's which failed mostly in other States. According to the GAO, the total cost of the bailout, including interest, may be as high as $500 billion. That's over $2,000 for every man, woman, and child in the United States.

My constituents are sick and tired of funding a Government agency that is not doing its job. Congress must take the appropriate steps to ensure the American taxpayer that the funds we are appropriating to resolve the savings and loan mess are being spent as efficiently as possible. Simply stated, Mr. Chairman, I do not believe the RTC has spent the money it has already received in a responsible manner.

For these reasons, Mr. Chairman, I urge my colleagues to support the Kennedy-Slattery pay-as-you-go amendment. Not only would it save the taxpayers $120 billion, it will provide the RTC with much needed incentive to sell its stockpile of assets. Congress must face up to its responsibility and show the American people that we will no longer use budgetary gimmicks to hide the costs of the savings and loan cleanup.

ATTACHMENT 1

HOUSE OF REPRESENTATIVES,
Washington, DC, August 23, 1990.

Hon. L. WILLIAM SEIDMAN,
Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR CHAIRMAN SEIDMAN: At the request of the _____ Homeowners' Association of Nashville, Tennessee, I would like a copy of the sales contract between Unifirst Bank for Savings of Jackson, Mississippi, and Mr. _____ the reported purchaser of the Unifirst-held units at _____.

If Mr. _____ is not the purchaser of these units, I would greatly appreciate you identifying who is, and a copy of the sales contract that does exist between Unifirst and the purchaser of these properties.

Thank you for your prompt response to this request. If you or your staff have any questions or need any additional information, please feel free to call me.

Sincerely,

BOB CLEMENT,
Member of Congress.

ATTACHMENT 2

RESOLUTION TRUST CORPORATION,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 29, 1990.

Hon. BOB CLEMENT,
House of Representatives,
Washington, DC

DEAR MR. CLEMENT: Chairman Seidman has asked me to thank you for your letter on behalf of the _____ Homeowners' Association of Nashville, Tennessee. The _____ development was an asset of the Unifirst Bank for Savings of Jackson, Mississippi. As you may know, this institution is in receivership with the Resolution Trust Corporation. Please accept our apology for the delay in responding to you.

The RTC, as receiver of the assets of Unifirst Bank, sold various units of the _____ development to _____, a Tennessee Limited Partnership. The _____ representative for that sale is Mr. _____.

Mr. _____ should be contacted to obtain a copy of the sales contract between Unifirst Bank and the _____. Should Mr. _____ not furnish the information, a Freedom of Information Act request may be initiated. The documents releasable under a FOIA request would be determined by the Office of Executive Secretary upon receiving the request.

I hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

LOREN T. HOOPER,
Deputy Director.

ATTACHMENT 3

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 5, 1990.

Mr. JOSEPH E. ROSS,
Director, Congressional Research Service, Washington, DC.

DEAR MR. ROSS: I would greatly appreciate obtaining an advisory opinion from your staff regarding the statutes, rules and procedures governing the release of a sales contract and any related sales information between a private party and the Resolution Trust Corporation (RTC).

In particular, I would like to know whether any statute, rule or procedure prohibits the RTC from releasing, in response to a Congressional request, a copy of the contract for the sale of a real estate asset of a bank under the RTC receivership to a limited partnership. For example, is the contract subject to a determination under the Freedom of Information Act or are less cumbersome procedures available. In addition, I would like to know whether the limited partnership, or any private party to a RTC asset sale, has any rights which bar the release of this information or which require that the request first be directed to the private party rather than the RTC.

Thank you for your assistance in answering this inquiry. Should you or your staff have any questions or need any additional background information, please feel free to call me.

Sincerely,

BOB CLEMENT,
Member of Congress.

ATTACHMENT 4

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, December 7, 1990.

To: Hon. Bob Clement.
From: American Law Division.
Subject: Release to Congress of Contracts for Sale of Property Held by the Resolution Trust Corporation and Related Information.

Reference is made to your inquiry relative to the above. Specifically, you ask for a legal opinion as to "whether any statute, rule, or procedure prohibits the RTC from releasing, in response to a Congressional request, a copy of the contract for the sale of a real estate asset of a bank under RTC receivership to a limited partnership." The remainder of this memorandum will consider legal authorities relevant to this issue.

Subject to the general oversight of the simultaneously created Oversight Board, the Resolution Trust Corporation (RTC) was established by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) "to manage and resolve all cases" involving failed depository institutions insured by the Federal Savings and Loan Insurance Corporation (FSLIC).[1] To this end the RTC is empowered to enter into contracts with public or private persons and entities for disposition of properties over which the Corporation has jurisdiction,[2] and may renegotiate certain agreements pertaining to insolvent thrifts entered by its predecessor agency, the FSLIC.[3]

FIRREA also imposed an elaborate set of "[r]eporting and disclosure obligations" upon the RTC. First, as part of a required annual audit procedure, all Corporation and Board "books, records, accounts, reports, files, and property," must be made available to the Comptroller General.[4] Second, the Act codifies a rule requiring "public disclosure" of "any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance" and all earlier agreements reviewed by the Corporation.[5] The only exception to this general disclosure principle is where the Oversight Board determines that "disclosure would be contrary to the public interest."[6] Finally, supplementing the rule on public disclosure is a separate provision governing "[d]isclosure to Congress of transactions."[7] That law mandates disclosure to the respective banking committees of the House and Senate as follows:

"The Corporation shall make available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act [12 U.S.C.A. §1823(c)] not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into. The foregoing requirement is in addition to the Corporation's obligation to make such agreement publicly available pursuant to paragraph (2)."

The organic law creating the RTC appears to authorize three levels of congressional access to Corporation agreements with third parties depending, to some extent, on the nature of the agreement and the source of the congressional request. The congressional Banking committees are afforded access to any and all such agreements within the timeframe specified in §144a(k)(3)(A). Under the preceding public disclosure requirement, individual members of Congress and congressional committee sources may also be entitled to access as any other member of the general public. However, while invocation by the Oversight Board of the "public interest" exception to the FIRREA public disclosure requirement may not inhibit congressional committee access to RTC agreements, a more difficult question relates to the status of individual member requests for documents withheld by the agency in the public interest.

Under other public disclosure statutes, including the Freedom of Information Act, some authorities favor broad congressional committee access to documents but treat individual Members of Congress no differently than the general public for purposes of any limitations or exceptions.[8]. For example, while Congress made explicit that FOIA defenses do not apply to committee subpoenas,[9] requests for information by individual members of Congress are treated as "any person" requests under the Act's general disclosure provision, and subject to the same defenses.[10] However, when the Congress acts through its committee structure in an official capacity, the FOIA exemptions may not be invoked against it.[11] This distinction is also enshrined in a Department of Justice policy statement advising federal agencies that subsection (c) of FOIA applies only to a "duly authorized request on behalf of Congress through a legislative committee or subcommittee.[12]

Some uncertainty over the question of enhanced rights of individual Members to access to information under the FOIA was created by the opinion in *Murphy* v. *Department of the Army*.[13] There the court held that the Army had not waived its rights to assert a FOIA exemption in response to a FOIA requester because it had previously disclosed the requested information to a Member of Congress. The Court pointing to subsection (c) of the FOIA, held that there was "no basis in the statute or in public policy for distinguishing a single Member acting in an official capacity" and that by virtue of the subsection's recognition of such congressional access the Army had not waived the FOIA exemption by releasing the material to the congressman.

Murphy provided the lever for the D.C. Circuit's later ruling in *FTC* v. *Owens-Corning Fiberglass Corp.*,[14] where a 2 to 1 majority of the appellate panel took a very broad view of the right of individual congressmen to demand trade secret data excepted from public disclosure under the FOIA. Based on the *Murphy* precedent, the court vacated portions of the protective order issued by the

[1] [Footnotes at end of article.]

lower court to safeguard the requested materials as applied to congressional requests, including those of individual members.

"If *Murphy* applies here, the [Federal Trade] Commission could not lawfully withhold information sought by a member of Congress regardless of whether he complied with applicable committee or subcommittee rules, at least where he requests the information pursuant to his legislative duties and not 'in a purely private or personal capacity.'"[15]

A spirited dissent by Judge Wald distinguished *Murphy* as a case involving a "discretionary" restriction on public disclosure rather than "material specifically protected by statute from any disclosure to the public."[16] The dissent relied on another D.C. Circuit ruling, *United States* v. *Exxon Corp.*,[17] for the proposition that:

"No Member of Congress, acting on his own, has yet been judicially declared to have access rights to subpoenaed trade secret material for his own individually-defined legislative purposes, no matter how legitimate his interest."

The specific issue in *Owens-Corning* of individual member access to trade secret information was mooted when Congress amended the FTC Act to make access rights available to committees and subcommittees only.[18]

In sum, whether individual members of Congress are to be treated alike with the general public in regard to operation of the "public interest" limitation on disclosure of RTC agreements or are entitled to some degree of enhanced access is not clearly answered by the statute. Under the FIRREA disclosure provisions, it appears that only the congressional banking committees are explicitly accorded unqualified access to RTC agreements. This may support an inference that all other requests fall within the purview of the "public" disclosure section which is circumscribed by Oversight Board discretion to withhold documents in the public interest. Such a result would be largely consistent with the other federal disclosure provisions which, as administratively and judicially interpreted, have generally recognized a distinction between committee and individual member access. Moreover, while the scope of the Board's discretion to withhold documents is not articulated in the statute, the conference report on the legislation indicates that "[i]t is the intent of the Congress that these agreements be disclosed and that such public interest exception be rarely used and narrowly construed."[19] It thus appears that RTC agreements are to be made generally available for inspection by both the Congress and its members and the public at large.

It is hoped that this is of assistance to you.

CHARLES V. DALE,
Legislative Attorney.

DECEMBER 7, 1990.

FOOTNOTES

[1] 12 U.S.C.A. §1441a(3) (1990 Supp.).

[2] *Id.* at §1441a(b)(11)(A)(i).

[3] *Id.* at §1441a(b)(11)(B).

[4] *Id.* at §1441a(k)(1)(A).

[5] *Id.* at §1441a(k)(2)(A).

[6] *Id.* at §1441a(k)(2)(B).

[7] *Id.* at §1441a(k)(3).

[8] *Cf., Ashland Oil, Inc.* v. *FTC*, 548 F.2d 977, 979 (D.C. Cir. 1979) a case which interpreted a former version of 15 U.S.C. 46(f), barring "public" disclosure of trade secrets by the Federal Trade Commission, as inapplicable to scrutiny by Congress. The Court upheld the congressional subpoena because the company failed to rebut the presumption that Congress would act responsibly and protect its trade secrets:

"No substantial showing was made that the materials in the possession of the FTC will necessarily be "made public" if turned over to Congress. Therefore, we need not decide what application, if any, [the statute] might have if it were evident that Congress intended to "make public" trade secrets. At a minimum, we think it is clear that absent such a showing, [the statute] does not preclude the FTC from transmitting trade secrets to Congress pursuant either to subpoena or public request. . . ."

In *Ashland*, Representative Moss initially requested the data from the FTC "in his capacity as a member of Congress." The agency refused to disclose the information, citing a FOIA exemption which protected confidential business information. Thereafter, Representative Moss requested the information in his official capacity as subcommittee chairman. The FTC, treating the second request as an official request "from Congress," agreed to release the information.

[9] 5 U.S.C. §552(c) states that FOIA "is not an authority to withhold information from Congress." The legislative history of this provision states that "Members of the Congress have all the rights of access guaranteed to 'any person' by [the Act], and the Congress has additional rights of access to all Government information which it deems necessary to carry out its functions." H. Rep. No. 1497, 89th Cong., 2d Sess. 11–12 (1966).

[10] *EPA* v. *Mink*, 410 U.S. 73 (1973); *Stone* v. *Export-Import Bank*, 552 F.2d 132 (5th Cir. 1977), *cert. denied* 434 U.S. 1012 (1978); *Aspin* v. *Department of Defense*, 491 F.2d 24 (D.C. Cir. 1973).

[11] *Aspin, supra*, n. 8.

[12] U.S. Department of Justice, Office of Information and Privacy, 5 FOIA Update No. 1 at 3–4 (Winter 1984). The policy states:

"In sum, when an agency receives a FOIA request from a Member of Congress, it should first determine whether it is a duly authorized request on behalf of Congress through a legislative committee or subcommittee. If so, then the request falls within subsection (c) of the FOIA and only a specifically authorized claim of executive privilege could be interposed to justify nondisclosure. Any FOIA request submitted by the chairman of a committee or subcommittee on a subject within its jursidiction should routinely fall into this category. On the other hand, if the request is not an official committee or subcommittee request, then the agency should process it as a request from "any person" under the FOIA, but with particular regard for the consideration of congressional relations, discretionary disclosure and waiver referred to above."

[13] 613 F.2d 1151 (D.C. Cir. 1979).

[14] 626 F.2d 966 (D.C. Cir. 1980).

[15] *Id.* at 613.

[16] *Id.* at 979.

[17] 628 F.2d 70, 77 (D.C. Cir. 1980). In *Exxon*, the appellate court affirmed a district court opinion enforcing a Department of Energy subpoena in which the district court imposed protective conditions upon all requests for access, including those of individual Members of Congress, except those made "pursuant to a request formally authorized by a committee or subcommittee of Congress with jurisdiction over the subject matter of the documents or information request. . ."

[18] 15 U.S.C. §57b–2, as amended by the Federal Trade Commission Improvements Act of 1980, Pub. L. 96–252.

[19] H. Conf. Rep. No. 101–222, 101st Cong. 1st Sess, at p. 415 (1989).

□ 1610

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, this bill is in the worst of the tradition of Congress. Once again, we passed the buck to the President and retained the prerogatives in Congress, just like the Budget Act of 1974. We say to the President to come up with his plan for taxing or spending, and we will give our criticism.

Mr. Chairman, the President did not have to offer to the Congress last summer that he would enter into a summit with the Congress to help them resolve their dilemma with respect to their failure to produce a budget in accordance with the law. He did not have to do that, and I was one who advised him not to do it. However, he did do it. As a consequence of that, we did, 6½ months after the law required, come up with a budget summit deal. I thought it was a bad deal. The gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Kansas [Mr. SLATTERY] voted for the budget summit deal. I thought it was a bad deal. However, in that budget deal, we put the RTC funding off budget. We kept it outside the pay-go provisions.

Now, when Congress came into session this year, their first act in passing the Democrat House Rules as the majority, was to violate that summit agreement by changing the pay-go scoring from the Office of Management and Budget in the executive branch to the Congressional Budget Office, and after they made that change, their preferred scoring agency, the Congressional Budget Office, which the majority controls in this body, said to put RTC funding under pay-go would violate the summit agreement. Yet, they are willing to do it in violation of the agreement they themselves voted for.

Now on top of that, once they institute the charade of the pay-go provisions in violation of the law, they say the President must make his recommendations of where the taxes will come from to meet the pay-go provisions, or where the spending cuts will come from. The fact of the matter is, the President can only recommend such things to the Congress. We cannot escape the requirements. If we vote for the pay-go requirements of the Slattery-Kennedy amendment, we will have to decide where we will raise the taxes or where we will cut the spending, irrespective of any requirement we impose on the executive branch to make recommendations. We will have to make those decisions. What will happen? As we do that, as we delay the appropriation of the money, as we involve ourselves in the struggle in this great debate, because no person in this body either wants to raise taxes or cut spending. We will lose time, and we will lose money, and we will pass an even greater bill on to our grandchildren.

I say vote no for Kennedy-Slattery.

Mr. SLATTERY. Mr. Chairman, I yield 30 additional seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, first of all, the CBO has indicated in a letter to the chairman saying that, in fact, this amendment does not violate the budget summit agreement. The fact is that what we have here is a moral issue as to whether or not either side of this Congress has the moral will to stand up and say that we should stop sending these bills to our children, that the S&L crisis is a crisis that our generation brought on, and our generation should pay for.

Whether we sweep this under the rug, the issue as to whether or not the President comes up with cuts or not is really immaterial. The President comes up every year with the State of the Union address and tells Members what he wants. That is a plain and simple procedure that we ought to stick with.

Mr. SLATTERY. Mr. Chairman, I yield myself 30 additional seconds to clarify the point which has been raised twice.

I have in my hand a letter that was directed to the minority leader dated March 4, 1991. In this letter, on page 3 at the top of the page, I will read. It says:

> There would be no pay-as-you-go scoring, however, because the Budget Enforcement Act provides that the funding to meet existing deposit insurance liabilities would be exempt from any pay-as-you-go calculations.

The point is simple: We are not amending the Budget Enforcement Act with this particular measure. I would just point out this act would clearly provide that we would have to find some spending reductions and find whatever would be required to fund the RTC in the future.

Mr. WYLIE. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, if I could quote just briefly from a letter by Robert Reischauer, Director of the CBO, to DON RIEGLE in a letter of February 7:

> The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting mandatory spending. Spending necessary to meet the government's existing deposit insurance commitments is excluded from this requirement, and is not limited in any way under the new budget process. Allowing RTC to continue resolving insolvent savings and loans is treated as mandatory spending in recognition of a prior government commitment.

Mr. WYLIE. That is precisely the point I wanted to make, and I was going to read from Robert Reischauer's letter to DON RIEGLE myself. It says it is in violation of the budget agreement.

The same, may I say, if we tried to provide for pay-as-you-go Desert Storm. Last week we passed for Desert Storm. Desert Storm and RTC were excluded from the budget summit agreement.

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support of this amendment. I ask my colleagues to consider 1 basic question: If pay-as-you-go is good enough for education and housing and military, except for Desert Shield, it is the regime we have adopted in this body for every single spending program, every single one. Why is it not good enough for spending on the S&L bailout?

I have yet to hear a responsible answer to that. The argument that it will lead to taxes, those are the same arguments Members can apply to anything else. We are putting it under the same structure of any other program in Government. Taxes is a red herring unless we apply it to everything else in Government.

The second point I would like to make to my colleagues, and especially to the gentleman from Texas who is an economist, who teached economics back at the university, will agree with me, I hope, that there is one lesson taught to every freshman economics student. While a person can borrow, it is sometimes reasonable to borrow, for an asset that produces a benefit or revenue, it is never legitimate to borrow money for a dead asset that provides no future benefit.

□ 1620

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SLATTERY. Mr. Chairman, I yield 10 additional seconds to the gentleman from Wisconsin.

Mr. MOODY. That is a total aberration of the basic laws of economics, which I know the gentleman respects, as he is an economist.

You must not borrow money for a dead asset. You can borrow money for a live asset that is producing a future benefit.

The question is, do we want to push this off on to future generations or pay for it now?

Mr. SLATTERY. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts [Mr. NEAL], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. NEAL of Massachusetts. Mr. Chairman, less than 2 months ago in this room, President Bush stood before us and in his State of the Union Address he stated: "Though controversial, the budget agreement finally put the Federal Government on a pay-as you-go plan and cut the growth of debt by nearly $500 billion." Right now only two items in the budget are not placed on a pay-as-you-go-plan, Desert Storm and the savings and loan bailout. Desert Storm cannot be compared to the savings and loan bailout. Desert Storm is a one time occurrence and it was a necessary measure to stop the aggression of Saddam Hussein. Desert Storm was an allied operation and the burden of the cost will not just be on the United States.

The cost of the savings and loans bailout is solely the responsibility of the United States. FIRREA was not a perfect piece of legislation but it was a step in the right direction. Now we have the opportunity to improve the method of cost for the bailout.

Just this past Friday, Federal officials approved the sale of branches and deposits of the collapsed Lincoln Savings & Loan Association. The total cost of Lincoln's failure, seizure and liquidation is $2.6 billion, the mostly costly thrift failure. The estimated costs of the bailout keep rising.

It is time to face up to the reality of the costs and pay for the bailout now. We do not want to leave the cost of S&L debacle as a legacy to future generations. The current method is not cost efficient due to the interest created by borrowing. The American people deserve to know the manner in which the bailout is being funded and know how the money is being spent.

Let us take one step further in resolving the savings and loan bailout and support the Kennedy-Slattery amendment. It is time for the bailout to be treated in the same manner as all other expenditures.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to the Kennedy-Slattery substitute.

RTC funding is emergency legislation. Now is not the time, I submit, to make a major fiscal policy change which this would require. The Kennedy-Slattery substitute clearly violates, whether we like it or not, last year's budget summit agreement, which specifically exempted deposit insurance funding from pay-as-you-go consideration.

In addition, the substitute would clearly hold depositors hostage to budget cuts or tax increases. The money needed is mandatory, not discretionary spending, to uphold the Government's promise to protect depositors. As such, it like Desert Storm, Social Security benefits and interest on the national debt, have already been budgeted for in the 1990 budget agreement and are explicitly exempted from pay-as-you-go considerations. Just as it would be inexcusable and unimaginable for the Government to cut off funding for our soldiers in the Persian Gulf during the time of war while we debated spending cuts or tax increases, it is irresponsible and unpardonable for Congress not to provide the RTC with the funding needed to protect the small savers of this country. Any delay hurts those who can least afford it.

Pay-as-you-go applies only to new programs or expansion of programs. Deposit insurance is an existing program that represents a prior commitment of our Government.

In addition, it should be noted that the $30 billion for deposit insurance guarantees for fiscal year 1991 has been included in the President's fiscal year 1992 budget.

The Kennedy-Slattery provision calls for the administration to come up with a detailed plan of how future RTC funding will be financed. Does not the President already submit an annual budget? For what other programs must the President provide dedicated revenue sources?

Furthermore, what other programs of this magnitude have dedicated revenue sources?

Both Congress and the administration share responsibility to see the RTC crisis resolved, but only Congress can raise revenues.

If adopted, the Kennedy-Slattery substitute would violate the 1990 budget summit agreement, thereby nullifying the hard-won compromises of the budget summit. If adopted, our 5-year budget——

Mr. SLATTERY. Mr. Chairman, will my friend, the gentleman from Ohio, yield on that point?

Mr. WYLIE. I yield to the gentleman from Kansas on that point.

Mr. SLATTERY. Well, Mr. Chairman, I really thank my friend for yielding to me.

Let me just reemphasize one fundamental point to the gentleman, and that is that this does not amend the Budget Enforcement Act.

I do concede to the gentleman, however, that it will require some changes beyond the agreement last year, and I hope that the gentleman shares my view that in spite of the progress that we made last year in the economic summit agreement, it certainly does not solve this Nation's fiscal problems and it certainly does not lead us to a point where we are going to have a balanced budget.

I am suggesting that we should indeed improve upon that agreement last year. There were provisions in it that I did not like and I am going to be working this year to try to improve upon those provisions. This is certainly one of those examples.

Mr. WYLIE. I understand the gentleman's point. The gentleman did vote for the budget summit agreement, as I have pointed out a little earlier, and now he is talking about making some changes.

Mr. SLATTERY. Absolutely.

Mr. WYLIE. And I do not say there is anything necessarily wrong with it.

Mr. SLATTERY. Well, I thank the gentleman for conceding that.

Mr. WYLIE. But the 5-year budget summit agreement which was passed last year will have only lasted 5 months if this amendment is adopted today.

Clearly, too much time and effort have been invested for this to happen, and I think it is ironic that both gentlemen, as I say, voted for the agreement they are now trying to scuttle.

The Kennedy-Slattery substitute only authorizes $30 billion of lost funds. It does not appropriate those lost funds, and it does not authorize or appropriate any funds for working capital.

I might submit that the original Kennedy proposal would have only provided for $10 billion up front and $20 billion later on. If the President had come up with a proposal either to find the money from some other source or would have provided new taxes, that was not a fight in our committee, and I will say this is slightly better, but not much. The gentleman from Kansas [Mr. SLATTERY] suggests that we come up with $20 billion now and $10 billion later.

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

Mr. WYLIE. I yield to the gentleman from Massachusetts.

Mr. KENNEDY. Mr. Chairman, I thank the ranking member of our committee for yielding to me.

First of all, I just want to point out that there are several Members on the gentleman's side of the aisle who voted for the amendment that passed.

Mr. WYLIE. That does not necessarily make it right.

Mr. KENNEDY. Well, whatever. That is the gentleman's opinion, but I would also like to point out that in terms of the emergency legislation, the fact is that Mr. Bowsher, who was appointed by Ronald Reagan, has said that this is not emergency legislation. He has said that this will be with us for many, many years to come; so I do not believe that we ought to be saying this is on the same scale as Desert Storm.

The fact is the savings and loan crisis is going to be with us, as the ranking member himself is well aware, for many years down the line.

Mr. WYLIE. May I reclaim my time. Since the gentleman mentioned Mr. Bowsher, Mr. Bowsher said:

> We don't disagree with the Administration's estimate that RTC now needs $30 billion in additional lost funds to continue the Resolution Trust Corporation into 1991. The request should be approved.

He said the $30 billion request should be approved.

Mr. KENNEDY. But is not the next sentence that it ought to be funded like any other program?

Mr. WYLIE. Mr. Chairman, I continue to yield myself such time as I may consume.

The point I would make is that the Kennedy-Slattery substitute would force the RTC to engage in a stop and go resolution process as funding would never be certain. This would hinder the RTC's ability to promptly close and resolve thrifts and aggressively dispose of assets, and I think that is what Mr. Bowsher would say, that the RTC should not be burdened with all these other qualifications.

Funding uncertainties would also severely shake depositors' confidence, and with all the delays many would ask if the Government is still willing to make good on its promise to protect depositors. This could lead to runs on banks and financial instability. The whole purpose of deposit insurance is to prevent this from happening.

Again, this is desperately needed emergency funding. Money must be made available and a prompt settlement of depositors' claims made.

Now is not the time to make major financial fiscal policy changes, and Kennedy-Slattery, as I indicated before, violates the budget summit agreements and holds depositors hostage to a tax increase, a tax increase that I would not be willing to vote for.

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

Mr. WYLIE. I yield to the gentleman from Massachusetts.

Mr. KENNEDY. I would just like to make the point, first of all, if the appropriations process is good enough for senior citizens, if it is good enough for the space program, if it is good enough for every other program in this country, it seems to me that it is good enough for the savings and loans.

What we are trying to say is that what we are not doing in this country today is coming to grips with the fact that when we have a big bill, all we do is pass it along to our kids.

□ 1630

It took 200 years of American history to run up a single trillion dollars worth of debt. In this current year alone we will run up close to $400 billion of debt. It is wrong, and what we do not have is the guts to come to grips with it. That is what this issue is, that is what this amendment gets to the heart of; whether or not we sweep it under the rug once again or whether we want to cut it out, that is what we have to do.

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

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Chairman, I would like to make a couple of points.

First of all, nobody other than President Roosevelt, perhaps, who did in fact predict the mess we are in now, could have foreseen the enormous financial collapse that we have had with the FSLIC disaster. Perhaps we might be wise to have stood with the position of President Roosevelt in 1933 and revisited accepting that ongoing liability to the depositors by the Federal Government. That is what we did.

The liability is to the depositors. It is on that basis that the RTC funding was exempted from the pay-go provisions by agreement of the leaderships of the House and the Senate. And you will recall when we finally got, last October, to a summit agreement, what we had was a super-summit made up of only the leaders of both parties in both the House and the Senate and the executive branch. A lot of us objected to the exclusion from the pay-go provisions of these mandatory spending programs, including RTC, and we voted against it. The two gentlemen on the other side of the aisle voted for it. Now, what they have said is, "We want

the President to have the guts to face up to the vote we made." They did not say, "We want Congress to have the guts." Their amendment says the President should come forward with a plan to raise taxes or increase spending, a plan that the Congress may accept, may reject, but will most certainly ridicule.

You know and I know that this is a prelude to nothing other than political demagoguery of Congress against the President.

Had you been sincere, your bill would have said, your amendment would have said, "The Congress will come up with a pay-go legislation for tax increases or spending reductions."

Mr. WYLIE. Mr. Chairman, may I reclaim my time?

The CHAIRMAN. The gentleman from Ohio controls the time.

Mr. WYLIE. I think the gentleman from Texas feels pretty strongly about the issue; there is one thing about it, he is not uncertain.

Mr. Chairman, a little earlier Mr. Bowsher's name was mentioned. Just to go back there, Mr. Bowsher said in his testimony before us that we should provide $30 billion without restrictions for this fiscal year, and I quote:

> Such slowdowns simply add to the eventual cost of resolution by allowing failed institutions to continue operating and incurring losses. We believe that short-term funding bills covering less than 1 year would prove inefficient and costly.

Therefore, he says, we support $30 billion for this fiscal year.

Mr. Chairman, I submit if Kennedy-Slattery is adopted, the administration will be forced to veto this bill and we will be right back where we started from while resolutions cease and the American taxpayer continues to lose an additional, although preventable, $8 million for every day we delay.

I urge my colleagues to vote "no" on the Kennedy-Slattery bill.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] has 5½ minutes remaining, and the gentleman from Kansas [Mr. SLATTERY] has 16¾ minutes remaining.

The Chair recognizes the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I appreciate the Chair's copious timekeeping today.

Mr. Chairman, I yield 15 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. I would like to quote Mr. Bowsher's testimony at the same hearing that Mr. WYLIE referred to.

"I have always been a strong believer and have advocated that this program be on budget and financed like any other program."

Mr. SLATTERY. Mr. Chairman, I yield myself 2 minutes to respond to a question raised previously.

Mr. Chairman, I thank my colleague from Massachusetts [Mr. KENNEDY] for hitting the nail right on the head with respect to where Mr. Bowsher is on this point.

I want to talk about whether or not this violates the summit agreement. I have to tell my friends on the other side that to use that as the principal argument in opposition to pay as you go today I find rather humorous, if not laughable.

I would just suggest to my friends on the other side of the aisle that, true, a lot of people reluctantly voted for that agreement last fall. We did so because at the time we recognized it was the best we could do. It was far from perfect. We understand clearly we are going to have to revisit this issue many times in the future. What we are doing today is building upon that agreement.

To suggest that we cannot improve upon it is absolutely ridiculous. What that would do, in effect, is condemn us all to a perpetuation of this ridiculous and immoral fiscal policy that we are practicing in this country today.

So, my friends on the other side of the aisle who take pride in being fiscally conservative, to suggest we have locked ourselves in some kind of concrete as a result of this budget agreement—you know, it reminds me of that great line from the Lincoln-Douglas debate when Mr. Lincoln observed to Mr. Douglas, he said, "That argument is as weak as the soup that you could make from the shadow of a starving sparrow." I would suggest that your argument with respect to the violation of the summit agreement is just as weak.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. COX], a member of the Committee on Banking, Finance, and Urban Affairs, and a distinguished freshman who is making a great contribution to the committee.

Mr. COX of Illinois. I thank the gentleman for yielding.

Mr. Chairman, I come here today to address the House as the first Democrat to represent my district since the Civil War. I bring with me a simple message from the people of northwest Illinois, and that is that the American public will no longer tolerate the fiscal irresponsibility of the Federal Government of the United States. Commitment was what I spoke of on the day I announced my candidacy, that fiscal responsibility was the No. 1 issue I intended to deal with once I arrived here in Washington. And the people responded to that.

I suggest to you that responsible behavior requires the willingness to do the right thing.

Mr. Chairman, all this amendment proposes is that after we commit another $30 billion to the RTC bailout, that we will from that point forward identify where the money will come from to pay that bill.

How, I ask you, how is it possible that proposing a way to pay your bills is a radical idea and one unacceptable to the President of the United States to the point that he would veto that bill?

When I go home, I wish to face my children in the eye and tell them that we had the courage here today to tell them they do not have to pay our bills, we will pay our own.

Mr. Chairman, I urge support of the Kennedy-Slattery amendment.

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, President Bush wants Americans to fork over $77 billion for the second S&L bailout. But the President's plan is a royal scam that will cost taxpayers $120 billion more.

It is a scam because the President will break his own promise to put the budget on a pay-as-you-go basis and it sticks the taxpayer with an inflated bill.

Stanford University estimates that the bailout as currently funded will cost a total of $1.369 trillion, and that most of the cost comes from interest—$913 billion.

For all of the administration's talk about controlling spending, this is a boondoggle. Every other spending increase requires new revenue or offsetting spending cuts. But the President's second S&L bailout plan disregards his own spending caps.

It is a scam because the middle class and the poor will pay for the excesses of the wealthy. Working and middle-class Americans did not benefit from the high interest rates and financial deregulation that led to the S&L disaster. Why should they pay for the cleanup?

We've got to stop sticking it to middle-class Americans and their children. The Kennedy-Slattery plan requires pay-as-you-go financing.

Under the plan:

The RTC receives $30 billion to fund the agency through the fiscal year.

Any future funding requests must be accompanied by a plan to fund the RTC without adding to the Federal deficit.

And we all know the administration will be back here next year asking for $50 billion more.

Stop the scam. Vote for the Kennedy-Slattery amendment.

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentlewoman from South Carolina [Mrs. PATTERSON], a member of the committee.

Mrs. PATTERSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, late last year, Congress approved a budget agreement designed to reduce the deficit over the next 5 years. I voted against that

agreement because I did not like many of the proposals included in it. But there was one concept that I found very appealing: pay-as-you-go. The logic behind it is simple. If you can't afford it, don't buy it. That is the logic that my family uses, that the State of South Carolina and many other States use, and it is a concept that the U.S. Government must learn to use now.

Yet, today we are here to consider a proposal to spend yet another $30 billion to shore up our Nation's savings and loans. The costs are to be placed off-budget, shoving these costs to the back burner and further adding to the mounting debt we refuse to face, opting instead to let our children and their children face it.

I recognize that the savings and loan situation must be dealt with. As a member of the House Banking Committee, I have a responsibility to deal with it. But, Mr. Chairman, as a representative of the people, it is also my responsibility to look out for the economic well-being and the future of this country. I cannot add my signature to a $30 billion check with no accountability for where the money will come from. Doing so today means sending the tab to our children tomorrow.

Pay-as-you-go is one of several responsible reforms our Government needs to adopt, but it is one we can adopt here, now, today. That is why I am supporting this amendment. I commend Mr. KENNEDY and Mr. SLATTERY for their hard work and I urge my colleagues to support this amendment.

□ 1640

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. ORTON], a freshman Member who is a member of the Committee on Banking, Finance and Urban Affairs.

Mr. ORTON. Mr. Chairman, I rise in support of the proposal of the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Massachusetts [Mr. KENNEDY] for recapitalization for the RTC.

Mr. Chairman, I was told after that very difficult vote on the Persian Gulf that votes would get easier around here. I am still waiting. There is no easy way out of the S&L crisis.

Mr. Chairman, the time has come for Congress to take a stand for fiscal responsibility.

May I paraphrase the President? The time has come to draw a line in the sand, a line against the continued and seemingly unending cycle of deficit spending.

The reality of the administration's request for the S&L bailout is that it would be paid for through continued borrowing from our future. The consequences of this is that it will cost far more to borrow and spend than it will to fund the RTC on a pay-as-you-go basis. The Treasury Department estimates that it would save the Government $120 billion in interest payments alone.

The CBO estimates that it would cut the deficit by $170 billion over the next 4 years.

Mr. Chairman, the proposal of the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Kansas [Mr. SLATTERY] insists that this cycle of borrow and spend must end and end now.

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN], a member of the Committee on Banking, Finance and Urban Affairs, also a freshman.

Mr. MORAN. Mr. Chairman, Winston Churchill began his five-volume series on World War II by pointing to the failed economic policies that caused it, and he said that of course the Government, at the time had many explanations for such unrealistic policies, but historians must call it madness.

Mr. Chairman, a decade from now there will be Members right here in the well of the House calling the decisions we are making today just that, and there will be just as many Republicans and Democrats reaching that conclusion.

As parents would we ever spend a decade, spending money we did not have, and, when the bills come due, send them to our children? Of course we would not.

The basic argument boils down to why inflict the pain on us today of fiscal responsibility if we could pass it off to some faceless Congress in the future. It is time to be held accountable, to hold ourselves accountable, to the same standards that we conduct our personal business by in our business careers, and so, Mr. Chairman, I urge my colleagues, if it is not us, who will hold ourselves accountable? Who will it be? And if not now, when?

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, the President and the Congress have to begin making the hard choices avoided for so many years that have led to a Federal debt of over $3 trillion. Now we have a chance to put additional RTC funding on the same pay-as-you-go basis as we have put the rest of the Federal budget.

By the Treasury Department's own estimate, if this pay-as-you-go amendment is adopted, taxpayers will save $120 billion in interest payments over 30 years. What is the significance of $120 billion? I suggest that we attempt to calculate a children's impact statement, like we do an environmental impact statement, or a community economic statement, for so many other bills considered here. A children's statement would tell us how this additional Federal borrowing would impact our children's future. An additional $120 billion in long-term interest payments would add almost $2,000 on the tax burden owed by every child in this country. That is in addition to the almost $60,000 that every child will have to pay to retire the existing Federal debt. That is the real impact on our children of this legislation.

Mr. Chairman, let us put this additional RTC funding on a pay-as-you-go basis and take this burden from our children's shoulders.

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to my friend, the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, today I voted for the Slattery-Kennedy amendment which not only provides necessary funding to pay off depositors who have money on deposit in failed savings and loans, but also requires the Bush administration to account for any future costs of the savings and loan bailout on a pay-as-you-go basis instead of engaging in massive Federal borrowing. In my judgment, this approach makes the most sense for a Federal government that's already choking on a debt exceeding $3 trillion.

I'm concerned about the effect of last year's budget deficit agreement which masks the enormous costs of the S&L bailout by moving them out of the public eye—off budget.

We must take responsibility to clean up the S&L mess by ensuring that it's done quickly and at the least possible cost to the American taxpayers. Yet, some continue to try to pass this cost on to the next generation by borrowing massive amounts and charging it to our children. That's just not right.

We need to own up to paying for the S&L crisis now. It's seems to me that pay-as-you-go financing for the bailout is the most responsible way to tackle this problem. It's estimated that a pay-as-you-go system will save taxpayers hundreds of billions of dollars in interest on borrowing expenses alone. That's why I supported the Slattery-Kennedy amendment today.

I also believe that the cost of the S&L bailout must be distributed fairly, and I'm supportive of legislation that needs to be debated by my colleagues in the House. I've cosponsored the State Thrift Deposit Insurance Premium Act of 1991, that would shift a larger share of the S&L bailout's enormous financial cost to those areas of the country that contributed most to the debacle.

The record is now replete with evidence demonstrating that many State-chartered thrifts were driven solely be greed, as investors pursued highly speculative and risky transactions. Some States encouraged this behavior by removing virtually all limitations and prohibitions placed on risky thrift investments. This permitted State-chartered thrifts, in partnership with land developers and other speculators, to gamble with federally insured deposits. The Nation's taxpayers are rightfully angered that they're now being asked to pick up a lion's share of the bailout tab.

That's why I support requiring States with excessive costs due to the resolution of State chartered thrifts to pay a Federal deposit insurance premium if the State's State-chartered

thrifts are to remain eligible for Federal deposit insurance.

The bailout of the S&L industry will be enormous, but most of the costs are directed to only a few areas of the country. Current estimates for the S&L bailout range from $150 billion to more than $500 billion.

We need to send a clear message to the State where law regulators and regulations encouraged this unfettered greed and speculation, so that they'll be held accountable for their actions and pay their fair share of the bailout costs.

Mr. Chairman, this is a curious debate in a way. We are told that we have a responsibility to appropriate the money to pay for the S&L failures and restore money to the depositors, and that is our job. We understand that and agree with that. But we not only have a responsibility to do the right thing. We have a responsibility to do it the right way.

Mr. Chairman, I hate to point to the gas gauge, but it is running on empty. We have a $3½ trillion debt. This year the increase in gross debt borrowing will be $411 billion. That is $1 billion a day, every day, 7 days a week, all year long. Now we are told that to meet this responsibility in the S&L bailout we should increase the cost of the bailout by borrowing money and shifting the cost to our kids, and the radical approach proposed by the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from Kansas [Mr. SLATTERY] is maybe we ought to assume the responsibility of shouldering some of the burden now ourselves.

Mr. Chairman, that is not radical. That is right. The reason it appears so unusual is that we are finally talking about the requirement of doing the right thing, and I applaud the amendment and will support it.

Mr. SLATTERY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the Slattery-Kennedy amendment.

It is a national tragedy that while we have so many pressing domestic needs, we must divert scarce resources to pay for the savings and loan bailout. We are not just paying today, however. The current funding mechanism has consequences that reverberate well into our future, as our children and our children's children will be forced to shoulder the burden of paying for the mistakes of the past. This situation is plainly wrong. We should not and cannot be limiting our children's futures in order to cover our costs today.

Placing the RTC funding on a pay-as-you-go basis would mean that we would raise the money for the RTC, rather than borrowing it. Interest payments triple the cost of the bailout. Pay as you go would translate into a savings of $120 billion alone in interest on the $50 billion the RTC says it will need next year.

The savings and loan bailout is one of the largest single costs in the history of this country. Don't we have a responsibility to promote a sound, sensible, and cost-effective financing mechanism to pay for it?

Pay as you go reduces the costs to the American taxpayer, promotes truth in budgeting, and frees our children to meet the challenges of the future, without carrying the burdens of the past. I urge my colleagues to support the Kennedy-Slattery amendment.

□ 1650

Mr. SLATTERY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART], who has worked awfully hard on this, and I appreciate his help.

Mr. ECKART. Mr. Chairman, we are in such a deep hole that down looks like up to us, and what this bill before us today does is simply make the situation worse.

We have written $3 trillion worth of bad checks, and today we are proposing to spend another $30 billion in more bad checks to do the wrong thing once again.

To my colleagues, let me say that this is not a savings and loan bailout; it is a cop out, because it refuses to recognize the responsibility of both the President and the Congress to do what we intended to have done last October, and that is to tell the people of the United States how we wanted to have the priorities of this Nation addressed.

We have 25 million children in this country who cannot read. Let us pass this bill, and I will tell them to go out and learn to read by borrowing money from their local savings and loan.

We will have 100,000 babies born to crack mothers in the United States this year. We do not have the money to help them, but we will bail out the local savings and loan.

Eighty-seven percent of the young children adjudicated of crimes associated with drugs will not be able to go to a treatment center. So we can send them to their savings and loan.

Thirty percent of the children in foster care will not have a warm meal today. So we can send them to their savings and loan.

We are 22d in infant mortality. We do not have a dime to make those children well. So we can send them to their savings and loan.

We don't have money for the real needs of real people, but we will find money for those who have ripped off the taxpayers. We will turn our backs on the States who have fixed their own problems, States like Maryland and Ohio. We will pass the tin cup like Jim Baker has done so well to the nations around the world and say, "You, too, can share in this wealth."

So once again we allow the rich to get righer and the working class to get the taxes because of the inability of this Congress and this President to find ways to pay for the problems created by the S&L schemers.

The Kennedy-Slattery amendment forces the Congress and the President to speak to the Nation's priorities. For me, my priorities are real people, not the get-rich-quick artists.

The CHAIRMAN. The Chair will state that the gentleman from Kansas [Mr. SLATTERY] has 4½ minutes remaining, and the gentleman from Ohio [Mr. WYLIE] has 5½ minutes remaining. The gentleman from Ohio has the right to close the debate.

The Chair recognizes the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I would suggest that the gentleman who just spoke is suggesting that the depositors will not get their money back out of these failed institutions.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for the yielding of time, and I rise in opposition to the Kennedy-Slattery amendment. I do it with regret, but I do it with firm conviction.

Mr. Chairman, there are only three choices here: First, that we not give any money at all to the RTC. That holds the innocent depositors to blame for this, although there is plenty of blame to go around.

The second is to actually do what those who started out pushing this amendment wanted to do—raise taxes on the very wealthy to pay for the bailout. That is something that many of us could support, but this amendment does not do it. I do not see anyone proposing a bill to actually raise the taxes.

We all know, Mr. Chairman, that if pay-as-you-go passed, very simply, no one here would raise taxes. Maybe 100 Members would vote to raise taxes, and many more would vote for cuts of social programs for those people who would be hurt the most. And most Members would vote for neither, so then we would be back to solution 1.

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

Mr. SCHUMER. I cannot yield. On the gentleman's time, I would yield.

Mr. KENNEDY. I am asking the gentleman to yield on his time.

Mr. SCHUMER. Not on my time. I would yield on the gentleman's time.

Mr. Chairman, let me say that if we want to actually do what should be done, I would point out that I have heard a lot of talk about courage and morality. It is not courage and it is not morality to say that a year from now we will decide how to pay for this, when no one has outlined how they will pay for it. And there is no political solution that I am aware of that gets 218 votes to actually pay for it with taxes and cuts. This is the tougher choice.

Let us cut through the rhetoric. The tougher choice is to step up to the plate and say that we are actually going to vote the money, despite all the rhetoric, so that the depositors, those people who put their $5,000, their $10,000, and their $15,000 in the bank will get repaid.

The bottom line, Mr. Chairman, is this: I say to all my colleagues—and they are my friends, I have ultimate respect for them, and we agree on so many things—that what we should have on the floor here is a blueprint of what taxes we would raise and what spending cuts we would make to fund this, not a blank check that says in some future year we are going to do it. And let us not get up and say, "I am courageous because I am saying that in some future year we are going to do it," because the bottom line is that the courageous and the tough choice is, very simply, to say that we are going to fund this now.

Mr. Chairman, if we cannot do it by outlining what taxes we do or if we cannot do it by outlining what cuts we would do, then the better choice is to fund this now, rather than not funding it at all and holding the depositors accountable.

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

Mr. DOWNEY. Mr. Chairman, I regretfully rise to rebut in part the statement of my good friend, the gentleman from New York, who makes the case that our ongoing irresponsibility is somehow responsible. It is not.

The question that the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Massachusetts [Mr. KENNEDY] have asked today is whether we think that putting the bill to future generations should stop now. The next question which the gentleman from New York [Mr. SCHUMER] correctly addresses to this House is, If we choose that path, would we be better prepared to have the money and have the budget cuts? I agree with that completely, but before we get there we have to stop this profligate behavior, this passing of the bill on, this attempt to mask what is the enormous expense by making it an even larger expense in years to come. That is crazy, and it seems to me if we take the courageous step of forcing ourselves to face this issue, we will be far better off both as an institution and as a Nation.

As far as my colleagues who are concerned about the last budget resolution, let me just simply say that none of us opened our veins and wrote in blood that for the next 5 years our debate will be stifled by the fact that we have had a budget resolution. If we have a better plan to save the future taxpayers of American, money, then I would hope that we would be prepared to accept and utilize it.

Mr. Chairman, the Kennedy-Slattery approach is responsible, and it forces the tough issues. It is the path that we should choose.

Mr. SLATTERY. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, I rise in support of the Kennedy-Slattery amendment.

Mr. SLATTERY. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN. The gentleman from Kansas [Mr. SLATTERY] has 3½ minutes remaining.

Mr. SLATTERY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Thomas Jefferson once said that no generation has the right to bind another with debt.

I dare say that every Member of this body has decried the size of the Federal budget deficit. Most of us say that we do not want to mortgage the future of America. Most of us would agree that it is morally wrong to ask our children and our grandchildren to pay our bills. Yet that is exactly what the opponents of pay as you go, the Kennedy-Slattery amendment, advocate here today.

I know that no one wants to talk about the savings and loan mess, especially when the country is so excited about the great victory in the Persian Gulf. I also know that the President and some Members of Congress would like to see this issue just go away, but it will not go away.

□ 1700

Some have said we should pass what they call a clean bill. A clean bill would merely give the President the authority to borrow another $30 billion, and pass the billions on to future generations. I know that this is the politically easy thing to do here today.

If the savings and loan cleanup cost for fiscal year 1992 is paid for over 30 years, the total cost will be $170 billion, including $120 billion in interest. The clean bill is easy for today's politicians, but it is a dirty bill for tomorrow's taxpayers, who happen to be our children and grandchildren.

My colleagues, there is another insidious ripoff in this borrowing scheme. Think with me just for a moment: when the Government needs to borrow money, who does it borrow money from? It borrows money from people who have the money to buy Government bonds. And when the time comes to pay the interest on those bonds, where does that money come from? It comes from the taxpayers in this country, disproportionately the middle class and lower income, because of the regressive tax structure, due primarily to the payroll tax system that we have.

So what we have is a massive shift of money from low and middle income Americans to wealthy bondholders in this country and all over the world.

There is another way to address the savings and loan problem. We can pay as we go. President Bush endorsed this concept last year. He endorsed it again from this well earlier this year in his State of the Union message.

Mr. Chairman, I know it will not be easy to pay as we go with the savings and loan problem, and I understand that pay as you go will cause a hot debate. I will freely admit that I do not know how this problem will ultimately be totally solved, but I do know one thing: we must not duck this debate. If we are to do that, we will become a party to an enormous intergenerational robbery.

In January we debated in this body the age old question of war and peace. We had one of the most honest, sincere, and open debates I have ever witnessed. I contend that we have a moral obligation to have a similar debate at this time on this issue. We have a moral obligation to pay our bills. It is that simple.

So I say to Members on both sides of the aisle, why can we not join hands today, just like we did in January, Republicans and Democrats, liberals and conservatives, and debate this crucial issue? Let us join together and do the right thing. It will not be easy. Nothing good ever is easy. But let us do the right thing.

As leaders of this great country, I plead with Members, today, and when the ultimate debate comes, to show the same kind of courage that our troops in the Persian Gulf have shown. If we do, we will today support the Kennedy-Slattery amendment and save the taxpayers of this country $120 billion over the next 30 years. We owe it to ourselves, and we owe it to our children and grandchildren. I plead with Members to join me in supporting the Kennedy-Slattery amendment.

Mr. WYLIE. Mr. Chairman, I yield my remaining time, 2½ minutes, to the gentleman from Wisconsin [Mr. GUNDERSON], to close debate.

Mr. GUNDERSON. Mr. Chairman, we have the great opportunity this afternoon to decide if we are going to stand here and say something nice, or if we are rather going to act here by doing something necessary and important.

One of my colleagues on the other side said it best when he said, "The time has come for some fiscal responsibility in this place." Do you know what? I could not agree more.

Mr. Chairman, I just could not agree more. Because back in 1987 an amendment was offered, right here on the floor, by the gentleman from Ohio [Mr. WYLIE] and then Mr. St Germain, that would have increased the amount for the FSLIC bailout from $5 billion to $15 billion. It has been said that that would have capped the total cost of the bailout at $26 billion.

Do you know what? Apparently fiscal responsibility did not matter then, because both of the authors of this particular amendment voted no.

Then in 1990 we had a great chance in this House. We came within 7 votes of the two-thirds necessary to pass a constitutional amendment to balance the budget, not now, but forever and ever. We would never again bankrupt the future of this country. Do you know what? The authors of this amendment, both times, in the substitute and in the final passage, voted no.

Then again last year we had budget reconciliation, an agreement that I did not vote for because it increased the deficit too much. But part of that budget agreement said that we will take RTC and put it off budget. Both of the authors of this amendment voted for that budget agreement last year. Now they are standing here on the floor saying the agreement, not even 6 months old, ought to be ignored, disregarded, and we ought to go on our merry way by making nice speeches.

Speaking of nice speeches, you have heard our good friend from Ohio, and he talked about the concerns for education, for drug treatment, for foster care, for infant mortality, and for foreign aid, how we cannot cut those programs, that we have got to increase them.

Well, that means we are not going to cut $10 billion as this amendment suggests. That means, as the gentleman from New York said, probably we ought to look at increasing taxes $10 billion.

How many Members on this floor want to increase taxes $10 billion in the midst of a recession? I will tell you one Member who does not: the Speaker of the House of Representatives, the gentleman from Washington [Mr. FOLEY].

When Speaker FOLEY was asked whether or not we ought to increase taxes to fund the costs of Desert Storm, he said, no not in the midst of a recession do you increase taxes.

Mr. Chairman, we can make nice political speeches here this afternoon. We can say something, or we can do what is necessary and right; we can do something: Vote down the Slattery-Kennedy amendment. Vote yes for what is necessary to get on with solving this problem.

Mr. HUGHES. Mr. Chairman, I rise in support of the Slattery-Kennedy amendment.

During the eighties the Government spent beyond its means, running up the national debt from $1 trillion to over $3 trillion in 10 short years. When we passed the initial savings and loan bailout legislation, we also passed this bill on to our children and grandchildren.

The total cost for closing failed S&L's is expected to reach over $130 billion. However, if we borrow all of it like we borrowed the first $50 billion, then the final bill is going to be more than $500 billion over the next 30 years. So we have a choice: We can pay this installment of $30 billion, or we can force our children and grandchildren to pay roughly $100 billion.

Mr. Chairman, the capital gains tax has been one of the most hotly debated issues in Congress for the past few years. Many have argued that we need a tax incentive to generate a few billion dollars of new capital for private industry.

Without pay-as-you-go, this bill will take away $30 billion in private sector capital in 1 year. No tax incentive will generate that much new capital in 1 year.

I urge your support of the amendment.

Mr. VENTO. Mr. Chairman, I rise in support of the Kennedy-Slattery amendment, really a budget and priority question. This amendment has the potential to save the taxpayer money and put reality, indeed truth in budgeting, back into the S&L bailout.

It is time for the President to admit the growing costs of the bailout. I commended the President when he stepped forward in 1989 and first addressed the need for action to stop the collapse of the S&L industry. I was pleased and proud to work with the administration to pass a tough law that raised capital standards and stemmed the flow of taxpayer dollars for risky S&L adventures.

However, since FIRREA, the size of the bailout has grown to Grand Canyon-size proportions and the administration's policy makers have been replaced by media and political spin control artists. The goal of the administration is not limiting the potential exposure of taxpayer dollars, it is limiting the political exposure of the President. That is why the administration refused to testify about additional funding last fall. That is why the administration opposes even modest reforms in the Gonzalez amendment. And that is why the administration opposes the Kennedy-Slattery amendment.

It is unfortunate that the administration has attempted to

3portray the Kennedy-Slattery amendment in a partisan light. This amendment is not about politics, it is about saving money. Today we are providing $30 billion in funds for the RTC. In October, the administration will be seeking at least another $33 billion plus. There is no discussion of how the Government will pay for that $63 billion; as usual, it will go on the U.S. charge card. Well that charge will carry a heavy price tag for the American taxpayer. According to the Congressional Budget Office, the interest costs of this borrowing through fiscal year 1996 is an astronomical $27 billion. I urge that we engage the public policy debate on the financing of the S&L bailout, and temper the cost to the American taxpayer, which is $27 billion in borrowing cost through 1996 by supporting the Kennedy-Slattery amendment.

Mr. FALOMAVAEGA. Mr. Chairman, I rise today in support of the Kennedy-Slattery substitute to H.R. 1315, the Resolution Trust Corporation Funding Act of 1991, which will put the bulk of the S&L bailout on a pay-as-you-go basis.

Mr. Chairman, the American people are well aware of the first savings and loan scandal, and the collapse of the thrift industry, and S&L mismanagement and dishonesty. Now, the administration has proposed for this year $30 billion as a bailout to be borrowed, with an estimated $50 billion in 1992 with payments to be prorated over a period of as many as 40 years. As a result, the payment will pay only for the interest, and triples the cost of the bailout, and forces our children to pay for our mistakes. Mr. Chairman, I strongly feel that this is outrageously unfair to our taxpayers.

Mr. Chairman, the U.S. Conference of Mayors, representing mayors of cities with populations in excess of 30,000, adopted a policy at their annual meeting in Chicago last year calling on Congress "to guarantee that the savings and loan bailout is funded in such a way that it does not put an undue burden on poor and middle income taxpayers." This amendment is in keeping with policy adotped by the Nation's mayors.

Mr. Chairman, this amendment embodies honest budgeting, fiscal responsibility and real accountability to taxpayers. This approach would dramatically reform the financing of the S&L bailout and strengthen congressional oversight by placing the RTC under the same fiscal discipline that is applied to other Federal program spending.

Mr. Chairman, the Kennedy-Slattery substitute to H.R. 1315 will save the taxpayer $120 billion on a pay-as-you-go plan, and this amendment puts an end to this borrow-and-spend policy.

Mr. Chairman, I urge my colleagues to support the passage of the Kennedy-Slattery amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Kansas [Mr. SLATTERY].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 237, not voting 8, as follows:

[Roll No. 39]

AYES—186

Abercrombie	Carr	Eckart
Ackerman	Chapman	Edwards (CA)
Alexander	Clay	Engel
Anderson	Clement	English
Andrews (ME)	Coleman (TX)	Erdreich
Andrews (TX)	Collins (IL)	Evans
Annunzio	Collins (MI)	Fascell
Atkins	Conyers	Feighan
AuCoin	Cooper	Foglietta
Bacchus	Costello	Ford (MI)
Beilenson	Cox (IL)	Ford (TN)
Berman	Coyne	Frost
Bilbray	Cramer	Gaydos
Borski	Dellums	Gejdenson
Boxer	Derrick	Gephardt
Brewster	Dingell	Geren
Brooks	Dixon	Gibbons
Browder	Donnelly	Glickman
Brown	Dooley	Gordon
Bruce	Dorgan (ND)	Gray
Bryant	Downey	Hall (OH)
Campbell (CA)	Durbin	Hall (TX)
Campbell (CO)	Dwyer	Hamilton
Cardin	Dymally	Harris
Carper	Early	Hayes (IL)

Hefner
Hertel
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Jacobs
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Moody
Moran
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Orton
Owens (NY)
Owens (UT)
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Price
Rangel
Ravenel
Ray
Richardson
Ridge
Roe
Rose
Roybal
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Serrano
Sharp
Sikorski
Slattery
Slaughter (NY)
Smith (FL)
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Swift
Synar
Tallon
Torres
Torricelli
Towns
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Wilson
Wolpe
Yates
Yatron

NOES—237

Allard
Andrews (NJ)
Anthony
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Boucher
Broomfield
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dickinson
Dicks
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
Espy
Fawell
Fazio
Fields
Fish
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hancock
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hoagland
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnston
Kennelly
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Lantos
Leach
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Machtley
Manton
Marlenee
Martin
Matsui
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison
Murtha
Myers
Natcher
Nichols
Nussle
Obey
Ortiz
Oxley
Packard
Pallone
Panetta
Parker
Paxon
Payne (VA)
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Pursell
Quillen
Rahall
Ramstad
Reed
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Stenholm
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Traxler
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wyden
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Flake
Goodling
Hammerschmidt
Jefferson
Miller (OH)
Mrazek
Tanner
Udall

□ 1726

Mr. PALLONE and Mr. APPLEGATE changed their vote from "aye" to "no."

Mr. BROWN and Mr. ROYBAL changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Chairman, I was unavoidably detained in committee and missed a rollcall vote on the Slattery-Kennedy amendment to H.R. 1315. Had I been present, however, I would have voted nay.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WYLIE: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Funding Act of 1991."

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

(a) REQUESTS FOR ADDITIONAL FUNDING REQUIRED TO CONTAIN ADDITIONAL FINANCIAL INFORMATION.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) REQUESTS FOR ADDITIONAL FUNDING.—Any request for legislative action to provide new or additional financial resources for the Corporation shall—

"(A) be submitted in writing to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) contain a complete and detailed financial plan for spending such resources and any relevant information described in paragraph (5)(B) and (6)(A).".

(b) INTERIM FUNDING.—Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(j)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) in the heading, by striking "BORROWING" and inserting "FUNDING";

(3) by inserting after such heading the following new paragraph designation and heading:

"(1) BORROWING.—"; and

(4) by adding at the end the following new paragraph:

"(2) INTERIM FUNDING.—The Secretary of the Treasury shall provide the sum of $30,000,000,000 to the Corporation to carry out the purposes of this section.".

SEC. 2. RTC MANAGEMENT REFORMS.

SEC. 201. MANAGEMENT ENHANCEMENT GOALS.—(a) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end thereof a new subsection (q), to read as follows:

(q) MANAGEMENT ENHANCEMENT GOALS.—

(1) ACTION TO ACHIEVE SPECIFIC GOALS.—The Corporation, upon the enactment of this subsection, shall take action to assure achievement of the management goals specified in this paragraph, as follows:

"(A) MANAGING CONSERVATORSHIPS.—The Corporation shall standardize procedures with respect to its (i) auditing of conservatorships, (ii) ensuring and monitoring of compliance with Corporation policies and procedures by conservatorship managing agents, and (iii) ensuring and monitoring of conservatorship managing agent performance. These procedures shall be developed and implemented no later than September 30, 1991.

"(B) PACE OF RESOLUTIONS.—The Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship, with the goal that no institutions shall be in conservatorship for more than nine months.

"(C) INFORMATION RESOURCES MANAGEMENT PROGRAM.—The Corporation shall develop and incorporate within its strategic plan for information resources management, (i) a translation of programs goals into the communication computer hardware and software, and staff needed to accomplish those goals, (ii) a systems architecture to ensure that all systems will work together, and (iii) an identification of corporation information and systems needs at all operational levels.

"(D) SECURITIES PORTFOLIO MANAGEMENT SYSTEM.—The Corporation shall develop within its information system.—The Corporation shall develop within its information architecture framework, a centralized system for the management of its portfolio of securities. This system shall be developed and implemented no later than September 30, 1991.

"(E) TRACKING REO.—The Corporation shall develop, within its information architecture, an effective system to track and inventory real-estate-owned assets. This system shall be developed and implemented no later than September 30, 1991.

"(F) ASSET VALUATION.—The Corporation shall develop a process for the quarterly valuation or updating of valuations of the assets it holds in its capacity as receiver (or as a result of such capacity). Such process shall incorporate, to the extent practical, RTC disposition experience. In addition, the necessary information systems shall be developed to track and manage these valuations.

"(G) STANDARDIZATION OF DUE DILIGENCE AND MARKET FORMAT.—The Corporation shall

develop a program for performing due diligence on one- to four-family mortgages and for marketing such loans on a pooled basis.

"(H) CONTRACTING.—The Corporation, in order to identify the need for any changes in its contracting process which would enhance the independence, integrity, consistency and effectiveness of that process, shall consult on a regular basis with other agencies and organizations that have large scale contracting and procurement systems, and shall review on a regular basis its organizational structure and relationships. The Corporation shall develop and have in widespread use the following:

"(i) A manual setting forth comprehensive policies and procedures;

"(ii) A revised and expanded directive that clearly and definitely describes the roles and responsibilities of all those involved in the contracting process;

"(iii) A revised and expanded directive that sets forth in detail the standard procedures to be followed in evaluating contractor proposals;

"(iv) A set of standardized solicitation and contract documents for use by all Corporation officers; and

"(v) A series of standardized contracting training modules for use by Corporation personnel and private contractors.

"(2) The Corporation shall, no later than September 30, 1991, file with the Committee on Banking, Housing and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House, a report on the progress being made toward full compliance by the agency with subsection (g) as well as a timetable for completing those items not yet completed."

SEC. 3. MINORITY CONTRACTING REPORT.

SEC. 301. MINORITY AND WOMEN BUSINESS POLICY, OUTREACH AND EQUAL OPPORTUNITY REPORTING REQUIREMENT.—Section 21A(k)(5)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)) is amended by adding at the end the following new clause:

"(xiii) A complete description of all actions taken by the Corporation pursuant to subsections (a), (b), and (c) of section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 with respect to the employment of and contracting with minorities, women, and businesses owned or controlled by minorities or women and any other activity of the Corporation pursuant to the outreach program of the Corporation for minorities and women. Such description shall specify the steps taken by the Corporation, in its corporate capacity and its capacity as conservator or receiver, to implement the minority and women outreach programs required by section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and shall set forth information and data showing:

"(a) the extent to which and means by which contract solicitations have been directed to minorities, women, and businesses owned or controlled by minorities or women by the Corporation and by the FDIC on behalf of the Corporation;

"(b) the extent to which prime contracts and subcontracts have been awarded to minorities, women, and businesses owned or controlled by minorities or women, including data with respect to the number of such contracts, the dollar amounts thereof, and the percentage of corporation contracting activity represented thereby (including contracting activity by the FDIC on behalf of the Corporation);

"(c) contracting and outreach activity with respect to joint ventures and other business arrangements in which minorities, women, or businesses owned or controlled by minorities or women have a participation or interest;

"(d) the extent to which the Corporation's minority and women contracting outreach programs have been successful in maximizing opportunities through the outreach policies established by the Corporation for participation of minorities, women, and businesses owned or controlled by minorities or women in the Corporation's contracting activities.".

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

□ 1730

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge my colleagues to support this substitute which I am offering in good faith. I believe it represents what I thought was an agreement about 10 days ago to get a bill reported from the House Committee on Banking, Finance and Urban Affairs. At that time it was suggested that we might want to have some additional management tools or improvements in a bill. This includes those suggestions which were made by the distinguished chairman of the House Committee on Banking, Finance and Urban Affairs.

There was some controversy over a minority contracting provision which the gentleman from California [Mr. TORRES] put in. I talked to the chairman. I talked to the gentleman from California [Mr. TORRES], and indicated a willingness to put in some reporting language in substitution of the goals or quotas which are in the bill or in the substitute which will be offered by the gentleman from Texas [Mr. GONZALEZ]. I then talked to the distinguished minority leader from Illinois, Mr. MICHEL, and got agreement from him that we would all support the substitute on our side.

My personal preference is for a clean funding bill, H.R. 1315. However, as I said, this substitute is offered in good faith. I just received a letter from the administration. The administration supports my substitute which provides $30 billion in funding and requires the RTC to make a number of management efficiency and reporting improvements which GAO thought appropriate.

Simply put, my substitute is designed to save the taxpayers money rather than add burdens in the hoops RTC must go through to sell property. My substitute contains goals for RTC to meet, which will cut resolution costs. It also requires them to report back to Members as to what progress is being made on those goals.

Mr. Chairman, on February 20, 1991, the Comptroller General came before our committee and testified that while he supported $30 billion in funding for this additional fiscal year, he thought some positive steps could be taken as far as the performance of the RTC was concerned, and made some recommendations as to needed improvements. My substitute contains those suggestions as to improvements which might be made in RTC's operations.

First, the GAO said that better oversight of conservatorships is needed and they recommended an average length of time that thrifts have a conservatorship be increased from 25 weeks to 51 weeks. My substitute requires standardized procedures of all conservatorships, so it will be uniform all over the United States. The GAO also said that RTC's efforts at information management had been disappointing. My substitute requires RTC to develop a strict plan for information resource management. As the GAO said, clearly the RTC needs a smooth functioning information system to oversee the resolution of thrifts and to dispose of assets.

With respect to selling securities, the GAO noted that RTC lacked a comprehensive securities portfolio management system. Simply put, the RTC needed to know what was in the storage inventory so they could sell it to their customers. My substitute would require the RTC to develop a centralized system for the management of its portfolio securities by September 30. The distinguished minority leader from Illinois, Mr. MICHEL, in his talk a little earlier in the day in support of this, mentioned some of these management improvements, and so to some extent they are repetitive. However, I think they needed to be placed out a little more. My substitute also requires the RTC to develop the process for evaluating its own assets each quarter. The substitute also calls for better due diligence on one to four family mortgages owned by the RTC. GAO stated the RTC could have received higher prices for its mortgages if better due diligence had been performed on them, and if they had been marketed directly to the secondary mortgage market. My substitute would take care of that.

Finally, my substitute calls for better contracting procedures by the RTC. Last, I have a provision in my substitute to address the minority contracting issue, and I think this is very important. As I said a little earlier, I thought an agreement had been worked out on this issue about 10 days ago between the gentleman from Texas [Mr. GONZALEZ], the gentleman from California [Mr. TORRES], the gentleman from Illinois [Mr. MICHEL], and myself. I want to correct some of the mis-

conceptions about the RTC's minority contracting efforts.

Here are some of the facts: The RTC is making a genuine effort to attract and utilize minority and women-owned firms as contractors. As of November 1990, the RTC's contractor list included 3,500 minority-owned firms; 4,500 majority women-owned firms; 900 minority women-owned firms. As of January 24, 1990, 21 percent of all of RTC's contracts, which account for 28 percent of all the contracting dollars, went to minority and women-owned businesses. The RTC has made a concerted effort to conduct seminars throughout the country to inform women and minority-owned business of the many contracting opportunities with RTC, and to explain the registration and bidding process. My substitute also calls for a detailed report on this issue. The Gonzalez amendment which will be offered later calls for goals of 25 minority and women contracts, which are in reality quotas, which we have argued before since the goal must be strictly adhered to according to their language.

□ 1740

I think that that is wrong. Essentially the RTC is being required to look at quantity and not quality. Good quality minority firms are being given a chance, and if more is needed, I support that; but I do not think setting arbitrary numbers is the way to go, and these numbers are arbitrary.

In sum, I would say for those of you who are reluctant to vote for a straight RTC funding resolution, this is the preferred substitute. It would not raise the costs. It could improve RTC operations. It does not take away any of the authority they have. It will speed up sales of thrifts and assets, and I think in the ultimate it will be of benefit to the taxpayers.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to the Wylie substitute.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Chairman, the Wylie substitute looks good, but its beauty is really only skin deep. When you scratch the surface, there is nothing underneath.

Some examples—the Wylie substitute requires the RTC to develop a program for reviewing its one- to four-family mortgages. The RTC currently holds $40.8 billion of such mortgages; it has sold $8.7 billion since its inception. A program for reviewing these mortgages surely must already be in place. Similarly, the substitute requires the RTC to develop a system to track RTC's real estate owned REO's. The RTC had $19.5 billion REO at the end of the year. The Wylie substitute says only that REO must be tracked. Clearly, that is no reform. The Gonzalez substitute says that those homes should be quickly sold to qualifying buyers—that is reform.

In front of me I have the RTC's Conservator manual and the RTC's Asset Management and Disposition manual. These manuals together conservatively comprise about 1,000 pages of internal operating procedures for the management of conservatorships and the disposition of assets. RTC did this all by themselves—with no micromanagement by the Congress.

The gentleman from Ohio [Mr. WYLIE] now says this is what they ought to try to start doing. They have already done it, so that they do not need our micromanagement. They are either doing it. The Wylie amendment is either redundant or tries to reinvent the wheel.

As to procedure—the Banking Committee held 2 days of markup on RTC funding, during which the Wylie substitute was never introduced, discussed, or voted upon. I find it highly objectionable that we are being asked to consider on the floor an amendment that has not been debated or voted on by the committee of jurisdiction, especially when the underlying bill and the other amendments that have been made in order have been debated and passed by the Banking Committee at least once, if not twice.

Mr. Chairman, neither the Congress nor the American public should be fooled by these cosmetic labels. This substitute is a $30 billion check to the RTC with no improvements required. That is not a very good way to do business with one's own money—it would be a crime to do it with the American taxpayers' money.

Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. ANNUNZIO], the ranking majority member of the committee and chairman of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance.

Mr. ANNUNZIO. Mr. Chairman, we have heard a great deal of good comments about the legislation before us today. But I want to ask Members of this body and the American people who are going to have to pay the cost of this bill, if this is such a great bill, why was it that the opponents of the bill were not given 1 second's worth of time during general debate to discuss the bill. Good bills can stand honest debate, bills that are bad for the American people, cannot stand the light of day.

RESOLUTION TRUST CORPORATION FUNDING

Mr. Chairman, we cast hundreds of votes during each Congress, and many of those votes are quickly forgotten. But there are some votes that we cast that are recalled time and time again by both the media and our constituents back home. Many times a vote that we feel is correct at the present time turns out to be an incorrect vote in the minds of our constituent voters months or years later.

Today, as we vote on the Resolution Trust Corporation [RTC] funding, we will be asked to cast a haunting vote. I call it a haunting vote because this is the type of vote that may well come back to haunt you at a later time.

We will be told today that we must approve the $30 billion for RTC funding, and do it immediately. Without this funding, we will be told, a number of failing savings and loans will not be closed because there is no money for their liquidation. And if the thrifts are closed at a later date, it will cost even more money. We will be told that every day that we fail to pass this legislation, the cost of closing these institutions will increase $8 million. But that is not true.

We are being asked today to give $30 billion to the Resolution Trust Corporation, which was established by Congress to liquidate the assets of failed savings and loans. The RTC has done a miserable job. In fact, it holds more assets than it has liquidated. The agency has more than $140 billion in assets, including more than $40 billion in cash; performing loans, loans where payments are being made on time; and marketable securities.

Contrary to what you will be told, the agency has only 12 percent of its holdings in real estate, so there is no threat of dumping additional real estate on an already depressed market. But instead of gettng rid of its non-real estate assets, the RTC is holding on to them. It has, in effect, become a Smithsonian of savings and loan assets.

Instead of selling these assets and doing its job, this agency wants Congress and the American taxpayer to give it another $30 billion.

How much of this money will go to closing failed thrifts—no one knows. But we do know that a lot of the money will go towards other projects. It has been noted that the RTC, in a little more than a year and one half, has already paid more than $1 billion in attorneys fees to outside consultants. And, the agency is rapidly approaching 6,000 employees. Only one out of every six employees, however, is engaged in selling assets. Who knows what the other employees are doing.

Rather than give the RTC $30 billion now, I suggest that the agency be required to sell the assets that it already holds. And Members should be aware that this agency has already received, directly or indirectly, nearly $1 billion in other taxpayer funding. And guess what, in September the RTC will be back before this body asking for perhaps another $50 billion, and it may well seek another $100 billion next year.

Where does it end? When do we require the RTC to use its money rather than the taxpayers?

Let me put in more understandable terms what we are being asked to do today. The $30 billion that RTC seeks will cost every taxpayer in this country $330. And that is just for the money being sought today. That is $330 on top of the money the taxpayers have already paid out to RTC, and will be asked to pay out in the months and years ahead.

How many Members in this body are prepared to put out a press release today announcing to their constituents that they voted to require every taxpayer in the country to come up with $330 to fund an agency that has already received more money in a shorter period of time than any other agency in history.

This vote might be easier to explain to our constituents if the RTC had been doing a good job. But no one today will praise the RTC in an unqualified way. Every one of you, I am certain, has received letters critical of the way the RTC operates, yet today we are being asked to reward the RTC by asking the taxpayers to pay a $330 bill.

The General Accounting Office [GAO] has suggested that the RTC is not doing a good job. And, in fact, the GAO has been able to get so little information from the RTC that it can not perform an audit on the agency which is mandated by law. During the short time the RTC has been in operation, it has never been the subject of a complete audit. If it were a private corporation, such conduct would have brought a huge fine from the Securities and Exchange Commission.

In closing let me point out, if you are willing to saddle every taxpayer in the country with a $330 debt, then vote for the legislation. But let me warn you that the taxpayers will not forget your vote here today.

I suggest that instead of going into the taxpayer's wallets, that we should require the RTC to start selling its assets, and leave the taxpayers alone.

□ 1750

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. RIGGS], a new and very valuable member of the Committee on Banking, Finance and Urban Affairs.

Mr. RIGGS. Mr. Chairman, after considerable footdragging and some false starts, the Congress in August 1989, passed FIRREA to deal with the widening S&L problem. Members of Congress knew then what they know now: The initial funding appropriated by FIRREA represented the down, payment, only the first installment on the astronomical cost of the S&L bailout.

Today is a day of financial reckoning. Much the same as we ignored the early warning signals of the S&L fiasco, many Members are prepared to vote against any S&L bill or for amendments which will make the final bill so onerous that it will surely face a Presidential veto, extending this political paralysis and heaping additional interest costs—estimated at nearly $8 million a day—on the back of the taxpayers.

The Kennedy-Slattery amendment is certainly noble in intent and I commend my colleagues for their sentiment. However, this body has shown wisdom and restraint by voting against this measure as it violates last year's budget agreement. Congress must either live by the budget we agreed upon or throw it out and start over again from scratch.

The Wylie amendment, on the other hand implements, the GAO report's management recommendations. In addition, Mr. WYLIE has addressed the need for minority contracting provisions which would allow us to objectively ascertain if any shortcomings are occurring with that program and, if so, we can make modifications to stimulate minority contracting without imposing absolute quota requirements.

Politics, some say, is the art of compromise—the Wylie substitute is a fair, balanced compromise and a responsible piece of legislation which will make good on the faith and guarantee of the U.S. Government.

This bill fulfills the Nation's commitment to S&L depositors and would prevent further chaos in the Nation's thrift industry at a time when we in Government should be striving to promote investment and savings in order to stimulate the economic recovery.

Mr. Chairman, I urge a "yes" vote on the Wylie amendment to enhance the RTC's improvement and its accountability while at the same time insuring long-term confidence in our Nation's financial institutions.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the chairman for yielding.

Mr. Chairman, we have just gotten a letter from Secretary of the Treasury Brady, which explains what my friends on the other side have been doing. The Secretary of the Treasury has decided that this is the "how dare you?" bill. How dare Congress tell the RTC, that model of efficiency, compassion and wisdom that we think that maybe there ought to be some affordable housing or some environmental concerns or some serious concern about minority outreach? Or some changes in efficiency?

The gentleman from Ohio, it is true, has made a tactical retreat of a very slight degree.

The original position that my friends on the other side were taking was that the bill should just be $30 billion. In fact, I think that was the original bill, "Here is $30 billion, yours truly." But they decided that might not pass.

Do you know what we have today? $30 billion, two bells, and a whistle. It does not do anything about anything. It was not intended to do anything. If the Treasury Department thought it would do anything, we would get the veto threat.

Then we are told we are being very unreasonable, because "don't we realize how much this is costing us?"

So we then have a very moderate bill brought up by the chairman. What it says is that in a package put together by the minority—the racial and ethnic minority, not the partisan minority Members—that, "Yes, we are going to make a serious effort at including lower income people, racial minorities and women." It says that the low-end housing that they are giving away, effectively, instead of giving it away to speculators, give it away to low-income people.

I have heard a lot from my friends on the other side about low-income home ownership. Let me tell you that in the Gonzalez bill there is a provision, absent from the Wylie bill, that would do more to promote low-income home ownership, cheaper, for more units than anything else we are going to get. That is one that we are being told, "No, you can't see it."

So what do they say? If this bill comes, because it says to pay some attention to the environment, just check it out, pay attention, make the low-income stuff fully available, plug a loophole in making low-end housing available for home ownership and do serious work supported by the Hispanic, black Members, and women Members, do you know what the Treasury says? "I am going to veto it." Well, if he is going to veto it over this, things that CBO said might cost $10 million or $20 million, he is going to veto the bill, then hold it up, and we understand what is at stake here: It is the Treasury Department's prerogative.

I think Mr. Brady has been reading too much of Alexander Hamilton and he has adopted not only the administrative philosophy but its political philosophy: "Do what I tell you; I know better."

That is what is at stake here. The substantive things in the Gonzalez bill are perfectly reasonable. But we are treading on what the Treasury Department considers to be its prerogative.

The RTC does not, it seems to me, seem to be as exercised.

We ought to exercise our rights to do this thing correctly.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. MCMILLEN], a former and very distinguished member of the Committee on Banking, Finance and Urban Affairs. Some of the provisions, may I suggest, in these management reforms were his ideas.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of the

Wylie substitute because it is the measure that begins to address the structural deficiencies in the RTC, particularly in the area of asset deposition, although it does not go far enough, in my view. I also must say I commend the chairman of the committee, the gentleman from Texas, for his substitute as well, for the social purposes that it is advancing. I support his efforts.

But I believe the most important issue we are facing today is the management of the RTC. Reforms are sorely needed. If the RTC continues to mismanage this process, the taxpayer is going to get bill after bill for this bailout. My colleagues, the GAO, in February, sounded the alarm. The alarm that was sounded was a management indictment of the RTC, particularly in the area of asset disposition.

Changes are necessary. The RTC has $150 billion worth of assets. If these assets are not disposed of efficiently, the bailout bill will grow. That is what the GAO has warned.

The Wylie substitute begins to address some of those concerns.

FIRREA demanded that the RTC utilize the private sector in the disposition of assets. That made good sense; use the expertise in the private sector.

□ 1800

However, Mr. Chairman, I might add that it took a year for the RTC to set up basic contracting-out procedures. We talk about delays. My colleagues are talking about delays, about arbitrating this bill on this floor. How about the delay in setting up a contracting-out process which has cost the taxpayers of this country billions of dollars?

The issue here is what the GAO was talking about. The contracting-out process is disappointing. They are not talking about the quantity of assets that are being contracted out, but the quality of the work.

The GAO goes on to say that the RTC has the wrong mindset for doing this job, that they lack thorough standards, that contract guidance is very unclear, that the monitoring of the performances are inadequate, very few standards are in place.

My colleagues, if this were the Pentagon, we would be screaming bloody murder on this floor. We must hold the RTC accountable for the assets that it is supposed to dispose of, and I might add that it is not just a question of quantity. It is now a question of quality, the quality of their work. If they do not do the job, if we allow sloppy management in this area, as the GAO has warned us, we are going to have to continue to bail out this agency time and time again.

Mr. Chairman, I think the substitute of the gentleman from Ohio [Mr. WYLIE], as I said, addresses this, I urge management reform for the RTC. Billions are at stake. Billions are at stake, my colleagues, that can be used for housing, education and the environment.

We must hold the RTC to the task.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I rise in opposition to the substitute, but primarily in opposition to the bill.

Unfortunately, Mr. Chairman, we have debated minor little issues in the total scheme of things. We have not debated today, nor did we debate in 1989, when we were considering FIRREA, the fundamental approach of the Resolution Trust Corporation, and it is the fundamental approach of FIRREA, the fundamental approach of the RTC, that I think is flawed and that cries out for reconsideration.

Why do I think it is flawed? First of all, Mr. Chairman, the amount of money that is being spent is probably the maximum that could be spent under any approach. We are maximizing the cost to the taxpayer.

I remember the end of 1988, when an Assistant Secretary of the Treasury came in and said, "No, we don't need anyting more than the $15 billion of recapitalization that we need," and I was trying to advance a bill for $25 billion removing the forbearance provision, removing the limitation on the amount of bonds that could be authorized in any 1 year. A few months later the administration came in and asked for $50 billion. They got the $50 billion. Today they are asking for an additional $30 billion, but we know that by the end of this year, at the very beginning of next year at the very latest, under their present approach they are going to need an additional $50 billion. So, it is $130 billion we virtually know for certain.

Mr. Chairman, that is not taking into consideration working capital. That is not taking into consideration amortization costs over either a 30- or 40-year period. When we start taking all these things into consideration, we are talking in excess of $1 trillion, and we spend our time talking about relative peanuts.

We had an approach that was taken in the mid-1980's by the supervisors, and unfortunately by the President and the Congress, and that was a rather lax approach when we should have been tough, when many were saying we must be tough both with respect to supervision and with respect to the recapitalization of FSLIC. There were those of us who stood here and said that it must be recapitalized, at least to the extent of $15 billion, with no annual cap and no forbearance provision. We lost.

By 1989, though, the problem was not a problem of individual institutions. The problem was systemic in nature, but the administration gave us a misdiagnosis of that problem, and they came up with a misprescription, and we bought it, and we are continuing to buy it, and, therefore, we would be participants in malpractice.

What we are doing is we are talking about the liquidation of an industry when we should be talking about the reconstruction of an industry. We are talking about a Resolution Trust Corporation that freeze-frames the problem at its maximum cost to the taxpayer when we should be talking about saving the industry, saving the economy.

Mr. Chairman, in recent days, there has been a great deal of criticism leveled at those in the Congress who are reluctant to provide additional funding to the RTC to continue the thrift bailout. I believe such hesitation is not only warranted, but should be encouraged because it is in the interest of the American taxpayer. In my view, the approach we have taken under FIRREA is maximizing the cost to the American taxpayer and the damage to the industry.

Just over a year ago, the administration asked the Congress to authorize $50 billion to handle the problems of failed and failing thrifts, and Congress obliged. The administration is now asking for $30 billion more in loss funds. And projections suggest that next year the Congress will be asked for still another $50 billion. It would be unconscionable if, before we approve over twice the sum originally requested, the Congress did not insist on knowing what the American taxpayer was being asked to pay for and why. Yet the administration is insisting on a blank check and blaming the Congress for not providing it.

I believe the FIRREA approach was fundamentally flawed from its inception. FIRREA has become, not the solution to the thrift crisis, but a major contributor in its own right to its ever vaster proportions.

I voted against and argued against final passage of the FIRREA for several reasons, including: First, the approach to funding; second, the precipitous application of new standards; and third, the structure and functioning of the RTC.

Since FIRREA was passed, matters have simply gone from bad to worse. Estimates of the cost of the bailout continue to mount. I will not spend a great deal of time on an issue that has already received much attention—whether we should borrow to pay for this bailout or pay as we go. In my mind, adding hundreds of billions of dollars in interest costs to the already massive price tag on this bailout is a profound generational inequity that cannot be justified. That is why the Kennedy-Slattery amendment, which would create pressure for a pay as you go approach, is such an important step.

As the interest costs related to this bailout come due, they may well have to be funded by cuts in education, health care, Social Security, day care, and other social programs on which our citizens rely. If we are to stop this endless cycle of deficit finance, we must make some hard choices now.

Some of those choices relate to the fundamental approach taken in FIRREA. In my view, we did the wrong thing at the wrong

time. The basic approach of the administration, the regulators, the media, and much of the Congress to the bailout is flawed and must be reconsidered.

Throughout the development and implementation of FIRREA, the emphasis has been on being as tough as possible, giving individual problem institutions no quarter in the drive to liquidate any that might be considered marginal. The time to have been as tough as possible was in the early and middle eighties when tough standards, aggressively applied, in conjunction with strong regulation and supervision, could have effectuated a rationalization and consolidation of the industry, without destabilizing the economy.

By 1989, individual thrift problems had spread like a poison throughout the system. By then, we had a systemic problem, with implications not only for individual institutions, but for our economy. You cannot solve a systemic problem with a microprudential approach. Indeed, as events has shown, you may only exacerbate it. In bringing vastly more stringent standards to bear on individual thrift institutions in precipitious fashion, we disregarded the broader impact on the thrift industry, the banking industry, credit flows, and the overall health of our economy. The current credit crunch is one result.

The vast accumulation of assets by the RTC has created an enormous overhang on the real estate market, depressing values. The worst case scenarios that regulators have brought to the assessment of asset portfolios of banks as well as thrifts may have forced unnecessary write-downs and created additional stress on the capital positions of our lending institutions. The result should have been easy enough to predict—less and less lending, even to creditworthy borrowers.

In my view, the administration is being inordinately purist about the problems we face. It seems intent on purging from the thrift industry, through mounting deficit finance, every marginally problematical institution. We can do that, and we could then turn to the banking industry and do the same. But the costs would be incalculable, and the burden on the American taxpayer, unjustifiable. We cannot wring every weak institution out of the economy at taxpayer expense through deficit finance without doing irreparable damage to our economy.

It is time to move away from the liquidation philosophy that has dominated the administration's and most of the Congress' thinking on this issue from the very beginning, and now dominates both the OTS and the RTC, and move toward a reconstruction philosophy. We are now liquidating an industry, some of which remains viable, at taxpayer expense. The primary results of the current liquidation philosophy have been to freeze-frame thrift losses at their maximum, thereby imposing the highest possible costs on the taxpayer, and spread the problem throughout our economy by depressing real estate prices.

A comparison of the current effort of the RTC to the approach undertaken by the Reconstruction Finance Corporation [RFC] earlier in this century is enlightening. The RFC, like the RTC, bore responsibility for liquidating incurable banks. But it did not make the assumption that all problem institutions were untreatable. Much of the RFC's energies were focussed on restoring capital in solvent but weak banks and restructuring weak but curable institutions. In contrast, the OTS and RTC are currently watching the condition of the wounded slowly and painfully deteriorate while focussing all their energies on burying the dead.

We need, not a Resolution Trust Corporation bent on liquidating every problematical thrift but a new Reconstruction Finance Corporation that can work to cure the problems of weakened institutions.

I do not quarrel with the fact that there was an array of "basket case" intitutions in the thrift industry that were operating without a meaningful portfolio of earning assets, steadily losing money, and paying above market rates solely to draw in funds to pay interest on deposits. Such institutions required quick and decisive action.

But many, perhaps most, of those institutions have already been resolved. We are now at or at least close to the point where we are considering placing in Government hands institutions which have some reasonable level of tangible net worth and/or are profitable—institutions whose condition has nevertheless been allowed to deteriorate as the administration has focussed its energies elsewhere. Certainly, some of them are weak and are not in compliance with the new, much tougher, capital requirements. But if effecting a complete purge of all weaker institutions from the system will cost the American taxpayer yet another $50 billion in the short term, it is worth inquiring whether so dramatic a purge is necessary. It may be worth taking the risk that some of them can be turned around or the problem cam be resolved more efficiently and at less cost through inducement of private sector action.

I would prefer that the Government move in early, while the institution still has some tangible net worth, and direct its resources to keeping the institution and its assets in the private sector. Certainly, money should not simply be allocated in a futile effort to keep weak institutions operating independently. But funds could be used constructively to restructure institutions with potential and provide incentives to private acquirers.

There are two clear advantages to moving toward a program focussed on maximizing the potential of the private sector to handle the problem, with Government assistance if necessary. First of all, any financial institution is worth far more as an operating institution than it will ever be worth in Government hands. If an institution must be resolved, it should be resolved while it has some inherent worth, reducing taxpayer cost.

Second, as Felix Rohatyn has pointed out in recent commentary on the situation in the banking industry, a Federal dollar invested in the equity capital of a still solvent institution will support from 15 to 25 times as much credit liquidity as a Federal dollar used after a failure to reimburse an insured depositor or to dispose of a growing inventory of failed institutions and depreciating assets.

The change in emphasis I am proposing cannot work unless other structural changes are effected. There continue to be arbitrary restrictions on what kinds of firms can purchase financial institutions, in what geographic location, what use can ultimately be made of the franchise acquired, and what array of products financial institutions can provide. If we are to maximize the degree to which the problem can be solved in the private sector and effect necessary consolidation industrywide, we must remove artificial geographic, product, and ownership and cross-marketing restrictions and move toward a standardized charter and harmonized regulatory structure.

Before we purify the industry totally at taxpayer expense, we should cleanse and rationalize it through private sector efforts. The best way to do that is to improve the franchise value of existing institutions, remove arbitrary restrictions on acquisitions and investment, and see what level of industry rationalization might occur through private sector efforts.

CONCLUSION

I opposed the FIRREA legislation and I cannot now in conscience vote additional taxpayer dollars that should more properly be spent on education, on health care, on other vital social needs, on a program that has spread a sectoral problem throughout our economy and has maximized taxpayer cost—particularly when this program is not our only option. It is unfortunate that the administration and the Congress have spent so much time and energy on the process by which we would procure more funding for the RTC program that we have had no time to consider the merit of the program itself, and the alternatives to it.

There is a way to solve financial industry problems temperately and responsibly. This different approach might take longer. It might not immediately eliminate every struggling institution. It may be more complicated and involve less immediate certitude. It may ultimately be less pure. But it will be much more responsible, more realistic, more measured, and much less expensive for the American taxpayer, and that is good enough.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Ohio [Mr. WYLIE] for yielding.

Mr. Chairman, I do not particularly relish the fact that I am here on the floor today talking about this issue.

Mr. Chairman, when the great Noble laureate, Milton Friedman, wrote his book on the Great Depression of the 1930's, he entitled that book "The Great Contraction," and the book was about the collapse of the financial system, and it was indeed in fact the cause of the Great Depression, and, in order to assure the American people that they could retain confidence in our banking system, Congress created the Federal Deposit Insurance Corporation, and then subsequently, over the protests, I think rightly so, of President Roosevelt the Federal Savings and Loan Deposit Insurance Corporation was to do two things, to assure each and every depositor that their deposits would be secure and, therefore, when in doubt they did not need to engage in a run on the bank or the savings and loan institution, that the full faith and confidence of this Government sup-

ported their deposit, and then also to remove those savings and loan associations or those banks that were not prudently run, and then we had the great disaster of the 1980's largely because Congress changed the law.

Congress first regulated, then deregulated. Then Congress passed the tax bill in 1986. Subsequent to those legislative changes, yes, there was malpractice in the industry and carelessness in the industry. We had this threat of another great financial collapse, and because we had made a guarantee to the men and women in this country who put their precious life savings in these institutions, we had to intervene.

Subsequent to that we created the Resolution Trust Corporation for the purpose of taking failing thrifts out of the Nation's thrift industry so we could retain confidence in those that remained and, second, to make good on our promise of guaranteeing the security of the deposits, and we have already seen that time is money in this affair. Delays in the past have made the costs grow larger because the problem grew larger, and now we are at another impasse.

Mr. Chairman, we are asked now to pass a clean bill. What do we mean by that? We mean the same thing my grandfather told me: "DICK, don't use your pliers as a hammer. Each tool has its specific job, and you hurt the tool when you put it to a use for which it is not intended."

Mr. Chairman, the RTC was not intended to impose or even enforce social policy in this country. Its only purpose is to collect the assets of failed thrifts and then dispose of those assets as quickly and surely as possible.

We must act, and we must act now. Give us the $30 billion. Do not lay more social policy mandates on the organization. Let it perform its function and do it now. Vote for the amendment of the gentleman from Ohio [Mr. WYLIE].

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

□ 1810

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

Mr. Chairman, I rise again in opposition to the amendment offered by the gentleman from Ohio [Mr. WYLIE].

We have just heard the recurring theme that we keep hearing: "Give us the $30 billion, and don't ask any questions." I am opposed to this amendment because I simply cannot support additional funding for RTC without requiring a clear accounting of how those funds shall be spent. This amendment does not provide for such accountability.

The Wylie amendment is well intentioned. I have said that, but it is a misguided package of changes that appear to advance numerous reforms, but they simply do not do that. In reality, it does very little. It purports to provide solutions to the many problems that plague the RTC.

I engaged in a debate earlier with the gentleman from Ohio [Mr. WYLIE] about the issue of goals. The gentleman and I talked about quotas, but they are not quotas. It is ludicrous at this time to inject the word "quotas."

The Gonzalez substitute simply talks about goals and targets. We are not breaking new ground. This is done all over the Federal Government by the Department of Defense. They say that the goal of x percent shall be the objective of the department. The words are "shall be."

The Federal Aviation Administration and the Federal Highway Administration have the same language. They say, "Shall establish goals." In NASA they say, "shall establish goals." In the Environmental Protection Agency, it is "shall establish goals." In the Small Business Administration, over and over the words are "establish goals."

Even in the legislation of the gentleman from Ohio [Mr. WYLIE] where he talks about managing conservatorships, he says—and I quote—"the Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship with the goal"—there is the word "goal" again. The word "goal" appears over and over again.

Yet, Mr. Chairman, the gentleman would say we are trying to establish quotas. Nothing could be further from the truth. That is why I oppose his legislation. It does not reform; it does not give us accountability of what RTC must do in order for them to carry out this mission of making and bringing reforms to the S&L's, of giving people, the depositors, the kind of accountability that they want to have, reinstating their deposits and making the American public have faith in their financial institutions.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I have two quick questions I wish to pose to the distinguished ranking member of the committee.

In our discussion of the RTC, there are two questions that arise. No. 1, If RTC has all this money and they have closed all these savings and loans and they have $140 billion in assets, why do they need more cash?

No. 2, Why is it they are not going after the crooks? They seem to be the source of the problems.

Mr. Chairman, could the gentleman help me with answers to those two questions?

Mr. WYLIE. Mr. Chairman, if the gentleman will yield, let me say that they need more cash to pay off depositors in institutions which are failing or have already failed. There are some 95 institutions that have already failed and that need to be closed down. We are losing money to the tune of $8 million a day while they stay open.

The gentleman was here a little earlier when the gentleman from Illinois said they have not done anything. I just got a report a little while ago, and we see that in a little more than 1½ years the RTC has seized 557 failed thrifts, and they have resolved 373 of those. According to information provided by them today, of $296 billion in assets which have come under their control since inception, they have sold or liquidated $137 billion. We have to remember that this is the largest financial institution in the United States and it was created just over 1½ years ago. It is even larger than Citbank.

Now, on the issue of why some of the crooks have not gone to jail, that is a very good question. A March 3 editorial which appeared in the Washington Post stated this:

> From October 1988 through last month, federal prosecutors have charged 653 defendants in S&L cases. So far, 460 of them have been convicted and 18 acquitted—not a bad score.

I do not think that is a bad score either.

> Of those sentenced, judges have sent 275—nearly four out of every five—to prison for sentences ranging up to 40 years. Prosecutors and judges are not treating these S&L cases lightly.

We have to remember that the president of Lincoln Savings & Loan just pleaded guilty. Ed McBurney was found guilty, and he was sent to jail. Don Dixon has been found guilty and sent to jail, and Charles Keating was just indicted. So I think a lot of progress has been made.

But the issue here today, may I say to my distinguished friend, the gentleman from Ohio, is whether we are going to have the money to continue the progress, whether we are going to have the money to pay off depositors. We have to maintain and restore confidence in our depository institution system, otherwise we are in trouble in this country.

Mr. Chairman, those are two very good questions, and I appreciate the gentleman's asking them.

Mr. MCEWEN. Mr. Chairman, I thank the gentleman from Ohio, and if I could recapitulate what the gentleman said, on the question of the crooks, they have brought 558 charges of malfeasance, of which all but 18 have resulted in convictions. As to the question of the cash, they have taken in nearly $300 billion in assets, of which $140 billion remains. And with this difficulty of cash flow, they need to have additional cash in order to get through this time, and they are rapidly depleting the assets they have acquired. Indeed,

they have sold more than half as of this date.

Mr. WYLIE. Mr. Chairman, I would like to reemphasize that this money goes to pay off depositors in our failed institutions.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I thank the gentleman very much for yielding time to me.

Mr. Chairman, I reluctantly rise in opposition to the amendment offered by my good friend, the author of the amendment, because of his intentions. I know they are all well placed, but I do rise today in vehement opposition to the Wylie substitute because there should be no new funds without some sense of reform.

The reforms encompassed in the substitute that the gentleman from Texas [Mr. GONZALEZ] will be offering and that we will have a chance to take a look at later are minimal, and, therefore, there ought not be any real opposition to them to the degree that I have seen displayed today.

It is astonishing. We are talking about $30 billion, and nobody wants any responsibility in it. Equally offensive is the notion that the Gonzalez substitute, particularly where the issue of minority outreach is concerned, somehow replaces the guidelines that the RTC uses for minority contracting with stronger quotas.

Well, give me a break. There is nothing in this entire package that speaks of quotas. It speaks of goals, and that is a big difference.

The Wylie substitute, Mr. Chairman, purports to take a responsible approach under the guise that reform provisions are delaying the money and also costing taxpayers more and more each day. Well, damn it, it is that blank check that is delaying the process, and it is that blank check that is costing taxpayers money.

They have spoken, and they have spoken clearly. The people do not want this kind of foolishness. They want to see a sense of fairness.

I have in my hand a list, Mr. Chairman, of organization after organization across this country that have called for some sense of fairness:

The National Council of Senior Citizens; ACORN: Public Citizen Congress Watch; National Council of Churches; International Association of Machinists; Communications Workers of America; American Agriculture Movement; Citizens Action; and U.S. Conference of Mayors.

Although the list is endless, my time is not.

I would encourage those who have not made up their minds on this to think on the subject of fairness and then think on behalf of the taxpayers of this country and reject this amendment. Furthermore, the substantive reform that I hear about and see and that the gentleman from Ohio [Mr. WYLIE] claims will require that the RTC report on the steps that it has taken to ensure that women and minorities and others are included is nonexistent, let me tell you that I could stretch from here to east hell the reports we have received from the RTC since August 1989, and they do not mean a thing. They are proposals on proposals, studies on studies, and then there is another plan B for the plan A that failed.

We do not want a clean bill because a clean bill is a dirty bill for the American taxpayer. It has no housing outreach, it has no provisions for women and minorities, and it does not have a sense of fairness for the taxpayers.

You can call off the doctors and disconnect the life support systems, because this is brain dead and should not go through.

Mr. Chairman, I urge the Members of this body to reject the Wylie amendment and give a break back to the taxpayers of this Nation.

□ 1820

The CHAIRMAN. The Chair would advise Members that the gentleman from Ohio [Mr. WYLIE] has 11 minutes remaining, and the gentleman from Texas [Mr. GONZALEZ] has 9 minutes remaining.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute to engage the gentleman from California [Mr. TORRES] in a colloquy.

The gentleman from California mentioned a little earlier that NASA has an outreach program, as he called it, such as this. Does it have the goals, the language, that the gentleman has in his substitute?

Mr. TORRES. Mr. Chairman, if the gentleman will yield, yes. If I may, I would like to read from it. "The NASA Administrator shall annually establish a goal of at least x percent of the"——

Mr. WYLIE. What is the percentage though? That is the point I want to make.

Mr. TORRES. The numbers are different.

Mr. WYLIE. In the testimony of the gentleman, on page 311, he testified that NASA has an 8 percent guideline, DOD has a 5 percent guideline, EPA has an 8 percent guideline, and the State Department has a 10 percent guideline. In here we have a 25 percent guideline. They are already performing up to 21 percent.

Mr. TORRES. Mr. Chairman, that is not my understanding. My understanding, according to RTC's report, is that they have complied with 3 percent outreach to minorities. Three percent, sir.

Mr. WYLIE. That is not the information they gave me.

Mr. TORRES. That is the information they gave us in committee. We have the documentation as of this very date. Three percent.

Mr. WYLIE. Well, I think the point I wanted to make there is that 25 percent seems like a lot, in view of that fact.

Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentleman for yielding. First of all, I want to congratulate my good friend, the gentleman from Ohio [Mr. WYLIE], the ranking Republican on this very important committee.

The Marines used to have an expression, "We need a few good men," and it has been changed now to, "We need a few good men and women these days in the Marine Corps."

Clearly as I take a look at Members, Republicans and Democrats alike, as we are working our way through the legislative and political quagmire of RTC reform, or, better yet, the legislative and political minefield, we need a few good men and women there as well.

I know every Member brings enormous good intentions to this very difficult process in the debate today. I think we have to remind Members, particularly those who do not serve on the Committee on Banking, Finance and Urban Affairs, first of all how difficult the birth of FIRREA actually was. It was an enormously complicated and controversial process. We were aided considerably by a chairman who was willing to entertain wide ranges of opinion and debate on a variety of matters that ultimately affected the ability of the RTC and this administration to work through the wide range of problems dealing with the entire thrift crisis.

But we have to remember that we created an institution, the RTC. It did not evolve. We created an institution larger than Citicorps. It did not evolve. Accordingly, since it did not have the maturation that accompanies the normal growth process of any institution, any bank, any corporation, any institution at all, there were and remain quite a few administrative problems and internal problems.

I know of no Member in this Chamber that is going to give the RTC an A. I know of no Member in this Chamber, on either side of the aisle, that is satisfied with its performance today. I do know that just about every member on the Committee on Banking, Finance and Urban Affairs has different ways of trying to go about reforming it.

So let us remember that FIRREA's birth was very, very difficult, it was enormously complicated, and that we are moving toward the addressing of some of the internal problems in its operation. The gentleman from Ohio [Mr. WYLIE] I think has come up with a very good package. He is talking in terms of reform of the conservatorship, he is talking about contracting reforms, he is talking about changing portfolio management, and, more importantly, I

think he has taken a first step in trying to address what many of us see are some very real problems in the day to day operation of the RTC.

What we want this entity to do is resolve as many problems as quickly as possible with the least cost to the taxpayer. As the gentleman knows, I did not support in committee on two or three occasions just the extension of $30 billion additional to the RTC. I am joining the gentleman on the floor today, because I think he has made that first very important effort, in what I hope to be a continuing series of efforts, to reform the operation of the RTC, to streamline its operation, and to minimize the cost to the taxpayer.

I know I have asked on several occasions in full committee to those who have come before us for more money, in addition to more money, will you tell us whether or not FIRREA was a perfect piece of legislation? Are there not things we could do to improve and enhance your performance that would help solve the problem at lesser cost to the taxpayer?

Very few people from within have come to the committee with suggestions. The gentleman from Ohio [Mr. WYLIE] in this funding package has brought some fundamental reform to the package. I congratulate the gentleman for that, and encourage Members to support his amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in strong opposition to the Wylie amendment. I do so for several reasons. The Wylie amendment is an incomplete response to the troubles of the Resolution Trust Corporation. It does not adequately address the issue of contracts for women and minority-owned businesses. It does not assist the Affordable Housing Program in selling property. And it does not protect properties of special cultural or environmental significance.

The Wylie amendment guts the women and minority contracting section of the RTC funding bill which was passed during committee consideration. Notably, this section was passed without opposition in committee after considerable discussion. At that time, Democrats and Republicans joined together in supporting a program which would expand the RTC's minority outreach program, which, thus far, has been grossly unsuccessful. In the days following adoption of that program, we were led to believe that Republicans would continue to support that provision. Unfortunately, today we are hearing something different.

So now, as a substitute, the Wylie amendment would ask the RTC to report to Congress on how they are doing. Mr. Chairman, we know how they are doing. We passed our program because we already know how they are doing. They are not doing well. They are not doing enough. For heaven's sake, the provisions in the Wylie amendment amount to nothing more than restating the problem that we all know exists and that we are trying to correct here.

It is worth highlighting why we need an expansion of the RTC's original program of minority outreach. The results speak for themselves.

Of the total nonlegal contracts awarded by the RTC since its inception, over 5,000 in all, less than 400, 7 percent of these, have gone to minority-owned businesses.

Only 2 percent, that is 112 out of over 5,000 of these contracts, have gone to businesses owned by minority women.

The numbers are even worse when the dollar amounts of the contracts are compared.

Under 4 percent of all nonlegal contract dollars awarded by the RTC have gone to minority-owned firms. That is only $12 million out of over $300 million awarded.

Just 2.7 percent of these contract dollars went to businesses owned by minority women.

Astonishingly, only 1 percent of the contract dollars awarded have gone to firms owned by minority men. So, while over 5 percent of the actual contracts are going to firms owned by minority men, a meager 1 percent of the total dollars are going to these firms.

Mr. Chairman, I would ask for a no vote on the Wylie amendment.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS], a new and very valuable member of our committee.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise this afternoon in support of Mr. WYLIE's substitute. It is the best proposal that we have before us today.

I was not a Member of Congress when the troubled savings and loan institutions were first being dealt with. But in one of my very first votes as the Congressman from Wyoming, I voted for the Financial Institutions Reform, Recovery and Enforcement Act. It was not perfect legislation. It dealt with the symptoms within the system, not the disease, but I voted for it. And when I voted for it, I made that very clear.

But it did honor the fundamental commitment we made years ago to depositors in the Nation's savings and loans—that their deposits would be insured by the Federal Government if necessary.

We are in that same position again today. We all know the RTC needs this money now. We knew last year. Without it today, the RTC loses $8 million a day. None of the proposals before us is the cure-all. This authorization will last only until September and then more help will be needed.

Mr. Chairman, let's proceed through this debate quickly and get the necessary legislation passed and signed into law. We're simply honoring the promise we made to those people throughout the country who put their hard-earned savings into these institutions. It's very expensive, but the longer we put it off, the worse the situation will become.

While much time has been spent on rhetoric, little time has been taken to note the 2,235 stable savings and loan institutions. Deposits are made, loans are approved, operations continue, and business continues.

However, recent figures show that deposits to savings and loan institutions are decreasing. According to the Office of Thrift Supervision, during the first quarter of 1990 47 percent of the healthy S&L's had positive deposit inflow. During the third quarter the percent of institutions with positive inflow fell to 30 percent. During this same period $6 billion was withdrawn from all the 2,235 sound savings and loan institutions. A lot of this is attributable to Congress' inaction and the media's sensationalism. I favor harsh treatment of anyone who abused the system and prosecution goes on but let's do the responsible thing with the insured deposits.

Today I stand in support of the clean bill offered by Representative WYLIE, the ranking minority member of the House Banking Committee. Without it we lose millions of dollars a day, the RTC is further delayed in its actions and cannot plan for the future.

I understand the Kennedy-Slattery substitute. No one here would disagree with pay-as-you-go provisions. But applying them to the RTC is dangerous. This would only set up a fire-sale mentality or potential for misuse and abuse by potential buyers. It only creates more delays.

I understand Chairman Gonzalez' substitute. It delves into areas, while important, that simply do not belong in this legislation. Let us remember the mission of the RTC is to resolve the thrift crisis at the least cost. These measures would further tie the RTC's hands and require even more money to be paid.

In the near future we will begin consideration of the administration's reforms in the bank system and insurance fund. We cannot possibly forget what the lack of regulation and abuse of the system has meant to the taxpayers. We also cannot let this situation cloud our view of what is important and what needs to be done. We have wasted enough time. Let us work together and pass the Wylie substitute.

□ 1830

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BACCHUS], a new addition to our Committee on Banking, Finance and Urban Affairs.

Mr. BACCHUS. Mr. Chairman, I came to Congress prepared to make hard choices. Today, I remain ready to make them.

I am ready to provide the money to keep our Government's promise to protect the savings of depositors.

But I will not give the Resolution Trust Corporation a blank check, and I will not be content with an RTC that is not truly accountable to the American taxpayers. The taxpayers would be outraged if they understood the boondoggle that the RTC has become.

The RTC is taking on all the trappings of a permanent fixture in the Federal bureaucracy—while dragging its feet on the vital sale of assets. We lose $5.5 million every day through the depreciation of real estate values caused by the RTC's failure to dispose of its estimated $140 billion in assets aggressively. The taxpayers are not being told of these mounting hidden costs.

The true cost of the savings and loan cleanup has been estimated at $200 billion. We must not say "no" to affordable housing, to childcare, to needy senior citizens, or to new technologies because we needlessly spent our limited resources on a run-away bailout!

In committee, I offered an amendment endorsed by the National Taxpayers Union and by others who want to see more accountability and more fiscal responsibility from the RTC. My amendment would have provided $15 billion immediately, to allow the RTC to continue to do its job, but would have tied any additional funding this year to the RTC's sale of assets. I will continue to work for this approach.

Surely the RTC was not intend to become the largest holder of real estate and junk bonds in the free world. Surely it was not meant to be the largest employer of law firms, accountants and property managers. The RTC is exempt from all Federal procurement laws and the RTC has yet to produce an audited financial statement.

If any one of us were to approach a bank for a loan without the proper documentation, we would be turned away at the door. It is irresponsible to provide the RTC with additional funding without more accountability.

Today's measures simply don't make the hard choices.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I rise today to urge this body to send a profound and positive message to the working people of this country, to the poor and the elderly.

Mr. Chairman, I urge this body to resoundingly reject this $30 billion appropriation for the savings and loan bailout until the President comes forward and tells us exactly where the money to cover this bailout is going to come from, and who is going to pay for it.

If we simply dump this $30 billion into the deficit, which is what is being proposed, we all know how it will be covered. It will, sooner or later, be paid for by higher taxes on working people, on the middle class, on farmers—and it will be paid for by more and more cutbacks in medicare, in housing, education and a variety of desperately needed programs that help those most vulnerable in our Nation.

Mr. Chairman, let the U.S. Congress today show some courage and not simply put this $30 billion into the deficit—a deficit which is now the largest in our Nation's history. Let us demand that this huge sum of money be paid for by those people in our society that can best afford to pay it—and not those who are already seeing a decline in their standard of living.

Mr. Chairman, in the last 10 years the wealthiest people in our Nation have become much wealthier, while the middle class and the poor have become poorer. Meanwhile, while the wealthiest one percent of the population have seen an 86-percent increase in their real income, the tax burden for the rich has declined. While the middle class and working people have become poorer—their tax burden has increased.

Mr. Chairman. It is absolutely imperative that we fund this 30-billion-dollar bailout on a pay-as-you-go basis, and that the wealthiest citizens in our country—those that have enjoyed huge tax breaks for the last decade—be asked to pay it.

Mr. Chairman. I will be proposing legislation which will ask the wealthiest 5-percent of our population—those who have an average income of $215,000 a year, to pay an extra 2.6 percent of their income in Federal taxes. If we do that, we can raise $30 billion—and that makes a lot more sense to me than taxing the middle class and the poor.

Mr. GONZALEZ. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Shielded from salt-laden breezes by a ridge of high, ancient dunes, the 1,400-acre forest is host to a diversity of life nearly unheard of in the harsh environment of a barrier island. Towering oaks, hickories and beeches rise up out of the sand. Otters splash in fresh-water ponds. Rainbow snakes and marbled salamanders breed in the sultry swamps.

Mr. Chairman, this is a description of an isolated stretch of beach in North Carolina that has been seized and is about to be sold off by the Resolution Trust Corporation.

Should Nags' Head Woods, a national natural landmark, be auctioned off to the highest bidder? Should we let the RTC sell this land, and other priceless pieces of the American landscape, without regard to environmental value? Sold, Mr. Chairman, so that they can be converted to malls and parking lots and condominiums?

We should not.

The RTC is already legally required to create a list of these special properties in its portfolio, but the inventories so far have been misleading and incomplete.

Conservation groups that may want to buy the land have no way of knowing what's out there. A majority of the environmentally sensitive properties, including wetlands, endangered species habitats and tracts of centuries-old forestland, are buried in the RTC's residential listings, which are thousands of pages long.

This is not entirely the fault of the RTC, an agency that lacks the skill necessary to catalog properties with natural, cultural, recreational or scientific values of special significance, as they must do under current law.

Provisions of H.R. 901, which I introduced on February 6, and which have been incorporated into this legislation, will streamline the inventory process by requiring that the RTC consult the Fish and Wildlife Service and the National Park Service in creating its inventory.

This legislation also gives environmental groups wishing to buy land in the inventory a right of first refusal. The RTC will be able to devote more of its time to selling off houses and condos, the inventory will be done by people with the resources and the expertise to do the job efficiently, thus allowing conservation groups the opportunity to quickly identify and purchase these precious resources.

Mr. Chairman, if we don't act today to protect Nags' Head Woods and properties like it, soon there will be nothing left to save.

Today we have an opportunity to salvage something of value from this crisis. We can preserve some priceless natural resources that might otherwise be sold to developers of condominiums or shopping malls, and we can do it without slowing down the process.

I urge my colleagues to support this amendment, and I insert the New York Times article from which I read in the RECORD.

[From the New York Times, Feb. 22, 1990]

A GOVERNMENT FIRE SALE . . .

(By Jeffrey Smith)

NAGS HEAD, NC.—Down here on the North Carolina Outer Banks, where salt spray stunts most trees and driving winds twist them into weird, fantastic shapes, Nags Head Woods is an anomaly.

Shielded from salt-laden breezes by a ridge of high, ancient dunes, the 1,400-acre forest is host to a diversity of life nearly unheard of in the harsh environment of a barrier island. Towering oaks, hickories and beeches rise up out of the sand. Otters splash in fresh-water ponds. Rainbow snakes and marbled salamanders breed in the sultry swamps.

So unusual is the forest that in 1974 Congress declared it a National Natural Landmark, a nice-sounding title that affords no

legal protection from development. In the years since, the Nature Conservancy and the town of Nags Head have worked to protect it from the headlong rush of coastal development, setting aside more than 700 acres as a nature preserve.

Recently, though, Nags Head Woods has encountered a threat conservationists may be powerless to stop: the Federal Government.

In 1987, a 389-acre block of the forest fell into the hands of two adventuresome real estate speculators operating out of a local savings and loan institution. Fortunately, the bank failed before development could begin, and the area gained a reprieve.

Subsequently the property was taken over by the Resolution Trust Corporation, the agency established to sell off the assets of the nation's failed thrifts. And now, Resolution Trust officials are preparing to market their portion of Nags Head Woods to the highest bidder, which almost certain will be a developer.

If that occurs, the bulldozers will come and the great trees will fall. Eventually, the ponds and swamps will be filled. A chunk of National Natural Landmark will disappear. Similar scenarios could soon be played out across the country.

Most of the property in Resolution Trust's portfolio is commercial or residential. But there are also thousands of acres of undeveloped land, some of which contain rare and endangered species—and some, such as Nags Head Woods, which are endangered ecosystems.

Although Resolution Trust is required to publish a semiannual inventory of all properties with "natural, cultural, recreational or scientific values of special significance," it has yet to comply.

A listing of 30,000 parcels released in January made no mention to these noneconomic "values." Faced with stringent deadlines and conflicting pressures from Capitol Hill and the White House, the agency has shown little interest in the environmental consequences of its actions.

Without access to a comprehensive inventory, the Nature Conservancy and other groups are trying to determine piecemeal how much Resolution Trust real estate could have national ecological significance.

In North Carolina there is Nags Head Woods. In Texas there are marshes along the Gulf of Mexico and an oak woodland that is home to the endangered black-capped vireo. In the Arizona desert there are vanishing stream and river systems that harbor some of our most threatened aquatic species. In other states it's too soon to say.

But even with a complete inventory, these groups will need assistance from Congress.

Specifically, Congress should require Resolution Trust to offer public and private nonprofit agencies the right of first refusal on ecologically significant lands (a requirement already in place for low-income housing). In addition, the agency should be instructed to sell property for conservation purposes at a level below market value or to transfer it to other Federal agencies for conservation management.

Increasingly, we are all realizing that the solution to the savings and loan debacle will be frightfully expensive. But if Resolution Trust is allowed to indiscriminately sell off the nation's natural treasures, the long term cost will be even greater.

Mr. GONZALEZ. Mr. Chairman, I reserve the balance of our time to close debate.

Mr. WYLIE. Mr. Chairman, I yield myself the remainder of our time.

Mr. Chairman, I would just make a couple of points.

Again, much was said about the minority contracting provision in my amendment. This was a conscientious attempt on my part, using the word advisedly, to try to come to some resolution of this issue that could be enacted into law. I respectfully suggest again that the language which is in the Gonzalez substitute, which will be offered a little later on and referred to by the gentleman from California [Mr. TORRES] does amount to quotas.

We went through this a little while ago in a colloquy with the gentleman from Pennsylvlania [Mr. WALKER]. But I would repeat for repetition here that the language says, "An overall goal of not less than 25 percent of all contracting activity is to be entered into with minority individuals." I do not know what the magic is of that figure or entering into such contracts with minority individuals and women whether they are qualified or not, but in any event, it goes on to say, "The corporation shall strictly adhere to such goal when evaluating solicitation of services from any source."

What is that but a quota? I submit that it can only be characterized as a quota.

My amendment simply says that there will be new requirements for the RTC to provide us with a semiannual report on minority and women contracting. As I mentioned a little earlier, the RTC says that 20 percent of their contracts so far meet that criteria.

My amendment says, "To the extent possible, prime contracts and subcontracts shall be awarded to minorities, women and businesses owned or controlled by minorities or women."

□ 1840

Contracting and outreach activity with respect to such joint ventures and other business arrangements shall be entered into by RTC and reported back to us, the Congress, as to what progress is being made.

I think this is a reasonable amendment. I happen to be opposed to quotas and would respectfully suggest that if the Gonzalez substitute is passed, I have a feeling that it will be vetoed by the administration. As a matter of fact, I am pretty certain it will.

The other part of my amendment provides for management reforms. The gentleman from Maryland made a very significant statement. He was on our Committee on Banking, Finance and Urban Affairs. He made some of these suggestions. I picked up on those. I picked up on some which were recommended by Mr. Bowsher, the Comptroller General of the United States, the head of the GAO, and they are reasonable provisions. They are management reforms that can be met by RTC.

I think some improvements can be made in the way RTC handles the acquisition and disposition of the assets which are coming into their hands and they say that they can work with this. They can live with this, and I urge adoption of the substitute which I have offered.

Mr. GONZALEZ. Mr. Chairman, I yield the remainder of my time in this debate to our distinguished Member, the gentleman from Minnesota [Mr. VENTO], who has been the chairman of the task force on oversight of the RTC, and I think very few of us know any more than he does about the RTC.

Mr. VENTO. Mr. Chairman, I thank the chairman for yielding me this time and for his comments.

Mr. Chairman, we have moved, I guess, with the administration, and every administration wants absolute flexibility and all the money they can get; I mean, all of them want that.

It is our job in Congress to hold them accountable here. We had an opportunity with the budget to deal with some really fundamental issues in terms of budget. We did not do that.

Now the Wylie amendment comes before us that was never before offered in committee, and it provides some window dressing, a meek effort, a gift wrap, that does not deal with the substance of what the RTC does.

The Wylie amendment provides lots of reports, studies, standardized forms. At best, the Wylie amendment would clutter up the law with verbiage that is not acceptable. At worst, the Wylie amendment mocks the efforts of those who want to make the RTC and the FIRREA law work.

All this Wylie amendment provides is a fig leaf to suggest that Congress is holding the RTC accountable. This, Mr. Chairman, is not the way that we are going to address the serious shortfalls with minority contracting by raising buzzwords, the specter of quotas on this, and, you know, the fact of the matter is these statistics, at best, are selectively used by the RTC. They do not talk about the attorneys, the real jobs that are dominated by white males. No, this is feel-good rhetoric, not substance.

The Gonzalez amendment, which will follow, is really a change of the conduct of the RTC. The Wylie amendment gives comfort to the RTC. They can revel in the bureaucratic redtape, the RTC rhetoric, but the Wylie amendment does not do anything to change the policy path of the RTC.

To get the RTC back on track, we need at least the provisions of the Gonzalez amendment. We need to shake up the RTC, not to give them comfort as the Wylie amendment does. They are comfortable with the Wylie amendment.

The administration: We need to really shake them up and to give the taxpayers a break that they deserve. The housing, the environmental lands that are sensitive here, all of that can happen without doing great violence.

This amendment masquerades as substance but does little or nothing.

I would say vote no on the Wylie amendment. Mr. Chairman, let us make a difference in this particular bill and vote for the Gonzalez amendment. It should have our support, and it will change the policy path of where we are going.

Mr. MAVROULES. Mr. Chairman, I rise in opposition to the amendment offered by the gentlemen from Ohio. When Congress adopted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Resolution Trust Corporation was instructed then to develop a minority outreach program. From information to date, it appears that efforts to develop this program has been dramatically unsuccessful.

The amendment included in the Wylie substitute continues business as usual. For this reason, I encourage my colleagues to reject this proposal. Every segment of society should be given an opportunity to participate in the economic fiber of this country. The Department of Transportation, the Department of Defense, the Small Business Administration and numerous other Federal agencies and programs have been encouraged to develop policies to strengthen the participation of minority- and women-owned entreprenuers. These are only goals not mandates. Given the dismal record of the RTC in developing policies in this area I feel that a clarification and enhancement of the agency's goals is appropriate at this time.

Mr. Chairman, I encourage my colleagues to reject the Wylie amendment.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. WYLIE].

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

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 235, not voting 6, as follows:

[Roll No. 40]

AYES—190

Allard
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Boucher
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Crane
Cunningham
Dannemeyer
Darden
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Dwyer
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hancock
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Hoagland
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lent
Levine (CA)
Lewis (CA)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Machtley
Martin
Martinez
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Nichols
Olin
Oxley
Packard
Panetta
Parker
Paxon
Payne (VA)
Penny
Porter
Price
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Ros-Lehtinen
Roukema
Rowland
Santorum
Saxton
Schaefer
Schiff
Schulze
Schumer
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Slaughter (VA)
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Stump
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Taylor (NC)
Thomas (CA)
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Thomas (WY)
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Vander Jagt
Vucanovich
Walker
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Weber
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Wylie
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NOES—235

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
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Annunzio
Applegate
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Bilbray
Bonior
Borski
Boxer
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Brooks
Browder
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Bruce
Bryant
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Campbell (CO)
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Dorgan (ND)
Downey
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Edwards (CA)
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Ford (MI)
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Frank (MA)
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Jones (GA)
Jontz
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LaFalce
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LaRocco
Laughlin
Lehman (CA)
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Levin (MI)
Lewis (FL)
Lewis (GA)
Lipinski
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Lowey (NY)
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McHugh
McNulty
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Miller (CA)
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Owens (NY)
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Roth
Roybal
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Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Sensenbrenner
Serrano
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
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Wolpe
Wyden
Yates
Yatron

NOT VOTING—6

Flake
Hammerschmidt
Jefferson
Miller (OH)
Mrazek
Udall

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Messrs. SWIFT, ANDERSON, and COYNE changed their vote from "aye" to "no."

Mr. HAYES of Louisiana changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GONZALEZ: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Funding Act of 1991".

TITLE I—RTC RESOLUTION PROCESS AND FUNDING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

(a) REQUESTS FOR ADDITIONAL FUNDING REQUIRED TO CONTAIN ADDITIONAL FINANCIAL INFORMATION.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(K)(7) is amended to read as follows:

"(7) REQUESTS FOR ADDITIONAL FUNDS.—Any request for legislative action to provide new or additional financial resources for the Corporation shall—

"(A) be submitted in writing to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) contain a complete and detailed financial plan for spending such resources and any

relevant information described in paragraph (5)(B) and (6)(A).".

(b) INTERIM FUNDING.—Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) in the heading, by striking "BORROWING" and inserting "FUNDING";

(3) by inserting after such heading the following new paragraph designation and heading;

"(1) BORROWING.—"; and

(4) by adding at the end the following new paragraph:

"(2) INTERIM FUNDING.—The Secretary of the Treasury shall provide the sum of $30,000,000,000 to the Corporation to carry out the purposes of this section.".

SEC. 102. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTION REQUIRED.—

(1) IN GENERAL.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding at the end the following new paragraph:

"(15) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), the Corporation may not exercise any authority under this section with respect to any institution described in paragraph (3)(A) unless—

"(i) the Board of Directors determine that the exercise of such authority is necessary to meet the obliga tion of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the Corporation of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to the insured depositors of an institution described in paragraph (3)(A) at the least possible cost to the Corporation, the Corporation shall comply with the follwing provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate, and the cash-outlay basis in actual dollars;

"(II) document that evaluation; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the Corporation.

"(C) TIME OF DETERMINATION.—The determination and comparison of the costs of assistance or liquidation required under this subsection for any institution described in paragraph (3)(A) shall be made as of the earliest of—

"(i) the date on which a conservator is appointed for such institution;

"(ii) the date on which a receiver is appointed for such institution; or

"(iii) the date on which the corporation makes the determination to provide any assistance under this section.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any institution described in paragraph (3)(A) for purposes of comparing the costs under subparagraph (A) (with respect to such institution), the amount taken into account for such purposes shall not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Resolution Trust Corporation to determine the extent to which the Corporation is complying with section 21A(b)(15) of the Federal Home Loan Bank Act.

"(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by inserting after paragraph (15) (as added by subsection (a)(1) of this section) the following new paragraph:

"(16) AUTHORITY TO DISALLOW CLAIMS.—

"(A) IN GENERAL.—In addition to any authority under paragraph (4), the Corporation, as receiver for any institution described in paragraph (3)(A), may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not provided to the satisfaction of the receiver.

"(B) PAYMENTS TO LESS THAN FULY SECURED CREDITORS.—In the case of a claim of a creditor against an institution described in paragraph (3)(A) which is secured by any property or other asset of such instituion, the Corporation as the receiver appointed for the institution—

"(i) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(ii) may not make any payment with respect to such portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(C) EXCEPTION.—No provision of this paragraph shall apply with respect to—

"(i) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(ii) any security interest in the assets of the institution securing any such extension of credit.".

SEC. 103. AMENDMENT TO SEMINANNUAL REPORTING REQUIREMENT.

Section 21A(k)(5)(B)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)(ii)) is amended by inserting ", total estimated fair market value," after "total book value".

TITLE II—RTC DISPOSITION OF AFFORDABLE HOUSING

SEC. 201. AMENDMENTS RELATING TO SCOPE OF PROGRAM.

(a) DEFINITION OF CORPORATION.—

(1) IN GENERAL.—Section 21A(c)(9)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(C)) is amended by striking "either in its corporate capacity" and all that follows through the period and inserting ", acting in any capacity.".

(2) EXCEPTION FOR CERTAIN ELIGIBLE MULTIFAMILY HOUSING PROPERTIES UNDER CONSERVATORSHIP.—The amendment made by paragraph (1) shall not apply with respect to any eligible multifamily housing property to which the Corporation has acquired title in its capacity as an operating conservator and for which the Corporation receives a written offer for purchase on or before the end of the 90-day period beginning on the date of the enactment of this act.

(b) SALES TO INSURED DEPOSITORY INSTITUTIONS EXCLUDED FROM PROGRAM.—Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended to read as follows:

"(10) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this subsection shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), including any sale in connection with a transfer of all or substantially all of the assets of a closed savings association (including such property) to an insured depository institution.".

SEC. 202. AMENDMENTS RELATING TO SALE PROCEDURES.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation may sell eligible residential property to qualifying households, qualifying multifamily purchasers, nonprofit organizations, and public agencies without regard to any minimum purchase price.".

SEC. 203. TENANT PROTECTION.

(a) AVOIDANCE OF DISPLACEMENT OF QUALIFYING HOUSEHOLDS FROM ELIGIBLE SINGLE FAMILY PROPERTY.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(12) AVOIDANCE OF DISPLACEMENT.—In the case of any eligible single family property which is occupied by a qualifying household at the time the Corporation acquires management, control, or title of such property, the Corporation—

"(A) shall avoid, to the greatest extent practicable, taking any action which would have the effect of displacing the occupants of such property; and

"(B) may provide a priority for the occupants in obtaining financing from the Corporation under paragraph (6)(A)(ii) for the purchase of such property.".

(b) LIMITATION ON RIGHT TO ABROGATE CONTRACTS.—Section 21A(b) is amended by inserting after paragraph (16) (as added by section 102(b) of this Act) the following new paragraph:

"(17) LIMITATION ON AUTHORITY.—Notwithstanding paragraph (4), the Corporation, acting in any capacity, may disaffirm or repudiate any contract involving any residential lease or tenancy or any lease involving any residential lease or tenancy only to the extent permitted under the law of the State and the political subdivision of the State (if any) which is applicable to such contract or lease or any provision of any other Federal law.".

SEC. 204. SCOPE OF APPLICATION.

The amendments made by this title to section 21A of the Federal Home Loan Bank Act shall be effective only during the period beginning on the date of the enactment of this Act and ending at the end of fiscal year 1991 and such section apply after the end of such period as if such amendments had not been made.

TITLE III—ISSUES RELATING TO RTC PROPERTY

SEC. 301. SEPARATE INVENTORY OF PROPERTY WITH SPECIAL SIGNIFICANCE REQUIRED.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended—

(1) in subparagraph (F), by striking the last sentence; and

(2) by adding at the end the following new subparagraph:

"(G) REAL PROPERTY INVENTORY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the inventory of real property assets required to be published under subparagraph (F) shall be updated and republished semi-annually.

"(ii) INVENTORY OF PROPERTY OF SPECIAL SIGNIFICANCE.—In the case of real property assets of institutions subject to the jurisdiction of the Corporation which is property of special significance, the Corporation shall develop and maintain, in accordance with clause (iii), an inventory of such property separately from the inventory required under subparagraph (F) and shall update and republish such inventory at least once during each calendar quarter.

"(iii) CONSULTATION WITH AGENCIES WITH EXPERTISE.—In developing, maintaining, and updating the inventory or property of special significance, the Corporation shall consult with the United States Fish and Wildlife Service, the National Park Service, the Advisory Council on Historic Preservation, and other appropriate agencies or instrumentalities of the United States.

"(iv) PROPERTY OF SPECIAL SIGNIFICANCE DEFINED.—For purposes of this subparagraph, the term 'property of special significance' means real property with natural, cultural, recreational, or scientific values of special significance, including real property which is protected or eligible for protection or special status under any Federal law or Executive order, such as wetlands, floodplains, endangered species habitats, historic sites, archeological sites, natural landmarks, wilderness areas, wild and scenic rivers, and coastal barriers.".

SEC. 302. AMENDMENTS RELATING TO DISPOSITION OF PROPERTY OF SPECIAL SIGNIFICANCE.

(a) IN GENERAL.—Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end the following new subparagraph:

"(H) LIMITATION ON TRANSFER.—

"(i) NOTICE OF AVAILABILITY.—The Corporation may not sell or otherwise transfer any covered property unless the Corporation causes to be published in the Federal Register a notice of availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

"(ii) EXPRESSION OF SERIOUS INTEREST.—During the 90-day period beginning on the date that notice under clause (i) concerning a covered property is first published, any Federal land management agency, governmental agency, or qualified organization may submit to the Corporation a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(iii) PROHIBITION ON TRANSFER DURING SERIOUS INTEREST NOTIFICATION PERIOD.—During the period under clause (ii), the Corporation may not sell or otherwise transfer any covered property for which notice has been published under clause (i). Upon the expiration of such period, the Corporation may sell or otherwise transfer any covered property for which notice under clause (i) has been published if no notice of serious interest under clause (ii) concerning the property has been timely submitted.

"(iv) PROHIBITION ON TRANSFER AFTER NOTIFICATION PERIOD.—Except as provided in clause (v), if a notice of serious interest in a covered property is timely submitted pursuant to clause (ii), the Corporation may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under clause (ii), unless all notices of serious interest submitted pursuant to clause (ii) have been withdrawn.

"(v) REQUIRED TRANSFERS.—During the 90-day period referred to in clause (iv), the Corporation may sell or otherwise transfer a covered property for which any notice of serious interest has been timely submitted pursuant to clause (ii) only pursuant to notice of serious interest submitted by a Federal land management agency, government agency, or qualified organization for use of the covered property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

"(vi) REVERSIONARY INTEREST.—If any covered property sold or otherwise transferred under clause (v) ceases to be used for the purposes described in such clause, all rights, title, and interest in and to the covered property shall revert to the United States.

"(vii) DEFINITIONS.—For purposes of this subparagraph:

"(I) COVERED PROPERTY.—The term 'covered property' means any property to which the Corporation has acquired title in any capacity and that is identified in the inventory of property of special significance published under subparagraph (G)(ii).

"(II) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means any Federal agency that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resources conservation purposes.

"(III) GOVERNMENTAL AGENCY.—The term 'governmental agency' means any agency or entity of a State or local government that manages land or structures for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resources conservation purposes.

"(IV) QUALIFIED ORGANIZATION.—The term 'qualified organization' means such an organization under section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).".

"(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any covered property held by the Resolution Trust Corporation at any time on or after the date of the enactment of this Act wthout regard to the date on which the Corporation acquired the property or was appointed as conservator or receiver.

SEC. 303. CLARIFICATION OF PROPERTY USED FOR PUBLIC PURPOSES.

Section 21A(a)(14)(B)(xv) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(14)(B)(xv)) is amended by inserting ", including recreational use," after "public purpose".

TITLE IV—MINORITY OUTREACH

SEC. 401. RTC MINORITY BUSINESS POLICY AND GOALS.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by inserting after paragraph (17) (as added by section 203(b) of this Act) the following new paragraph:

"(18) MINORITY BUSINESS POLICY AND GOALS.—

"(A) FINDINGS.—The Congress finds the following:

"(i) The involvement of a variety of racial and ethnic groups in the business activities of the Resolution Trust Corporation, which is the largest property management and asset disposition program in the history of the Nation and will have a direct or indirect effect on virtually every such group, is a compelling national interest.

"(ii) Congressional hearings and oversight have shown that the Resolution Trust Corporation has failed to include racial and ethnic groups in the business activities of the Corporation in a significant way to the detriment of the national interest.

"(B) POLICY AND GOALS ESTABLISHED.—In order to clarify and expand the Corporation's policies regarding the implementation of agency programs to ensure the success of minority outreach required under this section and section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall establish policies and procedures consistent with the following guidelines to govern contracts with companies owned and controlled by minority individuals or women:

"(i) An overall goal of not less than 25 percent of all contracting activities to be entered into with minority individuals or women or with companies owned and controlled by minorities or women, including prime contracts, subcontracts, and joint ventures, of which not less than 15 percent of all such contract dollars shall be allocated to companies owned and controlled by minorities and not less than 10 percent of all such contract dollars shall be allocated to companies owned and controlled by women.

"(ii) The goal shall apply to every type of procurment and every contracting activity, including conservatorship, entered into by the Corporation and by the Federal Deposit Insurance Corporation on behalf of the Corporation.

"(iii) The Corporation shall strictly adhere to such goal when evaluating solicitation of services responses (from any source).

"(iv) Unless the Corporation finds that the goal established in clause (i) is being met, the Corporation may use restricted competition as a means for achieving such goal.

"(v) In the case of a joint venture, only that percentage of the contract dollars allocable to the joint venture which is equal to that percentage of the total interests in the joint venture which is held by minority individuals or women or companies owned and controlled by minorities or women shall be taken into account for purposes of clause (i).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) COMPANIES OWNED AND CONTROLLED BY MINORITIES.—The term 'companies owned and controlled by minorities' means any company—

"(I) if privately held, at least 51 percent of which is owned by 1 or more minority individuals; and

"(II) if publicly held, at least 51 percent of all stock in which is owned by 1 or more minority individuals.

"(ii) COMPANIES OWNED AND CONTROLLED BY WOMEN.—The term 'companies owned and controlled by women' means any company—

"(I) if privately held, at least 51 percent of which is owned by 1 or more women;

"(II) if publicly held, at least 51 percent of all stock in which is owned by 1 or more women;

"(III) a majority of the directors on the board of directors of which are women; and

"(IV) a significant percentage of the senior management positions of which are held by women.

"(iii) MINORITY.—The term 'minority' means any Black American, Hispanic American, Native American, Asian American, or Asian Indian American.".

The CHAIRMAN pro tempore. Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

Mr. WYLIE. Mr. Chairman, I am opposed to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman and fellow Members, the hour is late. I am hoping that we can be brief, succinct, and to the point on this last amendment. What I have to say I have said pretty much already, and I think it would not be wise at this point to be repetitious.

I would just sum up by saying that this is the only version that is a clear signal to the RTC that it has to get itself together. It has to improve and it has to be more responsive than it has been, as difficult as that may be, and less costly.

Mr. Chairman, the substitute before us, H.R. 1221, as reported by the Banking Committee, is the only measure which sends a clear signal to the Resolution Trust Corporation, a signal that says the agency must get its act together and operate in a more responsive and less costly manner.

The bureaucrats at RTC are watching and waiting.

A strong affirmative vote for the Gonzalez substitute will send the bureaucrats back to their desks with a new mandate to make this bailout work in the public interest. The message will go beyond just the language in this bill. It will be a new attitude, a new day—if we adopt this substitute.

A negative vote on this substitute will return RTC to business as usual with little or no change in the pace of the bailout or the arrogant attitude toward people who try to do business with the agency.

The provisions in the Gonzalez substitute are drawn from testimony in oversight hearings, hundreds of complaints from the public and concern expressed by our colleagues in the House. It is a modest package, but absolutely essential if we are to make RTC responsive.

Again, let me emphasize reform is not partisan. The billions going down the drain at RTC are funds contributed by constituents of Republicans as well as Democrats. This should be a bipartisan call for change.

The Gonzalez substitute includes: First, the appropriation of $30 billion for losses; second, requirements for a detailed plan to be submitted by RTC on how additional funds are to be expended; third, requirements that RTC use the least costly method in resolving failed savings and loan cases; fourth, improvements to speed up the sales in the affordable housing program by including housing in conservatorship and the elimination of minimum pricing requirements for eligible properties. Protections are included to avoid the arbitrary wipe-out of valid residential leases and unnecessary displacement of qualifying families; fifth, improvements in the handling, cataloging and sale of properties that have natural, cultural, recreational or scientific values of special significance; and sixth, improvements in RTC contracting to ensure specific goals for including minority- and women-owned companies.

Mr. Chairman, this bailout is a heavy burden on the taxpayers. The least we owe the taxpayers is a valid effort to make the program work at the cheapest possible cost. Funds without real reforms would be a terrible public policy.

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Mr. Chairman, I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, while the amendment offered by the chairman of the full Banking Commitee gets high marks for good intentions, if fails the test of reality.

We all support least-cost resolution, but the Gonzalez amendment sets out a procedure that inhibits—rather than helps—the RTC in closing insolvent S&L's.

The amendment requires the RTC to predict the future as to what method of resolution will be the least costly on the day that RTC walks through an institutions' doors.

The amendment ignores the fact that it often takes months to accurately determine an institution's assets.

It not only takes time to consider bids for a merger, but there generally are not any bids until the RTC has an institution under its control.

The result will be more delays, and higher cost to the taxpayers.

Instead of expediting the RTC process and saving the taxpayers' money, it makes the process longer and more expensive.

The Gonzalez least cost provision makes a clear distinction between banks and S&L's. That distinction may be enough to push weak S&L's into insolvency.

There have been no hearings on the provision. It should be rejected.

Other parts of the Gonzalez amendment:

Limit the sale of properties currently being held by the RTC;

Protect wealthy tenants in rent controlled apartments;

Strictly limit, if not prohibit, the RTC's ability to sell tenant-occupied properties;

Require the RTC to adhere to mandatory quotas for minorities and women; and

Add 6 months of delays in disposing of properties which may eventually be used for recreational purposes.

Now, I am not opposed to bowling alleys, but I don't think that they should receive special treatment at the taxpayers' expense.

These are highly controversial provisions. They are provisions that are not in the legislation passed by the other body. That means a long conference, and more delays.

At a cost of $8 million a day, we cannot afford delay.

We should reject the Gonzalez amendment and get on with the job of protecting the deposits of hard working Americans.

Mr. GONZALEZ. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the chairman for yielding this time.

Mr. Chairman, I rise in strong support of the Gonzalez amendment and I want to congratulate Chairman GONZALEZ for his hard work to bring this amendment to the floor.

Mr. Chairman, the Gonzalez amendment represents good Government and accountability at its best. However, perhaps more important, the Gonzalez amendment is also the best deal for the taxpayers and the depositors.

As everyone knows, the Resolution Trust Corporation has encountered many difficulties regarding its complex activities, and the result has been slow disposition of RTC-held assets. However, the most important aspect of the thrift cleanup effort is its escalating total cost which, if left unchallenged, will ultimately cost the taxpayers more money. The Gonzalez amendment will address these problems.

For example, as I stated earlier, the most important provision of the Gonzalez amendment will address the need to resolve failed thrifts in the least costly method possible. Currently, this is not a requirement under the FIRREA legislation passed last in 1989. No other amendment before us today contained such a provision. Currently, the RTC will often leave a failed institution in conservatorship for many

months forcing the taxpayers to pay the costs of running the thrift and to subsidize big depositors by granting them sufficient time to relocate their deposits out of the failed thrift. This is an intolerable practice which will be stopped by the Gonzalez amendment.

Simply stated, the Gonzalez amendment will require a quicker use of the cost test to devise the cheapest method for resolving RTC-controlled thrifts instead of waiting for months before running the cost test, as the RTC currently prefers. As a result, the taxpayers will not be subsidizing big depositors and the taxpayers won't have to pay to operate a failing S&L while the RTC decides what to do with it. As a result, the Gonzalez amendment will save the taxpayers their hard earned cash. In summary, if you believe we must limit the ultimate cost of the thrift resolution process and still ensure depositor confidence in our deposit insurance system, support the Gonzalez amendment.

A second facet of the Gonzalez amendment which needs to be emphasized is its provision which requires the RTC to conduct an inventory of its properties of special significance which possess special environmental, cultural, recreational or historical qualities. Again, the logic behind the rationale for such a list of properties is obvious—we must preserve our environment and our heritage. President Bush should agree with this amendment since it will help him to keep one of his more important campaign promises—environmental protection. Consequently, an inventory of these significant lands is an excellent start toward keeping the President's promise.

The third reason to support the Gonzalez amendment is that it will enlarge the number of properties eligible for purchase under the affordable Housing Program. Our national housing problem is growing every day. We in the Congress must move quickly to assist homeless and displaced Americans and improving the Affordable Housing Program is one part of the answer to our chronic housing problem. However, none of the other amendments before us today suggested any improvements regarding the Affordable Housing Program. Only the Gonzalez amendment seeks to accomplish this goal.

The final reason to support the Gonzalez amendment is fairness. The RTC contracting process has left minority—and women-controlled and owned firms out in the cold. The Gonzalez amendment will directly address this problem by including language that a majority of members on the Banking Subcommittee supported during committee markup. In particular, the amendment sets a very reasonable goal for the RTC to meet regarding its awarding of contracts to minority- or women-owned or controlled firms. It should be emphasized that no part of the Gonzalez amendment makes it mandatory to meet the goal. This is the only fair method to ensure proper levels of participation in the thrift cleanup process on the part of all of our citizens.

Mr. Chairman, in closing, I want to again urge my colleagues to support the Gonzalez amendment because it represents good Government, accountability, fairness and, most important, it will save the taxpayers money.

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have debated this amendment on several other occasions today, and I am not going to present all the arguments that I thought of a little earlier as to why I should be in opposition. I would say respectfully to the chairman that I cannot in good conscience support this amendment.

First of all, the gentlewoman who just preceded me said it does not amount to quotas. That is language that has to do with minority contracting. I respectfully suggest that it does—and I sometimes repeat for emphasis, and that is what I am doing again—it says an overall goal of not less than 25 percent of all contracting activities to be entered into with minority individuals or women or with companies owned and controlled by minorities or women, including prime contracts, subcontracts and joint ventures of which not less than 50 percent of all such contract dollars shall be allocated to companies owned or controlled by minorities and not less than 10 percent of all such dollars shall be allocated to companies owned or controlled by women.

□ 1920

"Shall" again. Mandatory language.

The goal shall apply to every type of procurement and every contracting activity, including conservatorship, entered into by the corporation and by the Federal Deposit Insurance Corporation on behalf of the corporation.

Again the corporation "shall" strictly adhere to such goal when evaluating solicitation of services responses from any source.

Mr. Chairman, I am not discussing philosophy necessarily here, and I respect the gentlewoman from Ohio [Ms. OAKAR] for what she believes. I happen to be opposed to quotas, and I think this language amounts to quotas, so that is one of the reasons why I am opposed to this amendment.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. Yes, Mr. Chairman, I am happy to yield to the gentlewoman from Ohio since I mentioned her name.

Ms. OAKAR. This is not mandatory, I say to my real friend from Ohio, and it is no different.

Mr. WYLIE. If the gentlewoman would yield back for just a second, and then I will go back to her, I would say I do not know how it can be more mandatory.

As I said a little earlier, the word "shall" is used five times in three paragraphs here. That is mandatory language, and it says that the goal shall be, shall be, at least 25 percent.

Ms. OAKAR. Mr. Chairman, will the gentleman yield? Would the gentleman let me finish? May I just ask his indulgence for a second?

Mr. WYLIE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, the issue is that the gentleman from Ohio [Mr. WYLIE] is emphasizing the word "shall." The issue is the goal. It does not say it mandates that this happen. It is no different than goals that we have for the Small Business Administration, goals that we have for NASA in terms of contracting out, goals that we have for Government agencies.

Mr. WYLIE. Reclaiming my time, Mr. Chairman, we mentioned NASA a little earlier.

Ms. OAKAR. It is not a quota. The gentleman from Ohio [Mr. WYLIE] knows that.

Mr. WYLIE. And in the case of NASA it is at 8 percent, but here it is 25 percent. But it says the corporation shall strictly, underline strictly, adhere to such goal in evaluating solicitation of service responses from any source.

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

Mr. WYLIE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Ohio [Mr. WYLIE] for yielding because I think it is important here that we begin to understand what the agenda is.

According to these folks, "If you don't call it a quota, if it doesn't say 'quota,' then it's not a quota." It does not matter that the language specifies a quota.

The gentleman is absolutely right. If my colleagues read this language, it says, "The corporation shall strictly adhere to such goals."

Mr. Chairman, that does not make them at all voluntary. It means that the corporation has to do exactly what it says and——

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. WALKER. It says that it has to have not less than 25 percent of all contracting activities apportioned out in particular ways. That is absolutely a quota.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, we are going to hear, if the gentleman will continue to yield, we are going to hear when we discuss the civil rights here before too long that there is no quota language in it. The fact is that now we find out that we have got the first quota bill before us, and they are going to use the same arguments here that

they will use later on, that since it does not say "quota" it is not a quota. Well, this is a quota. It may be called by another name, but this is a quota, pure and simply a quota, and the gentleman from Ohio [Mr. WYLIE] is absolutely right.

I say to my colleagues, "When you put mandatory language in, and you say you have to meet certain guidelines, that's a quota, pure and simple," and I thank the gentleman for yielding.

Ms. OAKAR. Mr. Chairman, would be gentleman yield so I can respond to the gentleman from Pennsylvania [Mr. WALKER]?

Mr. WYLIE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I would like to ask the gentleman from Pennsylvania [Mr. WALKER] if he is upset because somehow a few of us believe that, if we have a female-dominated firm, that they should not have a fair crack at getting a contract because that is certainly not—or a minority—is that what the problem is?

Mr. WALKER. No.

Ms. OAKAR. The problem is not having, as my colleagues know, the kinds of contracts spread around a little bit so that, if people apply and have the same type of credentials, that this Congress cannot say, "Be fair."

Mr. Chairman, I ask the gentleman from Pennsylvania, "Is that the problem you have?"

Mr. WYLIE. Mr. Chairman, I had some reporting language in my bill which talked about——

Ms. OAKAR. Mr. Chairman, I just want to have him address this.

I ask, "Do you have a problem with women-dominated firms having a contract?"

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

Mr. WYLIE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentlewoman from Ohio [Ms. OAKAR] because what I think is that there are a lot of companies owned by women and minorities that are fully qualified to do these jobs and can do them as well or better than any other company, and they ought to get the job based on their qualifications to get the job, not because we set quotas in the Congress. What we are doing is undermining their qualifications by setting these kinds of quotas, and I think it is an embarrassment. I think it is an embarrassment that Congress comes along and puts quotas in place that undermines the qualifications of these people.

Mr. WYLIE. Mr. Chairman, I would like to reclaim my time.

Ms. OAKAR. I think it should be based on qualification.

Mr. WYLIE. I want to make two other points before my time expires here.

One, there is some language on affordable housing which is not all that bad, but I do not think it should be in this bill either. It is in the nature of social welfare legislation. There is some language on protecting the environment in an amendment by the gentleman from Minnesota [Mr. VENTO] which I object to also, but I also want to make one important point on another issue which I feel strongly about, and that is on the issue of rent control.

Mr. Chairman, I have said time, and time and time again that in the areas where we have housing, a lack of housing, it is in rent control areas and that we could increase the housing stock if we could repeal rent control in some of these areas. Washington, DC happens to be one of those cities, but under section 203 of the substitute of the gentleman from Texas [Mr. GONZALEZ] the RTC will be prevented from abrogating rental leases for wealthy tenants in rent controlled apartments. Now the gentleman a little earlier said it would apply also to low income people, but that is not true. Low income people cannot be thrown out under any provision.

The RTC now owns nine units in an exclusive apartment building in Manhattan, which I have depicted here in this photograph, and it is located at 446 East 57th Street, better known as Sutton Place. As I mentioned earlier, the building is the home of the famous fashion designer Bill Blass and was once the home of Marilyn Monroe. One tenant now is paying $475 a month for over 2,000 square feet. Mr. Blass, as I mentioned a little earlier, is paying the market rent. He is paying somewhere in the neighborhood of $1,800 a month, I think, but the fact that under current law RTC cannot override these residential leases is losing the taxpayers $19,000 a month. U.S. taxpayers are subsidizing these wealthy apartments.

Mr. Chairman, I thought the RTC ought to have the opportunity to abrogate those contracts. In the bill they would not be able to do that.

I think I made the two points that I needed to make.

Mr. Chairman, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHEUER] who has been requesting time and has been following our legislation. He is a member of the Committee on Banking, Finance and Urban Affairs.

Mr. SCHEUER. Mr. Chairman, if my friend, the gentleman from Ohio [Mr. WYLIE], and he is my friend, thinks that $36,000 a year describes a wealthy tenant in one of these apartment houses, I would like to take him on a trip through my district in Queens or a trip through those luxurious condos in Manhattan.

□ 1930

I think, after a short trip, he would decide that $36,000 a year and above is an egregiously cruel and unfair and almost masochistic way to look at those tenants. We have had for over half a century in this country the Housing and Community Development Act of 1937. We have had the goal of decent, safe, and affordable housing for every American family. New York State and many other States have supported that goal by building houses and providing protection for tenants in rent-stabilized and rent-regulated apartments. Surely, it was not the intention of Congress in passing this legislation that set up the RTC to enable the RTC to wipe out our rent control laws and supersede statements of decency and concern for moderate income people in States like New York and many other States across the country that passed equivalent laws.

Are these wealthy people with $36,000? Do they mean to tell me that anybody making $36,000 in New York City or New York State is a wealthy person and should have his world shattered by wiping them out of the benefits of rent control or rent stabilization that they bought into in good faith when they moved into those apartments?

I think that is preposterous. It is unfair; it is arbitrary; it is discriminatory, and it is unconscionable, I say to my colleagues.

The problem with the RTC is that the people who headed up the savings and loans used egregiously bad judgment. They were negligent beyond belief in squandering the assets of investors who trusted them. Now are we going to solve that problem on the backs of tenants making $36,000 and supersede rent control laws of New York and other States across the Nation? Are we going to balance the books of the RTC on the backs of the tenants who happen by accident to live in a building they moved into in good faith, in reliance on rent control and rent stabilizaiton, because the mortgages on those buildings were held by savings and loans whose managers were egregiously negligent, stupid, and incredibly incompetent? Do we balance that problem on the backs of the tenants?

Mr. Chairman, that is downright offensive.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Chairman, I rise in opposition to the Gonzalez amendment.

Mr. Chairman, today we are considering a bill that will provide continuation of the funding for the Resolution Trust Corporation. A number of concerns are raised by this bill.

The funding is being treated as off budget. This keeps Congress from truly feeling the enormous burden that we are bearing. If we

knew that we had to cut domestic or defense programs to fund the RTC, I believe that we would not be so fast and free with our constituents money.

With the true debt for this year of over $378 billion excluding Social Security, based on OMB figures, we must be vigilant.

The volume of RTC expenditures is very disturbing. According to the RTC's own monthly review, expenditures will remain high for the foreseeable future. They will spend hundreds of billions of dollars over the next few years. Everyone of those dollars will be added to the Federal deficit.

Basic questions raised include: Why can't private enterprise perform many of the tasks that the RTC is performing? We have thousands of well run financial institutions, like the Pittsburgh National Bank in my district, that do what the RTC is doing every day. Why not assign failed institutions to these institutions and save the RTC overhead?

Why is the RTC maintaining performing loans in their portfolio? As of December 31, 1990, the RTC reports that they hold over $67 billion in performing loans in conservatorship and receivership institutions. This includes $36.5 billion in 1 to 4 family mortgages that should be readily salable in the secondary market.

A recent publication by the Center for the Study of American Business at Washington University, St. Louis notes that "the RTC may have lost U.S. taxpayers $40 billion by systematically mismanaging the assets for which it was ultimately responsible." This report goes on to note that the RTC "also has tended to retain failed thrifts' most troubled assets and to undertake every little entrepreneurial activity either to solidify or to improve the value of these assets".

I am convinced that over the next few years the Congress—each of us—will spend hour upon hour reviewing the mistakes, mismanagement, waste, and possibly abuse of the Government trust that has taken place under the RTC.

Let me cite a few examples that were uncovered by the center:

The RTC has not set a timetable so that potential investors could know well in advance when the various assets the RTC controls are likely to be up for sale." Investors—banks, not for profit housing corporations and others that might have an interest in purchasing assets find it difficult to review and plan purchases.

The Resolution Trust Corporation publishes no economic analysis of the costs and benefits of its decisions to hold or sell different assets.

Better salvage procedures are badly needed at the RTC. Too narrow a universe of bidders is solicited.

The priorities that guide RTC decisions are bureaucratic rather than economic.

Also in talking with individuals involved with the RTC in Pennsylvania and from around the country, I have uncovered additional concerns and observations. These are: Some financial institutions have expressed concern with being RTCized. That is the RTC is getting unnecessarily big, by taking over institutions that have been profitable but may not meet current capital requirements. These institutions have often filed capital compliance plans that will allow them to meet capital requirements by the 1994 "drop dead" date. Some have expressed concern that the RTC may be going too far in rejecting the theory of forbearance. Obviously, forbearance was exercised too broadly in the past, but there should be some middle ground.

Others have found that persons hired to run RTC takeover institutions are little more than order takers. The mode of operation seems to be "Washington knows best." The RTC could use better methods for tracking and controling activity. They have check lists galore. The RTC has gone "lawyer happy." Many hundreds of million dollars have gone to the lawyers. "Be sure and run it by the lawyers in ABC firm" has become the by phase. That it is common for RTC officials to not enforce guidelines, specifically "defalcation."

Some positive comments have been made about the operation of the RTC. These include: Obviously the RTC is in a tough position. They have taken a lot of hits. They are fine tuning. What are the alternatives? This is the best we can do considering the circumstances.

The RTC must focus on: Using better methods managing operations and disposal of assets. Established controls for fees paid to law firms. End the Washington knows best attitude! Institution the latitude to make decisions that make sense for the local area, institution, and the taxpayers. This is not an easy job. Therefore, the RTC should recruit the best proven managers to carry out this mandate. Provide regular reports to Congress detailing the costs and benefits of its actions. End of the fire sale mentality that dramatically reduces the value of its properties. The fire sale mentality in this period of weak real estate demand only exacerbates over supply.

Utilize private firms and healthy financial institutions to actually take over and manage failed institutions. The RTC should be in the oversight and control business, not the management business.

Encourage the downsizing of financial institution by reducing interest rates paid on liability and selling in an orderly manner assets at or near market value.

Develop alternative vehicles that will assist RTC in real estate sales. For instance, special tax incentives applied to RTC properties may be a way to increase sale price while at the same time reducing the need for cash subsidies.

SUMMARY

Immediate attention must be given to straightening out the RTC mess. A floor amendment that will help us to begin this effort is being offered by Mr. WYLIE. I support his effort to require that the RTC develop systems to manage its security portfolio, track and inventory its real-estate-owned assets, and evaluate the assets it holds as a receiver. I support, Mr. WYLIE's amendment which would also require that the RTC develop a program for consummating due diligence on one to four family mortgages and for marketing such loans on a pooled basis. This should have been one of the first order of business for the RTC.

Hopefully, we will be given a chance to vote on an amendment that during the initial Banking Committee markup of this bill, passed 28 to 16, but somehow was not included in the legislation that is before us. This amendment would increase State accountability. It would require that States, with "excessive costs" resulting from State-chartered thrift failures, pay a Federal Deposit Insurance premium. It makes sense that States that do not police their financial institutions well should pay for their negligence.

These amendments are a start in getting a handle on the waste and abuse of the RTC fiasco. Much more needs to be done!

I look forward to the day when the RTC is out of business. When the Federal financial institution regulators can count their yearly failures on one hand. When the American taxpayers can quit subsidizing federally insured financial institutions' "wildly speculative" loan policies. When financial institutions who have performed well are rewarded not penalized by Federal Deposit Insurance agencies. This day must be in the near not the distant future.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, the gentleman from Ohio [Mr. WYLIE] is exactly right in pointing out that the suggestion of a goal becomes a mandatory quota. He has read right from the words of the Gonzalez amendment.

What was not stated in the colloquy between the gentleman from Ohio [Mr. WYLIE] and the gentlewoman from Ohio [Ms. OAKAR] was that mandatory quotas increase the cost to the Government. There would be no need for a mandatory quota if a minority-owned business had the low bid. If they do not have the low bid and get the contract anyhow, that is going to cost the Government more, and the provision that is contained in the Gonzalez amendment will increase the cost to the taxpayers of the savings and loan bailout, and there is no way of getting around it.

Mr. Chairman, for fiscal reasons alone, I would hope that the Gonzalez amendment will be rejected.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. Mr. Chairman, I have only 1 minute, and if the

gentlewoman would like to carry on the discussion, I would ask her to please do it on her own time.

The CHAIRMAN pro tempore (Mr. COLEMAN of Texas). The time of the gentleman from Wisconsin [Mr. SENSENBRENNER] has expired.

Mr. GONZALEZ. Mr. Chairman, it is a privilege to yield 3 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I thank the chairman of the committee again for yielding time to me.

Let me, if I might, take just a moment to make a few points.

I came to this well less than an hour ago, and I was rather passionate about my position. Let me be a little less passionate for a moment and speak directly to some of the charges that have been leveled by the Members who are opposed to this particular amendment.

We keep hearing that this establishes quotas when we really know that it establishes goals. If we want to look at semantics, quotas mandate and goals suggest. So if we are to look at that, let me read from statuory language from other agencies that talks about goals and talks about the word "shall" in the same statement that constitutes the law of this country.

This is the Department of Defense:

A goal of 10 percent of the amount described in this subsection shall be the objective.

The Federal Aviation Administration:

The Secretary shall make sure that funds are expended to small and minority business concerns.

The Nation Aeronautics and Space Administration:

The Administrator shall annually establish a goal.

I could go on and on, but let us not play games about these two words. If Members do not like the bill because it allows the empowerment of women and minorities, please, let us say that. We are grownups and we can deal with that, but I ask the Members to not give us this game about this establishing quotas, because it does not.

The gentleman from Pennsylvania indicated that there are qualified women and qualified minority business people who would be embarrassed by the suggestion that we establish quotas for them. Let me tell the Members something. I ask them to talk to those minority and women business owners and look at their cash-flow statements. I ask the Members to read their qualifications. Yes, they are embarrassed, and they are hurt also.

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

Mr. MFUME. I am sorry, but I cannot yield.

They have to go through this nonsense just to be fairly treated on the bailout. Let us put it all on the table. There were no questions of quota on the battlefield 1 month ago in the Middle East. It did not matter that there were disproportionate numbers of women or minorities or anyone else. They wanted to get a job done. So do not tell me that now, all of a sudden, a goal is a quota, and that it ought not apply, because that does not speak, I think, to the American concept, the American dream, and the American ideal. Let us be honest about that. You and I both know that a quota and a goal are two different things. But when we ask people to give up $30 billion of money they do not have, there ought to be some semblance of fairness and some semblance of justice and equality and fair play.

Mr. Chairman, I ask the Members to support the Gonzalez amendment, and put that sense of fairness back into this bill.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, most Americans will not remember what we do here tonight, fortunately, but I think many of our grandchildren will, because many of them in the year 2020 will be sitting down on April 15 and writing out their check to the IRS and kind of questioning, "What is this RTC, after all?"

The action we are about to take in restructuring the process is going to have long-term effects and consequences.

How did we get here? Over a year ago this Congress acted and adopted the RTC. The legislation was over 900 pages. Member after Member has come here to this well tonight and said that we should not make an appropriation without some regulatory responsibility. The fact is that these 900 pages have created such a horror story that the RTC cannot effectively manage its resources.

So what are we faced with tonight? As we sit here, the RTC is the world's largest real estate broker, with 45,000 parcels of real estate. These are not subdivision lots. That is not an individual house, that is not one manufacturing institution. It is subdivisions, it is apartment buildings, it is manufacturing, and it is industrial parks.

Our hope for getting out of this mess is a logical, responsible sale of 45,000 assets to get our money back. We are borrowing against future profits.

So what do we have in the way of a suggestion to help us out of this problem? We have this substitute, and it is indeed interesting. If we simply go to the significant property section and take a quick look at that particular provision, we might understand this. And I understand the intensity of many Members with their environmental concerns, and I share those, but this provision goes far beyond simply environmental consequences. Many Members have come before committees of this House just recently and talked about their concern over the expansive definition of "wetlands" by the Corps of Engineers and all the regulatory precedents that creates for individuals who cannot build a fireplace in their backyard of brick any more because they are wetlands.

□ 1940

Now, does it make any sense that possible out of 45,000 parcels of real estate, there might be a few wetlands? Perhaps so. Now, that is not a bad thing that we shouuld protect them. But what does 302 provide? That you have to consult at least three more Federal agencies, then publish a list, and then make it available for 90 days to certain specific buyers who might be able to acquire it.

What does that translate into? If you like waiting today, you are going to love waiting after this gets through.

But 302 is not the only concern. Even though the RTC has said that that one provision will cost us $100 million. Now, those concerned about the long-forgotten taxpayer might want to start adding up here.

We then go to section 202, and it is an interesting provision. It provides that certain assets may be sold, if we go to the correct page 9, line 14, without regard to minimum price. Not an auction, not a publicly disclosed figure, a negotiated sale between a governmental bureaucrat and some other party, without regard to taxpayer return. Interesting. No estimate of cost on that provision.

But let us go to the heart of the matter. Let us go to the important section of this whole program. It is the new ironically labeled least-cost provision. You would be amazed to know there is a least-cost provision already in the RTC/FIRREA legislation which outlines as its goal the same thing this provision does. The extraordinary provision is the provision in the law says you cannot be a bad faith operator, you cannot be convicted of insider dealing, speculative business practices. You have got to be a good guy to get open thrift assistance.

This says none of that is necessary. If the cost of resolution than the cost of the assistance, then this provision, is my judgment, will allow those operators to get that help.

The RTC's estimate of cost on that provision is a minimum of $13 billion and a maximum of $25 billion. If you are worried about the taxpayers or your grandkids, do not vote for this. They are going to think about you for a long time.

Mr. GONZALEZ. Mr. Chairman, I yield 6 minutes to our distinguished ranking member, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I would like to ask the gen-

tleman from Ohio [Mr. WYLIE] a question first. On this bill, where the gentleman talks about the pace of resolutions, is the gentleman saying that under no circumstances can an institution remain in conservatorship for longer than 9 months? Do I read that correctly, that 9 months is the absolute limit of a conservatorship?

Mr. WYLIE. Mr. Chairman, if the gentleman will yield, that had to do with the goals. They do not have to be strictly adhered to.

Mr. FRANK of Massachusetts. I thank the gentleman, and reclaim my time. Apparently when the gentleman mentions a goal here for conservatorships, it does not have to be strictly adhered to. It is just a statement of intentions. But when the gentleman from California, the gentlewoman from California there, the gentleman from Maryland, when they say "goals," it becomes absolutely unshakeable. Apparently what is a goal for the Republicans is not a goal for the Democrats.

I would say I asked the gentleman the question, Does this mean they have to have 9 months? He said no, it was just a goal.

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

Mr. FRANK of Massachusetts. I will yield to the gentleman again, to change his mind.

Mr. WYLIE. No. I would like to read:

> The Corporation shall strictly adhere to such goal when evaluating a solicitation of services from any source.

Is that a goal or a quota?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I asked the gentleman to interpret for me the following, "pace of resolutions." This is on the substitute offered by the gentleman from Ohio.

> The Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship, with the goal that no institution shall be in conservatorship for more than 9 months.

My point is that if I was going to read this as unreasonably as he has read this bill, that would have been an absolute unbreakable 9 months. So I asked the gentleman, does this mean a goal of 9 months? That it has always got to be unshakeably 9 months? The answer was "No."

I suggest what the gentleman is doing is using two different standards of interpretation. Now, what we heard from another speaker was that this is like the civil rights bill, and I would say to a great extent it is.

I would make this recommendation to Members: vote as you did on the civil rights bill. You have heard from the other side. They said this is like the civil rights bill. They are applying the same kind of interpretation here that they did on the civil rights bill.

But I want to address a couple of other things.

The gentleman from Ohio [Mr. WYLIE] said this has affordable housing in it, and he said he does not mind that. He does not object to that. But it is social welfare legislation.

Horrors. What have we come to? Those bad words, social welfare legislation.

Last week many Members on the other side were on the floor asking that significant taxpayer moneys, far more than we are talking about in this particular provision, be made available for a program that would help low-income people become homeowners.

My point is that the insertion of this provision here would allow low-income people to become homeowners much more cheaply than last week, because we are dealing with very low rent, in the literal sense, properties.

The RTC has been giving away a lot of these properties virtually. The gentleman previously quoted a phrase that said without regard to market price. They have been giving away the properties almost.

What we are saying is, as long as you are giving them away, give them away to poor people. So our provision does interfere with their mandate, that is true. It says you cannot give them away to rich people if there are poor people who can take them.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I just want to ask two questions, because I am not an attorney and I do not fully understand some of these things sometimes.

First of all, as I understand, on page 18 it says, "The Corporation shall strictly adhere to such goals."

Does the term "strictly adhere" change at all the meaning?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, not in the context we are talking about, I would say to the gentleman. But he can ask his second question, and I will respond to both.

Mr. GINGRICH. The second question is, assume that you are a bureaucrat and you read this and tried to interpret it, and you had three solicitations before you, one from a male minority, one from a female, and one from a white male, and you said to yourself, what does this term, "strictly adhere to such goal when evaluating," mean?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I will be glad to respond to the gentleman in two ways. First of all, it means, in general, the same sort of things that gentleman from Ohio meant when he used the words "goal' and "shall."

Mr. Chairman, I did not write the language. I did not ask the gentleman from Ohio [Mr. WYLIE] for the interpretation. He gave it to me.

I would say to the gentleman from Georgia [Mr. GINGRICH], and repeat again, people on the other side have told you, treat this like the civil rights bill. They have told us they are interpreting this with the same clarity and compassion that they showed in the civil rights bill.

I would say if you were in the RTC and you were looking at this, you would interpret this in a general context of legislation. You look at the goal. You understand the difference between a goal and a mandated requirement. "Goal" does mean something different, as the gentleman from Ohio [Mr. WYLIE] said, and "strictly adhered to" means you try very hard to reach those goals. If you cannot reach them, then you have not reached them.

But I do not want it to be only on that. I want to stress again two points. First of all, the Senate has given the Secretary of the Treasury exactly what he wanted. The Senate apparently, while I cannot ascribe motives to the Senate, but those who think that it is lese majeste for the Congress to suggest how the RTC should operate, would be very pleased with the bill that came out of the Senate.

We are saying that we want to deal with affirmative action, we want to deal with the environment, we want to deal with housing. The Senate leaves it alone. Is this language absolutely perfect now? No. Members on this side who sponsored the amendment regarding minority outreach and women have said over and over again they did not mean it to be mandatory.

If the gentleman from Ohio [Mr. WYLIE] wants to read that as he reads his own language, to make it mandatory, we can go to conference, given this united purpose, and we can easily clean it up. But that is not what they want to do. They want to use the word as a stick to beat this to death with, because they want to do what the Treasury has asked, give them $30 billion and shut up about it. Do nothing to improve minority outreach, do nothing to protect the environment, and do not help low income people get housing. That is not going to work.

Mr. WYLIE. Mr. Chairman, I yield myself 30 seconds to respond to the gentleman from Massachusetts [Mr. FRANK].

In my amendment, my amendment says:

> The Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship.

But the language which is in the bill, and I could not have objected to it quite as much, it says, "shall strictly adhere to such goals."

I submit that "strictly adhere" is far more restrictive language than "all reasonable and necessary steps," when evaluating solicitations of services responses from any source.

Mr. GONZALEZ. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

□ 1950

Mr. FRANK of Massachusetts. Let me agree with the gentleman in a way.

I would say to the gentleman from Ohio that I am going to try to agree with him, which he will probably resent. I would be prepared as a supporter of this, when we get to conference, and we cannot do it here, to take out the words "strictly adhere to," and use his words, "reasonable and necessary." If the gentleman would agree to that, we could all agree to that, and we would not have an issue left, which is why the gentleman probably will not agree to it.

Mr. WYLIE. I might. As a matter of fact, I made that offer a little earlier, I would say to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to amend this bill to insert the phrase, "reasonable and necessary," where the phrase, "strictly adhere," applies.

Mr. WYLIE. Mr. Chairman, this is no point to make an amendment. That is beyond the rule.

The CHAIRMAN. The Chair had not recognized the gentleman from Massachusetts. The gentleman from Ohio had the floor.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I am glad to see that the gentleman from Massachusetts is recognizing the problem we have in this particular section of the bill dealing with the terminology that lawyers deal with all of the time. "Strictly adhere" is indeed a definite quota, and that unfortunate language is in the bill now. Maybe we will get an amendment to it in a second.

But that is not all that is wrong with the provisions of the Gonzalez amendment. It is just simply a symptom of what is wrong with these proposals that are here.

What we ought to be doing tonight is clearing the way to make things simpler for the RTC to be able to dispose of the property it has, not adding new burdens to it, not adding new impediments to it. We need to be trying to make it so that the costs are less, not just throwing new language out that says least cost this way, and we direct you to do it that way and so on.

As the gentleman from Louisiana pointed out a few minutes ago, we have already passed 900 pages of law directing them what to do. I happened to think that that was very complicated. I did not vote for that bill, that FIRREA bill back a year or so ago, because I thought it was going to set up a big mess, and in large measure we have. But we are on that train now, and the only issue important to this Congress right now ought to be how to stop the clock from running up $9 million a day that we are losing by wasting time and not providing the $30 billion needed so that they can resolve or get rid of the 95 failed savings and loans that are already out there, the very simple, basic Wylie bill that underlies all of this.

What we ought to be doing instead of getting another amendment, which we do here with all of these additional provisions in it of restrictions on the RTC that the Gonzalez substitute would do, is simply defeat the Gonzalez amendment as we have done the other amendments tonight, and let the freestanding Wylie bill, stripped down, nothing but the $30 billion amount of money, go to RTC to get their job done.

Mr. Seidman, the chairman of the Federal Deposit Insurance Corporation that has to oversee the whole problem of resolving these folks, says that provision in this amendment that Mr. GONZALEZ has offered is going to cost not only more dollars to the RTC and the FDIC, but is going to make their task difficult, and is going to create a disparity between how we resolve failing banks and failing thrifts that may well drive depositors of savings and loans over to banks, and that is going to cost the taxpayers more money. We ought to listen to the chairman of the FDIC. He is a pretty responsible guy.

As to the minority contract provisions, however the debate comes out on that tonight, why do we need to do it? We already know that of the 5,924 contracts awarded by the RTC to date, that 21 percent of those have been awarded to minority- and women-owned firms. They have done that voluntarily, without anybody putting goals or quotas or anything else in here.

In addition to that, of the total dollar value of those contracts, 28 percent, 28 percent have been awarded already to minority- and women-owned firms. So what are we debating that issue over? Why are we putting all these new restrictions in and costly provisions in the law? We ought not to be doing it.

I urge defeat of the Gonzalez amendment, and I urge the final vote in favor of the Wylie bill, stripped down in its naked $30 billion funding form.

Mr. GONZALEZ. Mr. Chairman, may I inquire as to how much time we have remaining on this side?

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] has 12 minutes remaining, and the gentleman from Ohio [Mr. WYLIE] has 9½ minutes remaining.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. WEISS], a hardworking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WEISS. Mr. Chairman, I very much appreciate the distinguished chairman of the committee yielding time to me.

Mr. Chairman, every Member of Congress is familiar with the horror stories about the Resolution Trust Corporation's ability to sell its real estate assets.

Now it seems that the RTC is not only having difficulty selling its assets, but managing them as well.

As Congress debates giving the Resolution Trust Corporation $30 billion, the RTC is trying to evict tenants out of their homes.

One might ask what the tenants did to be evicted? The answer is: They had the misfortune of holding a valid lease in a building that is owned by the RTC. For that crime, the RTC wants to send them packing.

Mr. Chairman, this is an outrage. In New York City, the RTC has plans to evict nine tenants from a building on East 57th Street, and it has similar plans for at least 900 other apartments in the city. I want to clear up three myths that are clouding the debate on the RTC's actions to abrogate tenant leases.

Myth 1 is that the RTC will save the American taxpayer money by nullifying the leases. This is false. The RTC will not save any money. In fact, unless Congress passes the Gonzalez substitute which contains a limitation on the abrogation of tenant leases, the RTC stands to lose money.

That's because the big savings the RTC expects to reap by breaking the leases will surely be lost in legal fees.

Already, the State of New York and some of the evicted tenants are challenging the RTC in court. Each eviction will cost the RTC about $5,000 in legal fees. If the RTC carries through with its plans with the 900 or so other apartments, its actions could cost the Government $4.5 million or more. What's more, the CBO cost estimate of the entire affordable housing title is less than $1 million. This cost-benefit analysis clearly shows that the RTC stands to lose money, not save it.

The second myth is that the issue of tenant protection is only a big city issue.

As the RTC currently interprets its authority, it can go into any multifamily building in America, decide the rate of return on the building is insufficient, and boot the tenants out. That means that any congressional district that has a multifamily building owned by the RTC is in jeopardy and I would remind my colleagues that the RTC owns a lot of property in a lot of congressional districts.

The fact that this would happen in New York City is obscene given the housing shortage the city is currently experiencing. Where does the RTC expect these people to go? Why doesn't the RTC simply sell the buildings as occupied?

I would also like to point out that the vast majority of the multifamily property the RTC owns in New York City is not in the affluent areas, but in the lower to moderate income areas, like Queens.

The last myth is that the problems with the RTC will go away if Congress gives the RTC $30 billion now and shuts up. If we were to follow this path, we would be saying to our constituents that there is no room for meaningful reform of the largest real estate owner in the Nation.

Nobody believes that. There's plenty wrong with the RTC's activities, and it is Congress's duty to correct it, since there is no leadership coming from the White House on the issue.

My constituents are being asked not only to pay for the savings and loan bailout, but they are being evicted from their homes. In the face of these activities, Congress will not and should not rubber stamp a RTC spending bill that contains no reforms. To do so would be a breach of proper congressional responsibility.

The very reasons I support the tenant protection provisions in the Gonzalez substitute led me to vote against the Slattery proposal. Although I support the principle of putting RTC funding on a pay-as-you-go basis, I voted against the substitute because it did not contain provisions that protect my constituents from the RTC's plans to evict certain tenants from their apartments in New York City. As much as I would have liked to have voted for the Slattery amendment, I could not in good conscience abandon my constituents on such a vital issue as losing their homes.

I want to thank my colleagues, particularly Congressman ENGEL, Congressman SCHUMER, and Chairman GONZALEZ, for their leadership on these reform proposals, particularly the protection of tenant rights. I strongly urge my colleagues to vote for the $30 billion with the modest reforms set forth in the Gonzalez substitute.

Mr. WYLIE. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia, [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I thank the distinguished gentleman from Ohio for yielding the time to me.

Mr. Chairman, let me say that the weaknesses of the amendment are illustrated by the fact that one of the supporters wants to ask unanimous consent to amend the amendment in the middle of the legislative process, and frankly that is how we get bad law.

First of all, it was inspirational of our good friend from New York defending the right of wealthy people in New York City to be subsidized by the Federal Government to the tune of $2,000 a month per apartment. I know of his commitment to fairness, but I think $2,000 a month in subsidy by the taxpayers per unit is a little bit ripe.

Second, the drafting is peculiar. I want to again go back because I double-checked with several attorneys who disagree with our good friend from Massachusetts. Where it says on page 18 and 19, "The Corporation shall strictly adhere to such goal when evaluating solicitation of services responses," I went to Webster's Third New International Dictionary. "Strictly" is defined as "in a strict manner, without latitude." "Strict" is defined as "particularly severe in requirement, permitting no evasion." Permitting no evasion.

I would suggest that, just to stay on this one example out of many in this particular amendment, this language would clearly mean to any reasonable civil servant that when faced with three solicitations, one contract offer by a woman who is part of the 10 percent part of the quota, one part offered by a male of a minority which is part of the 15 percent of the quota, and one offered by a white male, a majority male, that that civil servant would have to conclude that their first recourse, before evaluating any other aspect of the solicitation, would be to check and see whether or not the quota had been met.

Now I do not see how any reasonable person looking at this language could reach that conclusion, but I turn to my friend from Massachusetts for an explanation of how a reasonable person could reach that conclusion.

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Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to my friend, the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would rather say, rather than bog down in this argument, because it is going to be a source, but if Members would agree, we could amend it. The gentleman said my willingness to do a unanimous-consent amendment shows poor drafting. I will admit to imperfect drafting in every bill we have ever seen. That is why we had a conference committee.

I think a word is being artificially seized upon to cover up a substantive disagreement, and the way to deal with that is that the chairman could have unanimous consent if the gentleman would all agree that the chairman or somebody else could get unanimous consent to do away with the word "strictly."

Would that change the gentleman's opinion one iota?

Mr. GINGRICH. No. My point was very simple. It seems to be a little difficult for the gentleman from Massachusetts to accept it. My point is we have an entire amendment which on the one hand is subsidizing wealthy apartments in New York City.

Mr. FRANK of Massachusetts. Mr. Chairman, that is not the amendment we are discussing.

Mr. GINGRICH. It is all in the Gonzalez amendment.

Mr. FRANK of Massachusetts. If the gentleman will yield birefly, it is in the overall amendment, but the part that he was talking about had to do with rent control in New York City, not the "strictly" part of it. I was objecting to that. It seemed to me the gentleman was confusing the matter.

Mr. GINGRICH. The entire Gonzalez amendment is filled with these kinds of errors.

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

Mr. GINGRICH. I am happy to yield to the gentleman from Maryland. On which point?

Mr. MFUME. On the question the gentleman first raised about the word "strictly."

Mr. GINGRICH. Mr. Chairman, if I have the time, I will be glad to yield on "strictly."

Mr. MFUME. Mr. Chairman, "strictly" is an adjective that modifies the verb "adhere" that speaks to the noun "goal." And "goal" does not require. It does not mandate. It suggests. So we could get hung up on semantics all day long. It just means that you are going to try to reach the goal.

Mr. GINGRICH. The gentleman is demonstrating the essential reason we have not yet found a way to pass a signable civil rights bill. The fact is that "strictly adhere" interpreted by virtually anybody in this country——

Mr. MFUME. We do not have a civil rights bill because people do not want to pass one.

Mr. GINGRICH. Mr. Chairman, let me say to my friend that "strictly adhere" as interpreted by virtually any attorney except our friend, the gentleman from Massachusetts, and I have asked a number on our side, "strictly adhere," as interpreted by virtually any civil servant, means that if you are a civil servant and you end up with a solicitation, you are going to start by analyzing whether or not you filled your quotas before you evaluated it for any other reason.

Mr. MFUME. You are going to strictly adhere to the goal, not a quota. You are not going to adhere to a goal.

With all due respect to the civil rights bill, I do not know how we can communicate it to you, but I think it did not pass because Members here did not want the civil rights bill.

Mr. GINGRICH. Let me just, if I might, and I think I am going to run out of time for the third time, let me just say that we introduced today a civil rights bill which, if the gentleman would help us pass it, we could get it signed within 60 days. It is a civil rights bill that accomplishes 90 percent of what the gentleman wants to accomplish. I would just suggest to the gen-

tleman that we very much want to pass and sign civil rights bill without quotas.

Mr. MFUME. I would ask the gentleman: What happens to the other 10 percent?

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I rise in support of the Gonzalez substitute being considered today. I want to thank Chairman GONZALEZ for including language based on my bill, the Tenant Protection Act of 1991, in this amendment.

The savings and loan scandal has resulted in a few people getting richer and the rest of America picking up the tab. Now, the RTC wants to make it worse by throwing law abiding tenants out of their homes. This policy is a disgrace and a slap in the face to hard-working Americans. I am pleased that this amendment will put a stop to this horrible and unfair practice.

Specifically, the Gonzalez amendment requires the RTC to act like any other landlord when dealing with occupied residential properties by forcing it to obey State and local tenant protection laws when attempting to abrogate leases. This provision protects tenants around the Nation from wrongful evictions.

The Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA] created the Resolution Trust Corporation [RTC] to close insolvent savings and loans and to manage properties previously held by insolvent institutions. The RTC has interrupted FIRREA to allow the agency to cancel all contracts, including residential leases, even if the tenants are paying rent and abiding by State and local laws.

The RTC is currently attempting to cancel existing leases in New York City in order to sell the apartments as co-ops or condominums. The RTC has also been attempting to use the similar practices on people living in section 8 housing. In performing these evictions, the RTC would be overriding existing State and local laws designed to maintain affordable housing and protect tenants from unjust evictions.

The people being affected by the RTC's actions are low and middle income. The RTC currently has taken over 563 properties in the New York City area and 501 of them have an average appraised value of $55,000 per unit. These are not luxury apartments.

These apartments are occupied by hard-working Americans who scrape together the rent every month and try to do the best for their families. Throwing them out of their houses so that the RTC can sell or rent the apartment for a little more money is an outrage. While this is currently occurring in New York, it could happen anywhere because the RTC believes it has the power to cancel anyone's lease at any time under FIRREA.

There is more at stake than just the protection of tenants. If the RTC is allowed to continue with this practice, its actions could have broad implications on the sanctity of State and local laws.

It is amazing that an administration which is constantly stressing States rights and preaching against mandates from the Federal Government is now trying to totally ignore State and local laws. I guess this administration's attitude is to support States rights only when it is to its benefit.

Allowing the RTC to continue its current residential lease abrogation policies is extremely dangerous. It will not only cause innocent people to lose their residences, it could create a situation where the RTC and other Federal agencies are dictating land use policies to States and localities.

Mr. Chairman, it is important for us to uphold the sanctity of State and local laws and to protect law-abiding tenants from arbitrary and wrongful eviction by a government agency. The Gonzalez amendment will accomplish this goal by removing the agency's right to override State or local tenant protection laws. I urge my colleagues to support this important amendment.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, it is obvious that we have gotten in a heck of a mess here with this Resolution Trust Corporation.

I voted for the FIRREA bill when it came up for one simple and basic reason. I wanted to make sure the Federal Government maintained its commitment that those depositors who had up to $100,000 in those accounts would see that the full faith and credit of the Government was behind it and we would not abrogate our responsibilities. That is the reason I voted for that thing.

Mr. Chairman, there were a lot of other provisions in it which concerned me greatly, and as I look at the major complaints which have emanated from those out there looking at acquiring RTC properties, those 45,000 properites that we have heard of, it is apparent that much of what we put in this legislation has played a major role in seriously jeopardizing our goal of speedily moving those properties out into the marketplace.

As we look back at the FIRREA legislation, there are three conflicting measures in there which make it more and more difficult for the RTC to move these properties. No. 1, they are charged with maximizing the recovery of funds for the Government; No. 2, minimizing the negative impacts on local housing markets; and, No. 3, maximizing the preservation of affordable housing.

Mr. Chairman, all of those are very admirable goals, but the fact of the matter is that complying with those constraints has played a major role in delaying the movement of those properties out into the marketplace.

As we look at the Gonzalez substitute, as it is proposed, Mr. Chairman, it seems to me this will simply exacerbate an already serious problem. It is apparent to me that what we need to do is move ahead as quickly as we can.

This thing is costing us $8 million a day. We have got to move ahead quickly, get this stuff out so that the marketplace can run its course, and do not burden it down with all of these onerous provisions.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman and Members, the RTC has been irresponsibly managed.

Many of us are willing to hold our noses and vote for this $30 billion appropriation, but only if there is some oversight and only if there is some fairness.

They have done a poor job, and you want them to continue to do a poor job. You talk about wanting to protect those savers who thought they were going to be guaranteed that they would be protected by this Government; well, you cannot do that.

□ 2010

They have done them wrong to begin with, and they will exacerbate the problem if they allow this bill to go through funding the RTC without any oversight. I say to Members, many Members on this floor today will not vote for a bill unless there is oversight, there are protections, and there is some fairness. If the administration wants to fund the RTC, and I know the administration desperately wants to fund RTC, Members will accept the amendment and accept the Gonzalez proposal, and get on with the business of funding it. Otherwise, we are not going to get anywhere and we will not have anything.

Mr. GONZALEZ. Mr. Chairman, I would like to make an inquiry of the gentleman from Ohio [Mr. WYLIE]. As I understand it, the gentleman from Ohio is entitled to close this debate?

The CHAIRMAN. The gentleman from Ohio is entitled to close.

Mr. WYLIE. Since I am in that position, I reserve my time.

Mr. GONZALEZ. Mr. Chairman, it is a privilege to yield 5 minutes to the gentleman from Minnesota [Mr. VENTO]. I am not saying this because I am trying to butter any Member up, but the gentleman that I yield time to

for the closing of our side of this debate, the gentleman from Minnesota [Mr. VENTO], has chaired and will continue to chair the task force on RTC. If there is any Member that knows anything about RTC, we will hear from him now.

Mr. VENTO. Mr. Chairman, I want to thank the chairman of the committee for his very generous remarks. The last 18 or 19 months, a lot of Members have been spending a great deal of time on this issue, and I am pleased to have had that opportunity and to serve this House in that way.

Mr. Chairman, I think we are at the point where we need to make our minds up to do something about the way the RTC is functioning. We all recognized the problems in 1989 were serious, and tonight in 1991 they are much more serious. The problem has grown by two or three times what we thought it would be in 1989. It is not a $50 billion problem anymore. It is not a $135 billion problem in just actual losses, but much greater. Most Members do not think about the 1988 deals that are costing money.

The fact is the RTC has a big job, and we find problems with the way the law was written and the way it should function. The Gonzalez amendment goes a long way toward trying to provide some of those answers.

I support that amendment, and I urge my colleagues to do the same. The fact is that if we look at this amendment, and what it is trying to accomplish, we are trying to deal with the basic costs of what the RTC is going to be, what the taxpayer bill for the RTC is going to be.

First of all, we have a least cost amendment which says we will try to work this out in a way that is least costly to the taxpayer. I do not know any Member in this body that can frankly vote against that. I think it represents what the goals are in the RTC. I think everyone in this body should agree with that. That is probably the most important part of this amendment. It deals with the cost of this particular program.

Beyond that, this particular amendment, of course, provides the necessary dollars, the $30 billion. I think all Members recognize it is necessary, but I want to point something out in terms of the brain-dead S&L's still operating. The fact of the matter is that unless we make the RTC work, the problem of those dead bodies is going to remain within the RTC, so we have to make the RTC get rid of the $150 billion of assets that it is sitting on. Members want to give it the ability to do that, resolve the institutions in the least costly way in terms of dollars we spend, and make certain that the assets that were dead on the outside do not remain dead on the inside of the RTC, which is what is happening. That is the outrage that this body feels in terms of the concern with the way the RTC is functioning. If they have some properties that can be useful to the general public, that are only costing money to manage, we ought to move them out.

There are a couple of amendments here, including the affordable housing that address the issue. Why wait until something is in resolution—receivership? This Gonzalez amendment says: Deal with it when it is in conservatorship, in the inception, and move the property out. That is what is costing money to administer. Most of the assets of the RTC are in paper. They are not in property. But when the nonperforming loans continue to nonperform, they can convert themselves into property.

Only 10 percent of the assets of $150 billion are in actual real estate owned. So this amendment says to move it out, sell it. In fact, we are probably better off almost giving it away. The RTC oversight board has suggested as much. If we have some properties that are of environmental concern, that have cultural, historic, or other qualities that are important to the people of this Nation, that are close to conservation units, we should give those agencies at the national level, the State level, the opportunity to incorporate and utilize that property. If there is any silver lining in this, that ought to be it.

One of the issues is the buzzword "quota." We have that down. We think we know how to get a knee-jerk reaction. I say with regard to that issue, as we look at the specific words here; text, without context, is pretext. That is what we have here. We have a buzzword. We have a knee-jerk reaction to something. We have a goal in this, which of course is to provide the opportunity to minorities, for women, to have an opportunity with the biggest corporation that we have created in this Nation in a long time.

I think it is proper. I think it is absolutely essential that we have affirmative action with regard to that type of program. It would be a scandal if we did not make an effort to try and recognize that and incorporate those provisions.

Members, I might say one last thing with regard to the issue dealing with the contracts and rents. The only contracts, it seems to me, that the RTC ought to hold up were the golden parachutes for the executives that were coming out of those failed institutions. Unless they are criminals, the RTC bent over backward to say that a contract is a contract. We have to pay these people half a million dollars a year, and after they have worked for 6, 7 months, they are still on the contract. They were still under the contract getting those types of salaries.

I will tell Members that there are other contracts that are important too, like those that affect someone on a limited income, living in New York City, or some other place across this country, that deserve the opportunity to have a reasonable contract fulfilled in terms of what their rent is. That is all they say. Do not throw people out on the street. We should not put the responsibility for the RTC bailout on their back. They are a low-income person. They do not deserve that responsibility. Put the onus where it belongs, and quit trying to pile it on the poor. Vote aye for the Gonzalez amendment.

Mr. WYLIE. Mr. Chairman, I yield myself the remaining 2 minutes.

I think this is a well-intentioned amendment, but it will raise the cost. It will subsidize wealthy people in New York City in their apartments, and I am surprised that the gentleman from New York came and suggested that it is fair for people who are making $25,000, families who are making $25,000 a year, to subsidize the apartments of millionaires in New York City. Now, I had offered a proposal a little earlier on the issue of minority contracting. There was an attempt made by unanimous consent to change the language which called for strict adherence. I had suggested that we attempt to reach goals on minority contracting. This language in the bill calls for quotas, I submit. I think the substitute is fatally flawed in that regard. I think it is fatally flawed in that there is this subsidization for wealthy tenants.

I had offered some management reforms which were talked about here a little earlier. They were voted down. I think that the debate has been very well stated here. All the various Members have had an opportunity to express themselves. I recommend a no vote on the Gonzalez substitute.

Mr. ACKERMAN. Mr. Chairman, I rise in strong support of provisions contained in the Gonzalez substitute to H.R. 1315, which would prohibit the Resolution Trust Corporation [RTC] from circumventing State and local laws and evicting tenants from property it has obtained title to.

As you know, with the enactment of the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA], Congress charged the RTC with conducting its case resolutions and asset sales in a way that maximizes return to the Government, stabilizes local economies, and gives taxpayers something back for their money. The measure also directed the RTC to administer an affordable housing program and strengthen existing laws against redlining. Unfortunately, the RTC seems to have taken a selective approach to the law.

While one of the broad powers given to regulators allows the RTC to cancel all contracts, including residential leases, the agency is failing to uphold the spirit of FIRREA's affordable housing provisions by evicting long-standing tenants from property it has obtained title to in an attempt to improve sales prospects for the then-vacant apartments. In the case of New York, these evictions would circumvent State and local laws designed to maintain affordable

housing and protect tenants from wrongful evictions. The planned evictions would exacerbate an already acute shortage of affordable housing in many communities around the Nation. It makes no sense to try to resolve the savings and loan crisis by adding to the country's acute housing shortage. Surely, we can find better ways to deal with the problem than to undermine the availability of low- and moderate-income rental units.

Under the Gonzalez substitute, the RTC's authority to abrogate residential leases or tenancy will be limited to action permitted under State and local law. By rescinding the RTC's right to preempt State and local laws, this measure will protect tenants from wrongful eviction and help maintain affordable housing around the Nation.

I urge my colleagues to support passage of this important legislation.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in opposition to the Gonzalez substitute amendment. Earlier, my colleague Congressman WYLIE, ranking minority member on the Banking Committee, elaborated on the problems which would result from the adoption of the Gonzalez amendment. At this time, I would like to emphasize a few of his points.

The chairman of the Banking Committee, Mr. GONZALEZ, has put before this body a proposal which would prevent the RTC from handling business in an effective and cost-efficient manner. Instead, it includes provisions which would actually increase the cost to the taxpayers and burden the RTC with additional demands which will prevent them from doing what they set out to do, close failed thrifts and repay the protected depositors.

The chairman's least cost provision creates yet another convoluted resolution procedure through which the RTC must maneuver. The effects of such a change could result in unexpected cash outlays and could cause the unnecessary failure of weak, but currently solvent, thrifts. Additional and unnecessary failures will cause the RTC to ask for an increase in funds.

Changes made in affordable housing rules included in this amendment prompt an additional cost and will cause a violation of last year's budget resolution.

Finally, the Gonzalez amendment proposes minority contracting goal of 25 percent; of which 15 percent is allocated for minorities and 10 percent for women. The RTC is making efforts to attract qualified minority contractors. I support the RTC's efforts in this area and I am in favor of establishing goals, not quotas, for actively seeking out minority and women contractors.

For budgetary reasons, I will vote against the Gonzalez substitute amendment, and in favor of a bill which will allow the RTC to get on with the business of closing down failed thrift institutions and protect depositors.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today to explain to my colleagues the implications of passing the Gonzalez substitute. Because the House rules were waived on the substitute, the zero cost estimate provided by the Congressional Budget Office is not included in the substitute. However, it has been reported to me that the Office of Management and Budget, who will ultimately determine the substitute's cost, believes that these amendments will increase outlays by approximately $175 million for fiscal years 1991 and 1992.

The implications of the OMB cost estimate is that five programs will be sequestered up to their maximum. The automatic spending increases in the National Wool Act, the Special Milk Program and the vocational rehabilitation programs for fiscal year 1992 will be completely rescinded. In addition, the maximum reduction in the Guaranteed Student Loan Program will be made and all State increases in the Foster Care Maintenance Payment Rate and Adoption Assistance Program will not be matched by the Federal Government. Also, it is likely that all Medicare providers will receive a reduction in their reimbursement through a minisequester next fall.

I think that all Members of the House should be aware that adoption of the Gonzalez substitute could result in a significant sequester by OMB in the Foster Care, Medicare, and other programs.

I wish to commend the Banking Committee on the underlying RTC bill. Clearly, this bill needs to pass. But I strongly believe that the House should follow its rules and, at a minimum, we should have the OMB cost estimates in hand so Members fully understand the implications of their vote today on a sequester next fall of the Medicare and foster care programs.

Mr. STOKES. Mr. Chairman, I rise in support of the Gonzalez substitute to H.R. 1315, a bill to provide funding for the Resolution Trust Corporation [RTC]. I commend my colleague, the distinguished chairman of the Committee on Banking and Urban Affairs, Congressman HENRY GONZALEZ, for his initiative in bringing this intelligent and necessary legislation to the floor. I also would like to commend his colleagues on the Banking Committee, especially Congressman MFUME, Congresswoman WATERS, and Congressman FLAKE, who worked with the chairman to craft his amendment, and bring it to the floor.

No single issue has affected the financial stability of our Nation in recent times as severely as the savings and loan crisis. The Gonzalez substitute recognizes the need for additional funding at this time to meet unexpected costs of resolving insolvent thrifts under the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA]. At the same time, the Gonzalez substitute promotes reforms that will significantly improve RTC operations and benefit the general public.

Mr. Chairman, less than 2 years ago, we passed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, restructuring Federal regulation of the savings and loan industry. The act established new methods to resolve the unprecedented number of insolvent and endangered thrifts, thus protecting the integrity of the federally insured deposits. Under FIRREA, Congress provided $50 billion for the RTC to cover permanent thrift losses. In 1990, the administration revised its estimate of the extent of the savings and loan crisis, increasing its estimate of the number of insolvent and troubled thrifts which will have to be closed, merged, or sold from 500 institutions to over 1,000 thrifts. The estimate of the cost for resolving these institutions jumped from the original estimate of $50 billion to $130 billion—an increase of 160 percent in just 1 year.

As a result of these higher losses, the $50 billion provided by FIRREA has been used much more quickly than expected. In fact, by the end of this week, the RTC will have spent the entire $50 billion originally provided by FIRREA to cover thrift losses, and will be forced to cease covering losses unless it receives additional funding. For these reasons, I believe that Congress must provide the emergency funding to continue RTC operations contained in this legislation.

However, like my colleagues, I do not believe that the RTC should be given a blank check of $30 billion. It is true that there have been tremendous increases in the number of insolvent and troubled thrifts and in the projected costs of liquidating the assets of these thrifts. Yet, numerous problems in RTC operations have become apparent, and these problems demand that a package of reforms of RTC operations be attached to the funding legislation.

The Gonzalez substitute requires the RTC to submit a detailed plan on how these additional funds are to be expended, and requires that RTC use the least costly method in resolving failed thrifts. The Gonzalez substitute also contains improvements in the affordable housing program, which allows nonprofit organizations, public agencies, and low- and moderate-income families to have an exclusive option to buy certain residential properties. These improvements include elimination of minimum pricing requirements for eligible properties, and the inclusion of housing in conservatorship. Currently, only properties under RTC receivership are included in the program.

In addition, the Gonzalez substitute instructs RTC to avoid displacement of tenants from single-family properties to the greatest extent possible, and permits the RTC to abrogate residential leases only in accordance with local and State laws, or applicable Federal laws. The Gonzalez substitute also imposes affirmative requirements on the RTC to consult with other Federal agencies to identify environmentally significant or sensitive properties which come under their control.

I am especially supportive of the provisions in the Gonzalez substitute which address a major problem in RTC operations, the lack of any effective outreach strategy to include minority and women-owned businesses in RTC contracting. This problem is addressed by establishing an overall goal of awarding 25 percent of RTC contracts to companies that are owned and controlled by minorities and women. This 25 percent goal is a combination of a 15 percent goal for minority-owned firms, and a 10-percent goal for women-owned companies. These voluntary goals will be very beneficial in helping the agency become more accountable and responsive to larger public needs.

Mr. Chairman, I support the Gonzalez substitute, and I strongly urge all my colleagues to join in passage of the Gonzalez substitute.

Mr. MOODY. Mr. Chairman, now that we are being asked to bail out more S&L's, it is fair to ask how we have done to date.

The first results on the famous 1988 fire sale deals are in. Some of these thrifts are

earning their investors returns of 50 percent or 60 percent. Once again, private profit has come at taxpayer expense.

Now we want to give another $30 billion to keep this process going?

Our more conservative brethren in the House often oppose giveaways. Are they willing to include S&L investors?

Moreover, we seem to have learned no lesson from all of this—just a week or so ago banking regulators have suggested new, more clever ways of offering commercial banks forbearance.

They have the nerve to do this at the same time they are cooking up various schemes to recapitalize the Bank Insurance Fund, all of which try to hide the fact that, in the end, it is another taxpayer bailout.

I hope my colleagues will join me in a bill I plan to introduce which stops banks from paying dividends until their capital is fully up to snuff.

Without a responsible financing package that includes regional equity and avoids unnecessary financing costs, I must oppose further funding for the savings and loan bailout.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the Gonzalez substitute to H.R. 1315, the Resolution Trust Corp. Funding Act.

The principal aim of the bill is to fulfill our obligations by extending an additional $30 billion of funding to help deliver us out of the S&L morass.

But the role of the Federal Government does not end there. It is also our duty to see that the RTC is administered in a cost-effective way that comports to contemporary American needs and policies.

The Gonzalez substitute is our best option for both tiers of Federal responsibility. It provides $30 billion in additional funding to the RTC just as the bill does. Then it picks up where the bill left off.

First, for fiscal year 1991 only, it gives low- and moderate-income families, nonprofit groups, and public agencies the first option to buy RTC homes. The minimum price rules, which are totally inappropriate in these situations, would not apply, so that lower income families could actually end their housing dilemmas by purchasing an affordable bargain. The United States has a crisis in housing and homelessness. It would be foolish to miss the golden opportunity to help alleviate some of those problems.

Second, the protections for tenants that it offers are essential if we are to prevent the RTC from creating more homeless Americans.

Third, the requirement that the RTC use the least costly means of handling properties is a dose of common sense that should have been used a long time ago.

Finally, the goal for 15 percent of the contracting to be done with minority owned businesses and 10 percent with women owned businesses is only fair. Although present law says they should receive their fair share, so far, contracts to these firms have been grossly inadequate. Yet, minorities and women are hurt by the S&L crisis as much as anyone, and maybe more. It is too bad that a provision like this remains necessary in 1991, but the plain truth is that it is.

So, Mr. Chairman, the Gonzalez substitute adeptly handles the two facets of Congress' role in cleaning up the S&L mess, and I urge my colleagues to support it.

Mr. RICHARDSON. Mr. Chairman, I rise today to express my opposition to H.R. 1315, Legislation providing the Resolution Trust Corporation [RTC] with an additional $30 billion for fiscal year 1991.

When Congress created the RTC through the enactment of FIRREA [the Financial Institutions Reform, Recovery and Enforcement Act] in 1989, we provided $50 billion thru 1992, to salvage 500 failing institutions. To date, the RTC has disposed of only 250 out of the then known 489 failed thrifts. Now the RTC is saying that not only is that $50 billion gone, but they need an additional $30 billion just to get through this fiscal year.

We have recently learned that another 600 sick thrifts are still in business. Every day these institutions are kept open, the cost of the bailout increases. If the RTC needs $30 billion more just to get through this year, what is the price tag going to be for fiscal year 1992? Where is all this money going? Why aren't more of the assets held by the RTC being sold to cover some of these costs? And, more importantly, how can we continue to blindly pay for the bungling of this bailout?

Mr. Chairman, the total cost of this salvage operation, as estimated by our illustrious administration, could be as low as $130 billion over the next 30 years or, as Stanford University economists believe, as high as $1.3 trillion over the next 40 years.

I don't know about my colleagues, but I have heard from my constituents and they are tired of paying for this mess, especially when they are struggling to make ends meet and those responsible for the mismanagement and fraud of these institutions are still roaming around the country, living in their lavish homes, and driving their luxury cars.

Mr. Chairman, I cannot, in good conscience, support this legislation and I urge my colleagues to do the same.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. GONZALEZ].

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

RECORDED VOTE

Mr. WYLIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 121, noes 303, not voting 7, as follows:

[Roll No. 41]

AYES—121

Ackerman
Alexander
Anderson
Aspin
Atkins
Beilenson
Berman
Bonior
Borski
Boucher
Boxer
Brooks
Brown
Bryant
Carper
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
de la Garza
Dellums
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Early
Edwards (CA)
Engel
Espy
Fascell
Fazio
Feighan
Foglietta
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gray
Green
Hayes (IL)
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Jacobs
Jefferson
Jontz
Kennedy
Kleczka
Kopetski
Kostmayer
Lancaster
LaRocco
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Luken
Manton
Markey
Mavroules
Mazzoli
McDermott
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Moran
Natcher
Neal (MA)
Oakar
Oberstar
Ortiz
Orton
Owens (NY)
Owens (UT)
Payne (NJ)
Pelosi
Pickle
Rangel
Roe
Ros-Lehtinen
Roybal
Sabo
Sanders
Savage
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Smith (FL)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Torres
Towns
Traxler
Unsoeld
Vento
Washington
Waters
Waxman
Weiss
Wheat
Wise
Wolpe
Yates

NOES—303

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Broomfield
Browder
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Evans
Fawell
Fields
Fish
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hobson
Holloway
Hopkins
Horton
Houghton
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Klug
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lantos
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Marlenee
Martin
Martinez
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Neal (NC)
Nichols
Nowak
Nussle
Obey
Olin
Oxley
Packard
Pallone

Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Williams
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Flake
Hammerschmidt
Matsui
Miller (OH)
Mrazek
Udall
Wilson

□ 2037

Mr. DAVIS and Mr. MCMILLEN of Maryland changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute printed in part one of the report of the Committee on Rules.

The amendment in the nature of a substitute printed in part one of the report of the Committee on Rules was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. HOYER] having assumed the chair, Mr. CARDIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1315) to provide funding for the Resolution Trust Corporation, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

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

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

□ 2040

The SPEAKER pro tempore (Mr. HOYER). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. WYLIE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 220, answered "present" 1, not voting 9, as follows:

[Roll No. 42]

AYES—201

Alexander
Anderson
Anthony
Archer
Armey
AuCoin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Boucher
Brooks
Broomfield
Bunning
Burton
Byron
Callahan
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clinger
Coleman (MO)
Combest
Cooper
Coughlin
Cox (IL)
Dannemeyer
Darden
Davis
DeLay
Derrick
Dickinson
Dicks
Dingell
Doolittle
Dornan (CA)
Dreier
Durbin
Dwyer
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Erdreich
Fascell
Fawell
Fazio
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hancock
Hansen
Hastert
Hatcher
Hoagland
Hobson
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Ireland
Jenkins
Johnson (CT)
Johnston
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McDade
McDermott
McEwen
McHugh
McMillan (NC)
Meyers
Michel
Miller (WA)
Mineta
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nichols
Olin
Orton
Owens (UT)
Oxley
Panetta
Parker
Paxon
Payne (VA)
Pease
Pickett
Pickle
Porter
Price
Ray
Regula
Rhodes
Riggs
Ritter
Roberts
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Sabo
Sarpalius
Saxton
Schiff
Schumer
Shaw
Shays
Sisisky
Skaggs
Skeen
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spratt
Stenholm
Stump
Sundquist
Swett
Swift
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Unsoeld
Vander Jagt
Vento
Vucanovich
Walker
Walsh
Waxman
Weber
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOES—220

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
Bacchus
Bennett
Bentley
Bevill
Bilbray
Borski
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Camp
Campbell (CO)
Carr
Clay
Clement
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (CA)
Coyne
Cramer
Crane
Cunningham
de la Garza
DeFazio
DeLauro
Dellums
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Dymally
Early
Eckart
Engel
English
Espy
Evans
Feighan
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Harris
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hochbrueckner
Hopkins
Horn
Hutto
Inhofe
Jacobs
James
Jefferson
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Moody
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Packard
Pallone
Patterson
Payne (NJ)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Rohrabacher
Roth
Roybal
Russo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Schaefer
Scheuer
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Skelton
Slattery
Slaughter (NY)
Smith (OR)
Solarz
Spence
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Visclosky
Volkmer
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

ANSWERED "PRESENT"—1

Hayes (LA)

NOT VOTING—9

Flake
Hall (OH)
Hall (TX)
Hammerschmidt
Matsui
Miller (OH)
Mrazek
Udall
Wilson

□ 2056

Messrs. SLAUGHTER of Virginia, MURTHA, and EDWARDS of Oklahoma changed their vote from "no" to "aye."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1315.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

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

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 328

Mr. GORDON. Mr. Speaker, I ask unanimous consent to withdraw the name of the gentleman from Indiana [Mr. MYERS] as a cosponsor of H.R. 328. The gentleman's name was mistakenly added to the list of cosponsors.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1175, DESERT STORM EMERGENCY AUTHORIZATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–17) on the resolution (H. Res. 111) providing for the consideration of the bill (H.R. 1175) to authorize supplemental appropriations for fiscal year 1991 in connection with operations in and around the Persian Gulf presently known as Operation Desert Shield/Storm, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 2100

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HOYER). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, does the Senate-passed bill on the Resolution Trust Corporation exist at the Speaker's desk; is it something that is on the Speaker's desk, available for action by the House?

The SPEAKER pro tempore. The Chair is informed that the bill is held at the Speaker's table.

Mr. WALKER. It is at the desk, and could the Chair inform us, as a further parliamentary inquiry, by what manner it might be possible to bring that bill to the floor either tomorrow or in the near future?

The SPEAKER pro tempore. The Chair is informed that there is now no privileged procedure to bring it to the floor. But the Chair will tell the gentlemen that that is under active consideration, as to the next steps.

Mr. WALKER. Because of the cost of $8 million a day to the taxpayers, there are a number of Members who believe that this is something that should be done by tomorrow. Is there a process by which this could be brought to the floor by tomorrow?

The SPEAKER pro tempore. The only process that would be available at this present time would be by unanimous consent under the Speaker's announced guidelines.

The Chair would not want to respond further without consulting with the leadership on both sides of the House. The present Chair does not know the posture of the Speaker and the majority leader and the minority leader on this issue. But the answer to the gentleman's question is by unanimous consent.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker. Is it not correct that if we do not do something this evening to take care of this, we could run into the problem then of the two-thirds rule in trying to bring the bill to the floor tomorrow and so, therefore, we could complicate the matter?

The reason for raising the parliamentary inquiry now is to see whether or not there is something that could be done yet this evening that would assure us the ability to bring this bill to the floor in a reasonable fashion tomorrow. Is that under active consideration by the leadership?

The SPEAKER pro tempore. The Chair has no knowledge of efforts being made at this point in time.

Mr. WALKER. I thank the Chairman.

STATUS OF THE RESOLUTION TRUST CORPORATION FUNDING

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

Mr. GONZALEZ. Mr. Speaker, I think this is an extraordinary request here. I think the minority, the Republicans have fouled their own nest.

From the very beginning the executive branch has refused any kind of discussions as to some viable compromise. The whole approach has been we are going to have everything our way or nothing, so what has happened here tonight is simply a clear signal that somehow or other the Secretary of Treasury has got to get himself over here and start talking to our side of the leadership and seeing how we can structure a truly bipartisan approach for a solution.

As to the cost scare, they have been scaring us this way for 2 years. The truth of the matter is that that is not the true cost. The true cost is the way the resolutions have been conducted, which have been draining $20 million a day from the Treasury. That is what we wanted to resolve.

So all I can say is that it would be remiss at this point in the night for anybody to try to use some quickie method to try to resurrect a bill that the minority itself killed.

RESOLUTION TRUST CORPORATION FUNDING

(Without objection, Mr. GINGRICH was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, let me first say to the distinguished chairman that there were two opportunities tonight for the chairman and another Democrat to offer alternatives to the Wylie bill. The chairman's bill went down 101 to 303. It was rejected by almost 3 to 1. The other substitute offered by a Democrat went down 186 to 237.

On the Republican side of the aisle we provided by a 3-to-1 margin the votes necessary to stop the loss of $8 million a day, every day. We are prepared, as the chief deputy whip indicated a few minutes ago, we are quite prepared tonight or tomorrow to support an effort to pass the Senate bill, to get this over with, because if we leave tomorrow that is $8 million, if we leave on Thursday it will be $16 million, on Friday it will be $24 million, on Saturday it will be $32 million, on Sunday it will be $40 million, on Monday $48 million, an additional $48 million that we will be losing as a country for no reason.

I would simply suggest that it would not be hard on a bipartisan basis to work together tomorrow morning. With just a little bit of support from the Democratic leadership, I think we could pass this and get it out of the way. Everyone knows we are going to pay for the deposits. So all we are doing right now is wasting $8 million a day while the Democratic leadership tries to get its act together.

RESOLUTION TRUST CORPORATION FUNDING

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

Mr. FRANK of Massachusetts. Mr. Speaker, many of us on the Committee on Banking, Finance and Urban Affairs have been trying for some time to get the Treasury Department to talk to us

about getting a bill together that could command a majority. No bill had a majority today.

This is a difficult issue. People are prepared to work together.

The Treasury Department had taken the attitude that they will accept nothing that does not give them complete carte blanche. The argument that this is costing $8 million a day, the calculations here have been unusually soft and spongy. The world has ended on this bill about nine times. They are running out of money all of the time, and they keep finding new money.

But we got a letter from the Secretary of the Treasury threatening to veto the bill if it had in it some amendments that nobody thought were of any great magnitude. We think they improved the bill some.

This is not about trying to save $8 million a day. The Treasury does not believe that itself. If they did, they would have accepted the invitation several weeks ago to negotiate a bill, because we always knew that there could be difficulty on this.

The Senate just acted, so we have not held the bill up yet, until today, and we were prepared to begin negotiations. There were the normal efforts of negotiations that could not go forward because the Department was taking a stonewall position.

What we have is the Treasury Department announcing that they are going to get the money that they want, to spend as they wish, and no one is going to be allowed to interpose any kind of concern whatsoever.

□ 2110

That is why a significant number of Republicans voted against the bill today. That is why no bill got a majority, and that is why until and unless the Treasury Department agrees to negotiate on this bill, as is often the case, there will be no legislation, because there is no majority for any particular version right now.

But we could easily get one, and if Treasury really believes its own rhetoric, they would not have been responding as they have.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. FRANK] be given an additional 1 minute for the purposes of his yielding to me.

The SPEAKER pro tempore (Mr. HOYER). The Chair will recognize another Member. Of course, under the unanimous consent for 1 minute, obviously, one cannot be recognized twice. Another Member could be recognized for the purposes of yielding.

IT IS UP TO US TO DO OUR JOB

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

Mr. WALKER. Mr. Speaker, I find some of the arguments we have heard here so far very interesting.

The chairman tells us that the Republicans are responsible for the loss of the bill tonight, and yet the Republicans voted more than 3 to 1 for this bill, while the Democrats voted more than 2 to 1 against the bill. I do not understand how that is Republicans failing to deliver the votes.

It seems to me that the majority party in this body has some responsibility. If you are going to be an overwhelming majority, somewhere along the line you have to take responsibility for giving a certain number of votes, including maybe a majority of your own votes, on issues of this kind. That you did not do. In fact, you could not even deliver a majority of Democratic votes for the chairman's own bill. The bill offered by the chairman, the gentleman from Texas [Mr. GONZALEZ], went down with a majority of Democrats voting against it as well as an overwhelming number of Republicans. So, therefore, you had no approach that was acceptable.

I am also interested in the argument that somehow this is a failure of the administration to negotiate. The administration has no votes on this floor. It is up to us to do our job. If the administration has failed to come up and stroke enough Members, well, that does not give us the right to refuse to do what is necessary and so, therefore, part of the problems that exist here tonight is the fact that this body has failed its duty, and I think we ought to reflect on that and hopefully do something by tomorrow that makes certain that the taxpayers do not continue to bear the burden of $100 million of costs that did not need to be spent.

WE MUST WORK WITH THE LEADERSHIP ON BOTH SIDES OF THE AISLE

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

Mr. MFUME. Mr. Speaker, people across this Nation have watched this debate today.

For those of us on the Committee on Banking, Finance and Urban Affairs, it is not a matter of a day but, rather, years that we have been working on this.

I think the last thing that people in their homes and elsewhere watching tonight again would want to hear would be this Democrat versus Republican, "You did it, I didn't do it" sort of thing. I have never during this debate taken that approach. I would ask Members to refrain from it now.

We really have a serious job in front of us. We have honest differences on this. There has been give and take on both sides, and it is clear that there is no consensus.

So in order to build consensus, one must go to the table with that recognition, and I think with a desire to honestly negotiate.

I would ask, because both the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE], the ranking minority member, have worked so long and hard on this, that the chairman's remarks at least be heeded by those persons on the other side, particularly the distinguished minority whip and the distinguished deputy whip, that they, in fact, get hold of the secretary, Mr. Brady, come back to the committee, work with members of the leadership on both sides of this aisle so that we might be able to resolve basic differences in this democratic process and come away with something we at least can have some semblance represents our own positions on this.

SET PARTISANSHIP ASIDE

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

Mr. GUNDERSON. Mr. Speaker, I deeply appreciate both the remarks and the tone of the remarks from the gentleman from Maryland. I only regret that those were not the remarks that began this discussion.

Let us be honest about it, it was the distinguished chairman of the committee who rose to address the floor and to accuse the Republicans of failing to do what was necessary in providing the vote to pass some kind of solution to this problem.

In that regard, I just want to call to the attention of everyone that we have had four votes here over the last few hours on this issue. In the last one, the Democrats voted 177 to 81 against passing the final bill. Before that, on the Gonzalez substitute, the Democrats voted 143 to 118 against the Gonzalez substitute. Before that, we had the Wylie substitute, and on that one the Democrats voted 223 against, only 39 for.

The only option the Democrats have provided the majority of the votes for all night long happened to be the Slattery amendment, where they voted 179 yes, 82 against, and I think everyone clearly understood that that meant 10 billion dollars' worth of taxes in the middle of a recession, something I indicated earlier that not even the Speaker of the House of Representatives believes is wise economic policy at this time.

We are happy to set partisanship aside on this side as long as we receive the same action from Members on the other side.

RTC BILL DID NOT PASS FOR A VARIETY OF REASONS

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

Mr. SCHUMER. Mr. Speaker, what I would say is that what we thought all along is probably true, and that is the only way to pass this bill, and we can present a version which gets a large number of Democratic votes, and a small number of Republican votes, and the people from the other side of the aisle can prevent a version which gets a large number of Republican votes and a small number of Democratic votes. That is obvious. That is what today proved. I think we knew it before today.

The only way that we are going to actually pass a bill and meet our responsibilities is by having a bipartisan agreement hammered out in advance, and then having a majority. It does not have to be an overwhelming majority. It could be a narrow majority of votes from each side of the aisle. That did not happen.

There were attempts to do it, but it did not happen for a whole variety of reasons.

But I would say to my colleagues that simply to say a naked bill was the only way to do this, and because a naked bill failed by this amount of votes, that does not solve the problem, nor does it really explain fully what happened today.

A naked bill is not the only way to do it. There are many variations on this theme, and if we want to pass a bill, what we ought to be doing is working together on some kind of compromise that will get a majority of votes on both sides of the aisle.

I just want to, as somebody who cares very much about passing this, who tried to work with people on the other side of the aisle, I do take some umbrage at the fact that people say, "Well, if the naked bill did not pass, that is the only way to pass it," and one side is to blame.

Two other bills did not pass because they did not get votes from that side of the aisle. That is the simple fact of truth, and the only way we are going to pass this is by working together on a bill that is somewhere between some of the bills that were on the floor today.

THE DEPOSITORS OF THIS COUNTRY ARE FRIGHTENED

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

Mr. PICKLE. Mr. Speaker, I came here to participate in a special order, but I think I will just participate in this little special order.

The majority of the membership on both sides of the aisle cast a political vote tonight, nothing more or less. It was an easy vote to be against RTC.

They can look good. You felt good tonight, but you look bad in the morning. You have refused to follow the leadership of the President, the Secretary of the Treasury and the leaders of the party. You have frightened the depositors of this country, and I think you have cast a tone of astonishment and fear in those RTC people who are trying to do something about this.

I do not know that you can hasten to do anything about it tonight or even tomorrow, and it does little good for both sides to point a finger and say, "We supported more on this bill than you did," or vice versa.

The truth of the matter is, you played politics with this vote tonight, and the country is going to be shocked about it.

We have got serious problems to correct. I think we ought to stop this kind of discussion and try to get to our business.

BRING UP THE SENATE BILL ON RTC

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

Mr. WYLIE. Mr. Speaker, I want to associate myself with the comments of the gentleman from Texas who has been around here a very long time and is very discerning.

I am not sure that I am the person to do this, but my recommendation, Mr. Speaker, is that the gentleman from Illinois [Mr. MICHEL], our leader on this side, and we have been in communication with him, go to the Speaker either tonight or tomorrow morning and make a suggestion that we bring up the Senate bill which is at the desk and make an attempt to pass that.

□ 2120

Mr. Speaker, I know a lot of members on this committee have worked very hard, and I know the chairman has worked very hard. I was disappointed to see he voted against the bill on final passage here, but I understand some of the dimensions of the problem we have before Members.

As I say, I respectfully suggest that there might be a way out of this, because we are looking bad right now because the RTC needs to be funded. It has to be funded. We have to fund the RTC to pay off the depositors. We cannot have a situation where we might lose confidence in the depository institution system.

RTC HAS MONEY AVAILABLE

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, I yield to the gentleman from Texas [GONZALEZ].

Mr. GONZALEZ. I wanted to point out again regarding this attempt to scare all Members that the RTC has money, resolution money through this month of March. They have told Members that, plus $8 to $10 billion in borrowing authority. GAO has told Members the RTC has $10 billion on hand as of February 28. That is just 2 weeks ago.

Therefore, I think for Members to be pummeled and browbeaten out of fear that this fictitious alarm seems to be sounding is not productive to a very, very serious and dispassionate bipartisan approach. I think we have to look at this as we have from the beginning. I think every effort was made on the committee level to bring about, since last October, some kind of resolution of the need here for RTC, but I think we ought to know what the facts really are.

These are facts and figures given to Members by the RTC itself and by the GAO.

RTC HAS NO MONEY AVAILABLE

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

Mr. DREIER of California. I yield to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, the chairman indicated that there might be some money left until March for the loss of funds. I would respectfully suggest that we have a letter here from L. William Seidman, who is Chairman of the Resolution Trust Corporation, who says that the $18 billion which was made available through a glitch in the law a little earlier, was for operating funds only, that they could not be used to cover losses in failed S&L's. That is from a letter dated February 28, and additional moneys will be needed to provide funds for the Resolution Trust Corporation for loss funds.

They had to use the $18 billion last year because we did not pass a bill last year, and that is gone. There is no more money in the losses fund, as I understand it, from Mr. Seidman.

INTRODUCTION OF THE COLORADO WILDERNESS ACT OF 1991

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

Mr. ALLARD. Mr. Speaker, I rise today to inform Members of the House that Congressman DAN SCHAEFER of Colorado and myself have today introduced legislation entitled, "The Colorado Wilderness Act of 1991."

This legislation is critical to the citizens of our State. It will protect the scenic beauty of more than 850,000 acres of Forest Service and Bureau of Land Management land by providing national wilderness protection. At the

same time, the bill seeks to address the major obstacle to additional wilderness in our State—the preservation of Colorado's right to control its own water resources.

What many of my colleagues may not realize is that Colorado has a semi-arid climate. In addition, nearly all water in Colorado flows out of the State—there is hardly a stream, large or small which flows into the State.

That is why, in the bill we have introduced today creating vast tracks of wilderness, we have attempted to insure that we do not create a corresponding preemptive, Federal reserve water right, a water right that would precede in seniority all existing water rights.

Mr. Speaker, wilderness designation in the State of Colorado has the potential to cripple Colorado's unique system of water law that took more than 100 years to establish. Even more importantly, it has the potential to devastate the already beleaguered agricultural industry.

I believe, that in the bill which was introduced today that the proper balance has been created between the water users and the wilderness advocates. I hope that Members of the House will study this issue carefully and support this proposal.

VACATION OF SPECIAL ORDER

Mr. DORNAN of California. Mr. Speaker, I ask unanimous consent to reduce my 60-minute special order for this evening to a 5-minute special order, which would put me first as a Republican, but I would like to defer to my good friend, the gentleman from New York [Mr. WEISS]. I will go second with my 5 minutes.

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

There was no objection.

I BELIEVE IN MIRACLES

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

Mr. DORNAN of California. Mr. Speaker, this 1 minute I was unable to deliver this morning, but it turns out to be nothing more than a commercial for my 5-minute special order this evening, which will follow the gentleman from New York [Mr. WEISS].

I have come to this well about three times since February 28 to say that I was unable in my heart, and it is just a personal thing, to feel any sense of the great feeling of victory sweeping the country, any sense of euphoria, because I had given a great part of my adult life, since 1965, to the POW/MIA cause, missing in action in Southeast Asia. I still wear the bracelet of my best friend in the Air Force, Dave Herdlick, a known prisoner for 5 years. He never came home, nor did his cavemate, Charlie Shelton, who was shot down on his 33d birthday, April 29, 1965.

I wear another bracelet for a man who begins 7 years in captivity in Beirut on the 16th of this month, just a few days. But a miracle has happened. Every single POW has been returned from Baghdad and the Basra area, including two we did not know were prisoners from the last fast days of the year. All of the Marine Corps missing in action, every single one of them, including all of the heroic KIA's, have been accounted for. All of the Navy and almost every Air Force and Army person, as I speak. A true miracle has occurred, and I will talk about that during my 5-minute special order.

A SALUTE TO AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. WEISS] is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, as Members who have been here for sometime will probably recall, every year on March 12, if it is possible, I take to this well to commemorate my arrival in this country. Now it is 53 years ago today on March 12, 1938, with my mother of blessed memory, and my sister Claire, as a way of articulating my recognition and appreciation for what this country did in providing me an opportunity to not only flourish and grow but really to survive.

□ 2130

We left Europe and came from Hungary on the very eve of the curtain of horror that Hitler and his Nazism were about to drop over all of Europe, and most of my family was not as fortunate as we were. My grandparents on both sides, countless other relatives, uncles, aunts, cousins, did not survive. We did.

But I think what I would like to talk about just for a minute or two is not just our own personal survival and opportunity to grow and the fact that people historically since the beginning of this country have looked to this Nation, not really for economic opportunities, although economic need was there very often, but for the opportunity to make the most of themselves economically or academically or any way that they wanted. This country indeed provided an open Mecca.

We were and are, I think to this day, the haven for tolerance, for letting people do their own thing so long as they do not harm other people in genuinely and legitimately fulfilling their own needs.

I noted in the newspaper the other day that we are becoming an immigrant nation once again. The most recent census indicates that we have very large numbers now of documented, and some undocumented people who are in the country, 21 percent are other at this point, various groups.

So I think the hope is that with all the tensions in this society that we will again sort of return to our roots, recognize our own diversity and build on the strength that that diversity has given us over the years.

Because the hour is late, Mr. Speaker, I yield back the balance of my time.

RETURNING HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, let me restrain myself from jumping up and down here for joy to discuss this miracle I mentioned a minute ago in my 1-minute speech.

I have held this blowup of the first eight prisoners taken in Iraq, all taken to the Baghdad area, I have held this up on the House floor about six times in the last month.

Now I hold it up to say, quite happily, every single one of these Americans, the Italian, the Kuwaiti, Muhammad Mubarek, and the Italian, and the Italian's front seater, they are all home safely in their respective countries.

I assumed that there would be a whole parcel of Senators and Congressmen out there at Andrews Air Force Base on Sunday to just luxuriate in the return of our 21 American prisoners. One came in alone on a C-141 because he is still on a stretcher. I had the honor of chatting with this fine young Army sergeant who almost gave his life trying to save one of our F-16 pilots. I met 20 of the 21 returned prisoners. The only one I missed, and I must have walked by her three or four times, is young Army Spc. Melisa Rathbun-Nealy. I thought she was one of the young escorts in her desert camouflage fatigues, looking 3 or 4 years younger than her own tender 21 years of age; but I have never met a more exemplary, terrific, solid group of American men and women in my life.

I would take an hour's special order to try and do justice to these 21 heroes tonight, but it is the end of a long day. It is already 9:35 eastern standard time, and tomorrow I am on my way to Kuwait to view the devastation there of the country that they liberated, not a minute too soon; so I will probably put it off until next week, but let me show you some pictures, Mr. Speaker. I will show them to the Chair and then turn it around the other way so the cameras can have a record of it, Mr. Speaker.

Here on the front page is the Army Staff Sergeant that I mentioned before, Daniel Stamaris. He is one of three survivors from a crew of eight on a rescue 860 Black helicopter. The pilot, the co-

pilot and three of the enlisted crew members died. The three survivors were all badly injured. Sergeant Stamaris in his wheelchair, the American flag proudly on his chest, what a fine young man. Look at that front page, popping that salute to everybody as he comes off the C-141.

On the other side, the back page of yesterday's Washington Times, here come a typical bunch of American Fighter pilots, a Navy F-14 Rio-Radar interceptor officer at the top, Lt. Randolph Slade. That is followed by one F-16 pilot, Harry Andrews. He was the one that the H-60 was trying to rescue when he was down toward the last days of the war, and 3 A-10 pilots.

This big tall handsome guy at the top here, that is Capt. Richard Storr. I was standing there talking to him with the Chief of Staff of the Air Force. Not every guy coming in from POW captivity gets a four-star Chief of Staff of the Air Force, General McPeak, there to greet him. General McPeak and I were asking him what altitude he bailed out, what hit him.

He said a SAM hit him. That was news to me. I did not think we lost any aircraft to SAM's, and he said, "You could tell by the white plume. I tried to jig around. It got me, a near shot."

And I asked him a very stupid question. I said, "Dick, if you were 10,000 feet, wasn't there any way you could have glided back to Saudi Arabia?"

And he said, "Congressman, when your stick does this"—moving his hand around loose in all directions, meaning his hydraulic controls were shot, he said, "You come to the conclusion very quickly you are going to have to jump out of that airplane."

Well, the same thing happened to me once in pilot training in Arizona. When you lose your controls, the airplane is no longer an aircraft. It is a thing, and he said he bailed out at about 10,000 feet. Coming down he could hear the 37 millimeter cannons firing at him, at his parachute, he thought.

Then I asked another not very swift question. You learn these things as a television host in all the years to ask these bright questions. I said, "When you landed, did they not kill you because they were very impressed with the bombing and that the war would end soon?"

He said, "Sir, they were very impressed and they were also very ticked off." he used a stronger word, and obviously he was beaten, as were most of these prisoners, the severely wounded ones not so much.

What a group of people, and Mr. Speaker, a final salute to the lady doctor, Maj. Rhonda Cornum and her husband, who is also an Air Force flight surgeon doctor, was over there in the theater as a flight surgeon for the 58th Squadron of the 33d Tactical Fighter Wing.

What an all-American family, all their families.

Mr. Speaker, I will do an hour on this next week.

Mr. Speaker, I include the names of all the former POW's that I referred to, as follows:

FORMER POWS

The former U.S. prisoners of war who returned to Andrews Air Force Base yesterday are:

Air Force—Col. David W. Eberly, 43, Brazil, Ind.; Lt. Col. Jeffrey D. Fox, 39, Fall River, Mass.; Maj. Thomas E. Griffith, 34, Goldsboro, N.C.; Maj. Jeffrey S. Tice, 35, Sellersville, Pa.; Capt. William F. Andrews, 32, Syracuse, N.Y.; Capt. Harry M. Roberts, 30, Savannah, Ga.; Capt. Richard D. Storr, 29, Spokane, Wash.; First Lt. Robert J. Sweet, 24, Philadelphia, Pa.

Navy—Lt. Robert Wetzel, 30, Virginia Beach, Va.; Lt. Randolph Slade, 26, Virginia Beach, Va.; Navy Lt. Jeffrey N. Zaun, 28, Cherry Hill, N.J.

Army—Maj. Rhonda L. Cornum, 36, East Aurora, N.Y.; Staff Sgt. Daniel J. Stamaris Jr., 31, Boise, Idaho; Spc. Melissa Rathbun-Nealy, 21, Newaygo, Mich.; Spc. Troy L. Dunlap, 20, Massac, Ill.; Spc. David Lockett, 23, Fort Bliss, Texas.

Marines—Lt. Col. Clifford M. Acree, 39, Seattle; Maj. Joseph J. Small III, 39, Racine, Wis.; Capt. Michael C. Berryman, 28, Cleveland, Okla.; Capt. Russell A.C. Sanborn, 27, DeLand, Fla.; Chief Warrant Officer Guy L. Hunter Jr., 46, Moultrie, Ga.

IMPROVING THE IRA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, the individual retirement account was a retirement plan once popular with a broad cross-section of Americans. However, in paring back the full tax deductibility of IRAs in 1986, Congress prematurely retired the IRA as an attractive retirement incentive.

At the same time, the extremely low rate of U.S. private national savings has become more and more troubling. Many of our foreign competitors have been increasing their national savings, while Americans have been consuming. In 1989, the average American consumer saved less than 5 cents out of every dollar earned, compared to 16 cents in Japan. This depressed savings rate has become a major contributor to higher interest rates, lower national investment, reduced productivity growth, and higher trade deficits.

The time had come for us to come to grips with this problem and take aggressive action. If we are going to deal with low national savings and all of the problems it creates, we must get all Americans involved in the effort by providing attractive incentives for them to increase their individual savings. With that important priority in mind, I am proud to introduce legislation today to restore the universal availability of the fully tax deductible IRA.

In addition, this measure will improve on the traditional IRA by allowing individuals to choose between tax deductible contributions to traditional IRAs, or contributions to new IRAs from which earnings would not be taxed when they are withdrawn. The bill, which is a companion to legislation introduced in the Senate by Senators LLOYD BENTSEN and WILLIAM ROTH and cosponsored by over 70 Senators, would also allow penalty-free withdrawals from IRAs and 401(k) plans for first-time home purchases, higher education expenses, and devastating medical expenses.

This Super IRA plan will not only restore incentives for individuals to save for retirement, but also for two of the biggest investments that people have to make during their lifetimes—purchasing a home and paying for their children's education. It will also correct the current situation in which a tax penalty is imposed on people who are forced to make withdrawals from their IRA to pay for costly medical expenses for themselves or a family member with a serious illness.

I believe it is critical to address these needs. Encouraging saving for educational expenses is critical to ensuring that no child will be denied the opportunity to attend college due to a lack of financial resources. The average cost of a college education for a child born today is expected to exceed $200,000 at a private university and $60,000 at a State-run university. Yet most Americans who expect their children to attend college are saving little or nothing to pay the bill.

Folks do try to save in order to purchase their first home, but most find themselves trapped in a cycle they can't break. Housing prices often increase faster than their income, and many younger working Americans can never seem to quite set aside enough money for the down payment. Rising housing prices, combined with spiraling interest rates have resulted in a decline in the rate of home ownership in every year since 1980, especially among young families.

The Super IRA proposal I am introducing, along with Congressman BILL THOMAS of California would address both of these needs, allowing all Americans to use the tax advantages of the IRA to help pay for a college education or to purchase that first home.

Finally, the average American is confronted with health care costs that are almost two and a half times as high as they were at the beginning of the 1980's. Faced with medical costs that are increasing more quickly than the paycheck of the typical American, the likelihood of financially devastating medical expenses is increasing every year. Even so, the current tax laws continue to penalize the person who is forced to withdraw money from an IRA to pay large unexpected medical bills

for themselves or a family member. That simply isn't fair, and the legislation I and others are introducing would correct that inequity.

While I intend to strive for the adoption of this measure, I continue to believe we should not take action that will increase our Federal budget deficit. I strongly supported the adoption last year of new budget rules which essentially codified that belief by requiring pay-as-you-go financing for any changes in the law. Clearly, any revenue loss which may result from the passage of this measure must be paid for out of other sources. However, if we can get Americans to start saving again, interest rates will go down, the Government will not have to rely so heavily on foreign capital, and our trade deficit will be diminished. In the long term, I believe this legislation will actually save the Treasury money.

Mr. Speaker, I am pleased to be joined by Representative BILL THOMAS of California and others, the gentleman from Pennsylvania [Mr. SCHULZE] the gentleman from Texas [Mr. ANDREWS], and the gentleman from Kentucky [Mr. MAZZOLI] in introducing this measure. I ask that a summary of the major provisions of the Pickle/Thomas IRA proposal be included in the RECORD immediately following my remarks, and I urge my colleagues to review this legislation and support its adoption.

THE PICKLE/THOMAS "SUPER-IRA"

DESCRIPTION OF BILL

Makes Deductible IRAs Available to All Americans.

Under the Pickle/Thomas proposal, all Americans would once again be eligible for fully deductible IRAs.

Under current law, only those who are not covered by any other pension arrangement and those with incomes under $25,000 for individuals and $40,000 for married couples are allowed to fully deduct IRA contributions. Annual IRA contributions cannot exceed $2,000 per individual. The $25,000 and $40,000 income thresholds are not indexed for inflation, with the result that fewer and fewer Americans are eligible for IRAs every year.

After these income thresholds were added in 1986, contributions to IRAs fell by almost 70 percent and even participation by families who continued to be eligible fell by 40 percent.

Provides Taxpayers With Another IRA Option.

Each individual would have the option of contributing $2,000 per year either to a traditional IRA or to a new type of IRA. The individual could contribute the full $2,000 to either type of account or could allocate any portion of the $2,000 limit to the different accounts (e.g., $1,000 to a traditional IRA and $1,000 to the new type of IRA). The $2,000 limit would also be indexed to reflect inflation.

Contributions to the new type of IRA would not be tax deductible, but if the assets remained in the account for at least five years all income would be tax-free when it is withdrawn. A 10-percent penalty would also apply to earnings withdrawn within the first five years.

Penalty-Free IRA Withdrawals for First-Time Homebuyers, Education Expenses and Financially Devastating Medical Expenses.

The Pickle/Thomas IRA proposal would provide exemptions from the 10-percent penalty tax for withdrawals which are used to purchase a first home, to pay for educational expenses, or to defray financially devastating medical expenses.

Under current law, withdrawals from IRAs are generally subject to a 10-percent penalty if made prior to age 59½. There are no exceptions to this 10-percent penalty for withdrawals used for first-time home purchases, higher education expenses, or medical expenses.

The Pickle/Thomas proposal would allow young couples, their parents, or their grandparents could draw down IRAs to pay for first-time home purchases without paying the 10-percent penalty for early withdrawals.

Under the Pickle/Thomas proposal, parents or grandparents could draw down IRAs without penalty to pay for the education of their child or grandchild. High school students with part-time jobs could put their earnings into a tax-favored IRA and withdraw the money later for college tuition without penalty. An individual wanting to go back to school after a few years in the work force could use the IRA to save for anticipated education expenses.

The Pickle/Thomas proposal would also allow individuals with medical expenses for themselves or their dependents in excess of 7.5 percent of their income to make penalty-free withdrawals to help cover those expenses.

Penalty-Free Withdrawals from 401(k) and 403(b) Plans for First Home Purchases and Educational Expenses.

Under the Pickle/Thomas bill, employees could make penalty-free withdrawals of their own contributions to 401(k) and 403(b) plans to assist with first-home purchases or educational expenses. These rules would be similar to the expanded rules provided for IRAs. Penalty-free withdrawals from 403(b) and 401(k) plans for high medical expenses are already permitted.

Section 401(k) and 403(b) plans are employer-provided retirement plans that allow employees to make tax-free contributions out of their paychecks. Under current law, once an employee makes a contribution to a 401(k) or 403(b) plan, withdrawals are generally subject to a 10-percent penalty tax similar to that applied to early withdrawals from IRAs.

Revenue Implications.

Precise revenue estimates of the impact of the proposal are not yet available. Under the terms of the recent budget agreement, any revenue loss resulting from the proposal would have to be offset by other changes in the law to ensure that the Federal budget deficit is not exacerbated.

PROBLEMS THAT THE PICKLE/THOMAS IRA PROPOSAL ADDRESSES

Boosting the low U.S. savings rate will help lower interest rates, increase investment, increase productivity growth, and reduce trade deficits.

The U.S. national savings rate for the past decade has been worse than at any time since World War II.

In 1990, U.S. consumers saved less than 5 cents of every dollar compared to about 16 cents for the Japanese.

U.S. net savings rates are lower than those of all our major economic competitors.

After the IRA was made available to all Americans in 1981, annual contributions to IRAs increased by almost 700 percent. Total current assets held in IRAs have an estimated value of about $500 billion.

Americans need to save more to make sure they can afford higher education costs.

Since 1980, college costs have gone up at a rate twice that of inflation, an increase of over 90 percent. Simultaneously, the Federal government's role in providing student financial aid has been decreasing.

It is estimated that for a child born today it will cost over $200,000 for four years at a private university and $60,000 at a public university.

A Roper Poll showed that only half of the families who expect their children to attend college save anything at all for future college expenses, and of those families that do save, the median annual savings are about $500.

Families are being priced out of the real estate market because housing prices are rising faster than they can save the down payment.

Throughout the 1970s and 1980s, housing prices have consistently risen faster than family incomes.

Home ownership has declined in every year since 1980, declining by more than 13 percent among families headed by those aged 25–34

Nationwide, 2 million more households would own homes today if home ownership rates remained at 1980 levels.

It is not fair to penalize someone who is forced to make withdrawals from the IRA to cover financially devastating medical expenses.

Per capita health care costs have risen from just over $1,000 in 1980 to almost $2,400 in 1989. In other words, health care costs today are about two and a half times what they were just 10 years ago.

If an individual or a member of a family has a serious illness, the medical expenses can equal a substantial portion of the individual's income even if health insurance is available. Withdrawals from IRAs to cover these substantial health costs should not be penalized.

MARCH 12, 1991.

□ 2140

A SAD DAY FOR THIS HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. POSHARD). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, I take the well this evening to vent my frustration over what I think was, tragically, a sad day for this House of Representatives.

Mr. Speaker, I spent 9 years serving on the Committee on Banking, Finance and Urban Affairs, and during that period of time, many people believe those of us on the Banking Committee caused the savings and loan crisis.

Well, the fact of the matter is that in late 1980 the dramatic increase in the guarantee of deposits played a major role in causing the problem that we have. Mr. Speaker, if you look at the fact that that $100,000 guarantee has created a skew in the movement of capital, there is not a single depositor who has to say. "Gosh, do you think I ought to look at the solvency of that

institution in which I am about to deposit $100,000?" They do not have to do that, Mr. Speaker, because they say, "The full faith and credit of Uncle Sugar is behind it. So why should I be concerned about whether or not this institution is going to belly-up or not?"

So, we have many people, the flow of brokered deposits, a wide range of other vehicles which saw capital move to very poorly run institutions.

Well, we all know that we had a savings and loan crisis. We know back many, many years ago the Federal Government decided to establish that guarantee on deposits.

I felt when we faced the vote on the FIRREA bill in the past, that the responsible thing for me to do was to vote for that legislation. Why? Simply because the Government made that commitment that the full faith and credit of the U.S. taxpayer was behind those deposits and I had an obligation as a Member of Congress to assure that the Federal Government was not going to abrogate its responsibility.

So I voted for the FIRREA bill for that reason, as I said here earlier when we were debating the Gonzalez substitute.

Mr. Speaker, if you look at what we did today, I think it is a real tragedy. I left the Committee on Banking, Finance and Urban Affairs and went to the Committee on Rules this year. I spent last week, quite a bit of time, looking at the wide range of amendments that we were going to be considering. The goal, of course, was to provide a clean RTC funding bill, I look at it this way: I did not want to vote for that thing that I voted for earlier. I did not want to support the concept. But if you have a leaky faucet, Mr. Speaker, you do not ignore it. And that faucet is leaking to the tune of $8 million a day for every day that we delay this process of recapitalizing with a clean RTC funding bill.

I think it is very tragic that we went through this exercise. We had amendments soundly defeated. The Gonzalez substitute, which would have made it more difficult for the RTC to move those items, those properties, those 45,000 properties out into the marketplace, for them to be sold.

But, unfortunately, when it came down to the bottom line, I think this House did the irresponsible thing. Those Members who voted against the clean funding bill voted to expend an additional $8 million by delaying it, because we know we have to come up with something. The Senate overwhelmingly passed the bill.

We here in the House have been unable to do it. I think it is sad commentary on where we are. We are all heralding this tremendous victory in forcing Saddam Hussein out of Kuwait. I would have loved to have been able to join my colleague, the gentleman from California [Mr. DORNAN] in praising the fact that we have seen these hostages, the POW's, returned from Iraq. I feel very good about it. But I feel very badly about what happened here today in the House, and I hope very much that we will be able to speedily put something together so that the U.S. taxpayer will not have to pay any more than already has to be paid.

H.R. 1177, THE CLEAN AND FAIR ELECTIONS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, last week, Congressman SYNAR and I, along with Representatives LEACH, MCHUGH, GRAY, WISE, PRICE, ECKART, HAMILTON, and MAZZOLI, introduced comprehensive campaign finance legislation. This bill, H.R. 1177, addresses the alienation Americans feel about government by turning the focus of political campaigns away from the special interests and back toward the voters who elect us.

Responsible campaign finance reform is one key to restoring confidence in our government. Our constituents perceive that Members of Congress are more responsive to campaign contributors than to constituents and more accessible to private economic interests than to the folks at home. It is very likely that the Keating Five scandal has provided the ingredient missing thus far from our efforts to reform the financing of political campaigns: public outrage. We need to respond by changing the system that created the scandal.

This legislation contains two components which are essential elements to any serious campaign finance reform: First, voluntary across-the-board spending limits; and second, public financing of Federal campaigns. By including a voucher system of public financing based on a match of instate contributions, this bill reverses the trend toward private ownership of campaigns and moves toward public input. A voucher system is critical to this proposal and to reinvigorating the public's desire to participate in the democratic process.

The spending limit for House elections is $550,000, which is absolutely necessary to end the arms race mentality of running for office. In the case that a candidate receives less than 55 percent of the vote in the primary, the general election limit is raised by $110,000.

The public financing takes the form of vouchers for candidates based on a match of small contributions. The vouchers may be used for communications through television, radio, and print media. This kind of public financing increases voter participation in the campaign process. By including public financing, this bill reverses the trend toward private ownership of campaigns and moves toward public input. The voucher system contained in this bill is critical to our proposal and will reinvigorate the public's desire to participate in the democratic process. In addition, it will force candidates to work the streets and small towns of America and get to know the voters at home.

Critics of such a system often cite the taxpayer costs of such a proposal. However, no one mentions that interest group contributions are primarily meant to influence government policy, usually in the form of increased Federal spending or tax breaks for certain segments of the population. While there is nothing wrong with people banding together to support certain issues, these private efforts often cause the cost of government to rise. I am not against interest groups, because I believe they can and do play a useful role in the political process; I just would like to see the political process reflect the public interest more than it does under the current system.

While there may be increased costs from tax credits and matching funds, we feel these costs are a small price to pay for an election system that will work the way our democracy was intended to work and instill more public confidence in the system. We see the public voucher provision as a public investment in good government. Besides, in the long term, the bill will no doubt save the public millions of dollars in the form of fewer tax breaks, lower appropriations and less onerous regulations.

The bill provides that the contributors of candidates agreeing to spending limits will receive a 100-percent tax credit for contributions up to $100. Small contributions have declined sharply in the past few elections, partially because a tax deduction for campaign contributions was eliminated in 1986. A full tax credit would give a major incentive for average citizens to contribute and get involved in the political process.

The imposition of voluntary spending limits is necessary to restore true competitiveness to Federal campaigns. When I talk to people all over the country, the common thread among the complaints is that "they spend too damn much money to get themselves elected." In addition to imposing voluntary limits on aggregate spending, the bill:

First, reduces the amount PAC's can contribute from $5,000 per election to $1,000 per election.

Second, reduces the maximum amount individuals may contribute from $1,000 per election to $500 per election.

Third, prohibits candidates from accepting more than 20 percent of the general election spending limits in PAC contributions.

The single largest cost of political campaigns is television advertising. Although some people have called for requiring television stations to provide free air time to candidates, our bill addresses this problem in a manner which is fair to all parties involved.

Our bill establishes a new lowest unit rate for candidates who accept spending limits. Further, it entitles participating candidates to an additional 50-percent discount in broadcast rates. The bill also allows for discounted postal rates for eligible candidates.

To stem the flow of independent expenditures, the bill provides additional public funding should an independent expenditure exceed $10,000 in the general election. It also requires broadcasters to make available to the opposing candidate adjacent air time once an independent expenditure is made.

The bill stems the flow of "soft money" into campaigns by prohibiting State and Federal

political parties from using soft money on activities which may influence a Federal election, such as get-out-the-vote campaigns, voter registration drives, and maintenance of voter files. It prohibits bundling of contributions by PAC's, lobbyists, corporations, labor unions, and trade associations. The bill sets new reporting requirements for State and national political parties and establishes aggregate PAC limits for national political parties.

The high cost of campaigns in the current system forces incumbents to raise money constantly and virtually shuts out challengers. It reinforces the power of incumbents and locks out competition. This legislation addresses the competitiveness barrier by banning exorbitant spending by candidates and by banning the practice of Members of Congress amassing huge campaign war chests to discourage potential challengers.

We can protect the status quo and permit the people to become increasingly alienated, apathetic, and disenchanted with Congress or we can take decisive steps to change the way congressional elections are conducted. It is time now to move on this issue and enact a meaningful and responsive campaign finance reform bill.

QUITMAN ELEMENTARY STUDENTS BOOST MORALE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues a letter from a national guardsman from my congressional district who is on active duty in Saudi Arabia. His name is Ric Wege and he is assigned to the 786th Transportaion Company out of Quitman, MS.

Ric wanted the students at Quitman Lower Elementary School to know how much he and the other members of the 786th appreciate the gifts these students have sent since the unit has been deployed to Saudi Arabia.

Mr. Speaker, this is just one example of the kind of support our troops have received from people throughout America in Operation Desert Shield and Desert Storm. This has been a big morale booster for the men and women in the Persian Gulf.

Ric's letter follows:

MARCH 12, 1991.

SIR: I am a member of Detachment 1, 786th Transportation Company home stationed in Quitman, Mississippi currently serving in Saudi Arabia.

I am writing to you to bring to your attention a great and continuing act of kindness which deserves special recognition.

The students of Quitman Lower Elementary School in Quitman, MS have sent us hand made Thanksgiving Day cards shortly after we were activated on 17 Nov. 90. Shortly thereafter they forwarded over 300 pounds of personal care items (soap, blades, shampoo, games, books, etc). Today we have received a large pile of valentine cards hand made by these children.

I can not find the words to express to you how very much their thoughtfulness means to each and everyone of us.

Their collective thoughtfulness has lightened our burden, lifted our spirits, and substantially contributed to our morale and welfare.

I do not know the criteria for a Presidential Freedom Medal or even if such an award can be made to an institution but if such a thing is possible would you please see to it that the school is nominated.

In any case would you please see to it that they receive some tangible, permanent form of recognition for their patriotic, loyal support for the American soldier.

Thank you,

RIC WEGE,
SSG MSARNG Training NCO.

THE RECONSTRUCTION OF KUWAIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 60 minutes.

Mr. DYMALLY. Mr. Speaker, I bring to the Members' attention today a matter of concern to thousands, perhaps millions, of Americans all over the world, not just here in the United States. That is the question of the reconstruction of Kuwait.

The Congressional Black Caucus has taken the initiative to gather information, to disseminate that information to the Members of the House and to the public in general, and later on, Mr. Speaker, I wish to enter this information into the RECORD.

But for now I want to recognize a distinguished Member, the distinguished gentlewoman from Detroit, MI, Mrs. BARBARA COLLINS.

Mrs. COLLINS of Michigan. Mr. Speaker, I rise to commend the gentleman from California [Mr. DYMALLY] for arranging this special order and for his diligence in bringing this important issue to the attention of the administration and the Kuwaiti Government.

One of the first men to die in our country's Revolutionary War was Crispus Attucks, a man of African descent. Many other brave Africans fought on the side of what was to become the United States of America. When the dust settled and the fighting ended, the Nation had won its freedom from the British Crown, but millions of Africans and their descendants remained imprisoned in the brutal bondage of slavery.

In every war since, from the War of 1812 to the war in Vietnam, African-Americans have proudly and bravely spilled their blood for the freedom of others in faraway lands, only to face pervasive racism and discrimination upon their return home.

As our African-American veterans return from the Persian Gulf, much attention has rightfully focused on the eloquent voice these brave, patriotic African-American veterans give to the need for enactment of the Civil Rights Act of 1991. But as important as civil rights are, we must also speak out for the economic rights of African Americans and our communities. One way we can do this as a nation, and one way the Kuwaiti Government can express its appreciation to the tens of thousands of minority Americans who fought to keep their country free, is to provide opportunities for minority enterprises to participate in the rebuilding of Kuwait.

As a result of an Iraqi occupation, much of Kuwait's infrastructure has been either destroyed or severely damaged. Some experts have estimated that the cost of reconstructing Kuwait's industrial and economic base could be as high as $100 billion over the next 5 years.

The Kuwaiti ambassador recently announced that countries which contributed most to Operation Desert Storm would receive the bulk of reconstruction contracts. The U.S. Department of Commerce immediately established a Gulf Reconstruction Center and a task force to work on the project. But, despite the fact that more than 120,000 minority Americans were deployed in Desert Storm, representing more than 28 percent of our military presence there, as of the beginning of this week, no minority firms were included in this task force, nor had either the Kuwaiti or American Governments made a clear commitment to seeking strong minority participation in rebuilding Kuwait. Of the $800 million in contracts already given to American firms by the Kuwaiti government, none were minority firms.

Mr. Speaker, it is the policy of Congress to emphasize minority involvement in Government-related contracts and firms doing business with the U.S. Government. In the past, U.S. companies doing business in the Middle East have not seemed to be sensitive to this policy.

The House has already expressed its desire that minority firms be included in the reconstruction of Kuwait. In report language accompanying the Desert Storm authorization and appropriations measures, the House has directed the Secretary of the Army to take steps to maximize minority participation in the rebuilding of Kuwait and to report to Congress on the progress of their efforts. But much more must be done.

Over the past 10 years, minority owned business has grown as a percentage of our Nation's economy, creating badly needed jobs in our communities. In the State of Michigan, alone, there are over 11,000 minority-owned enterprises, generating over $600 million of revenue a year. The owners and employees of these firms do not seek welfare. They do not seek special breaks or special treatment. All they seek is a fair share and a fair chance to compete equally in this society.

Mr. Speaker, our Nation has a normal obligation to do everything possible to make sure that minority businesses have a fair chance to compete for business in Kuwait. And the Ku-

waiti Government has a moral obligation to extend opportunities to all Americans who fought bravely so that they might be free.

□ 2150

Mr. DYMALLY. Mr. Speaker, I want to thank the gentlewoman from Detroit, MI, Mrs. COLLINS, for her most eloquent statement and having the patience to wait here at this late hour to deliver her very comprehensive and instructive statement on the question of reconstruction in Kuwait.

Mr. Speaker, now it is my pleasure to yield to the gentleman from New Jersey [Mr. PAYNE], a friend and a colleague with whom I serve on the Committee on Foreign Affairs. He serves on that committee with great distinction.

Mr. PAYNE of New Jersey. Mr. Speaker, let me, first of all, compliment the distinguished gentleman from California [Mr. DYMALLY] for asking for this special order and compliment the gentlewoman from Michigan [Mrs. COLLINS] for her very thorough remarks. As relates to the distinguished career of the gentleman from California [Mr. DYMALLY], he has been in elective office throughout the State of California, including the Vice Governor or Deputy Governor of the State of California, Lieutenant Governor. In our State of New Jersey we do not have that position, but he was the Lieutenant Governor of California, and his tremendous knowledge of the world around us certainly gives me pleasure, and it is a privilege to serve with such a distinguished gentleman from this House.

Mr. Speaker, as the gentlewoman from Michigan [Mrs. COLLINS] indicated, from Crispus Attucks, the first American to shed his blood on the earth of this country back in April of 1770, to many other African-Americans, they served very well in times of war. We saw Peter Salem at the Battle of Bunker Hill who fired the shot that killed Major Pitcairn who led the Boston Massacre at that Battle of Bunker Hill when they said, "Don't fire until you see the whites of their eyes." It was an African-American who was the hero of that particular war.

Mr. Speaker, we can go on. The Rough Riders were well known because they were led by Teddy Roosevelt, a person who became our President, but little is it known that at one point Teddy Roosevelt's Rough Riders were about to be annihilated at San Juan Hill, and it was the Buffalo Soldiers, an African-American group of soldiers, who led the way and reached the top of San Juan Hill to save the Rough Riders. In World War I we saw Nihim Roberts and Private Robinson who singlehandedly, two persons, captured a whole brigade of Germans in the trench warfare where both of them, being wounded, continued to hurl grenades, and Mr. Nihim Roberts was a neighbor of mine and was a World War I hero who was captured.

So, we can go on and on about the many outstanding contributions made by African-Americans during times of wars, however, Mr. Speaker, I would hope that we would now think to the future, and I would like to indicate that I have put in a resolution, and I urge my colleagues here in the House of Representatives to support this very important resolution, that the gentleman from Ohio [Mr. STOKES] and the gentleman from Maryland [Mr. MFUME] and the gentlewoman from Maryland [Mrs. MORELLA] and I have introduced. Our plan will give women and minorities, who played such a vital role in the success of Operation Desert Storm, the opportunity to participate in a meaningful way in the rebuilding of Kuwait.

Throughout history, African-Americans have courageously answered the call to military service to our country. A recent production at Ford's Theater centered around the heroic actions during World War II of the Tuskegee airmen, black fighter pilots who flew over 1,500 combat missions and shot down more than 400 enemy aircraft. In the segregated era in which they served, these war heroes were not able to enjoy the full rights accorded other citizens when they returned home. We can't change history, we can't change the indignities suffered by veterans of past wars, but we can seize the present moment to ensure that in 1991, the doors of opportunity are open to every American.

The war in the Persian Gulf took a painful toll on my neighborhood in Newark, NJ, as one of our fine young men became the youngest casualty of Operation Desert Storm. Pvt. Robert Talley, 18 years of age, who attended the same high school that I did, lost his life in the desert before he had a chance to fulfill his hopes and dreams.

This morning's Washington Post carried a very moving photograph taken at Arlington National Cemetery at the funeral of Army Maj. Marie T. Rossi, a female pilot from Oradell, NJ, who was killed in a helicopter crash in Saudi Arabia.

Mr. Speaker, as we mourn the loss of these promising young people, it is fitting that we honor their memory by working for a better America where everyone has a chance to succeed.

We know from the Department of Labor statistics that we still have a long way to go. African-Americans, who serve in disproportionate numbers in the military, are vastly overrepresented in our national jobless rate. In 1989, the black unemployment rate was 11.4 percent compared to 4.5 percent for whites.

Despite progress, women have not attained economic equality in the American work force. On the average, a woman with a college degree still earns less than a man with a high school diploma. Statistics indicate that women working full-time, year-round, earn only 65 percent of what men make.

As the rebuilding of Kuwait gets underway, contracts will be awarded and jobs will become available. The Government of Kuwait has stated that it will be their policy to give favorable treatment to American companies for the 5-year rebuilding program. The resolution I have introduced along with my colleagues encourages the Government of Kuwait to award a significant number of contracts to women and minority-owned businesses as well as to small and disadvantaged firms. We are also asking the help of President Bush, Secretary of Defense Cheney, the Secretary of the Army, and the heads of several U.S. Government agencies involved in the reconstruction process.

Mr. Speaker, there are many ways to show patriotism and to honor those who have served our country. I believe that one of the best ways is to shape a future that gives all citizens the opportunity to fulfill the American dream. I urge my colleagues in Congress to support our resolution as we move forward to rebuild Kuwait and to reaffirm our own sense of purpose and resolve.

□ 2200

Mr. DYMALLY. Mr. Speaker, the eloquent and relevant remarks of the gentlewoman from Michigan [Mrs. COLLINS] and the gentleman from New Jersey [Mr. PAYNE], makes my task rather easy. Because the hour is late, I shall not elaborate on what they have already stated.

Mr. Speaker, the purpose of our coming here today is to impress upon the United States Government, the public and private sectors, and the Government of Kuwait, the need to use this amount of talents that we have available here in America among the African-American community to help reconstruct Kuwait. We have African-American companies, Mr. Speaker, who worked on the Patriot missile, on the recycling of desert waste water, and a number of areas in construction, highway construction, and buildings.

Mr. Speaker, the Department of State has compiled a list of minority firms which have worked on the construction of embassies overseas. I might add, the Department of State has done an outstanding job in putting this together.

Mr. Speaker, I simply want to enter into the RECORD some relevant information for Members of the House to supply to constituents who have made inquiries. I am told that many of those constituents have been calling incessantly about the opportunities in Kuwait.

Mr. Speaker, first I want to enter into the RECORD information about contacts relevant to the reconstruction of Kuwait. This deals with the general information and business counseling,

the Kuwaiti Government Commercial Office, the United States Army Corps of Engineers, the United States Foreign Service, and employment information for individuals.

Mr. Speaker, the Department of Labor suggests an application be filed with the State Employment Office. The number for the local office is listed in the Government pages of the phone book under "Employment" or "Job Service."

CONTACTS FOR INFORMATION ON THE RECONSTRUCTION OF THE GULF

GENERAL INFORMATION AND BUSINESS COUNSELING

Gulf Reconstruction Center, U.S. Department of Commerce, Room 2039, Washington, DC 20230. Telephone: (202) 377-5767.

KUWAIT GOVERNMENT COMMERCIAL OFFICE

Kuwait Coordination and Follow-up Center, 1510 H Street, NW, Washington, DC 20005. Fax: (202) 508-0280. Telephone: (202) 508-0251 or 0250. Dr. A. Al-Awadi, Deputy Director.

U.S. ARMY CORPS OF ENGINEERS

U.S. Army Corps of Engineers, Middle East Division, P.O. Box 2250, Winchester, Virginia 22601-1450. Telephone: (703) 665-3798/3632/3683.

U.S. AND FOREIGN COMMERCIAL SERVICE

Riyadh, Saudi Arabia: Dirck Teller or Gene Heck. Telephone: 966-1-488-3880 x527. Fax: 966-1-488-3237.

Dhahran, Saudi Arabia: Carmine D'Aloisio. Telephone: 966-3-891-8332. Fax: 9666-3-891-8332.

Jeddah, Saudi Arabia: Mike Frisby. Telephone: 966-2-667-0040. Fax: 966-2-665-8106.

EMPLOYMENT INFORMATION

The Department of Labor suggests an application be filed with the state employment office. The number for the local office is listed in the government pages of the phone book under "employment" or "job services". Through the public employment service, applications will be given employers seeking workers to help with reconstruction in the Gulf region.

TRAVEL ADVISORIES

Telephone: (202) 647-0900.

Mr. Speaker, second, I want to enter some ways for minorities and small business to participate in the reconstruction of Kuwait. I have ways by which they can do that, as well as suggestions for further action in the House.

The Department of Commerce has a Gulf Reconstruction Center which will provide information on reconstruction opportunities in Kuwait. The Minority Business Development Agency last week formed the Kuwait Reconstruction Task Force. The Minority Business Development Centers across the country are listed in the information which I shall enter into the RECORD.

The U.S. Small Business Administration offers financial and procurement assistance, which includes an SBA answer disk, a procurement automated source system, SBA financial assistance, which offers loan guarantees to eligible small businesses for export-related activities in the area of general business loans, export revolving line of credit, and international credit loans.

Then the U.S. Small Business Administration has also put out a fact sheet on gulf reconstruction, which I trust will be very helpful to Members who are anxious to supply this information to their constituents.

OPIC, Overseas Private Investment Corporation, has programs for U.S. companies participating in the reconstruction of Kuwait.

SOME WAYS FOR MINORITY/SMALL BUSINESS TO PARTICIPATE IN THE RECONSTRUCTION OF KUWAIT

(1) Entering into partnerships with Kuwaiti firms, i.e., joint ventures or entering into Agency agreements with Kuwaiti agencies.

(2) Subcontracting with major U.S. Contractors. The problem here is that minority subcontracting/affirmative action record of these major US firms is very bad.

It is hoped that the Government of Kuwait will also allow direct contracts by Small/Minority businesses through the old practice of splitting a large contract into several components. For example: a 100-House contract would be split into 5 contracts each for 20-housing units.

Suggestions of further action in the House:

(1) To invite Dr. A. Al-Awadi, Deputy Director of the Kuwait Coordination and Follow-up Center to testify before the appropriate Committees or brief members of Congress on the procedures of his office for small and miority businesses.

(2) To invite major contractors like Bechtel and Flour to testify on the plans and procedures to involve minority business enterprises on the subcontract level.

Currently, in response to the demands and initiatives of Members of the Congressional Black Caucus, the U.S. Army Corps of Engineers is developing a data system of small businesses which will be used in subcontracting, if the U.S. Army Corps of Engineers obtains contracts beyond the initial emergency phase.

Department of Commerce:

(1) The Gulf Reconstruction Center: Currently open 7-days a week; tel. (202) 377-5767.

Address: Gulf Reconstruction Center, U.S. Department of Commerce, Room 2039, Washington, DC 20230.

Will provide info. on reconstruction opportunities in Kuwait, and joint ventures with Kuwaiti contractors.

(2) Commerce Offices in Saudi Arabia have business lists which are provided to the Kuwaiti private and public sectors.

(3) Minority Business Development Agency (MBDA): Last week MBDA formed the Kuwait Reconstruction Taskforce. This will gather information on available business opportunities for minority businesses and distribute it daily to its 107 Minority Business Development Centers which are located in every state.

To get the telephone number and address of the Minority Business Development Center Office nearest to you, call the MBDA Regional Office which serves your area. For instance if you live in California then you look up the San Francisco Region in the middle of the page to locate the number of Los Angeles MBDC.

(4) The Trade Promotion Coordinating Committee which includes representatives from 18 Agencies. Apparently, this committee will be organizing four trade missions to Kuwait, under the leadership of Secretary Mosbacher. We nonetheless, hope that Minorities, and African Americans will be included on these trips, unlike on tomorrow's freedom trip.

THE MINORITY BUSINESS DEVELOPMENT AGENCY PROVIDES ASSISTANCE THROUGH ITS NETWORK OF MINORITY BUSINESS DEVELOPMENT CENTERS

The core of the Minority Business Development Agency (MBDA) program is its nationwide network of Minority Business Development Centers (MBDCs). These centers provide the services that result in an increase in the formation and expansion of minority-owned businesses, a decrease in the failure rate of minority businesses, and an increase in business opportunities for minority entrepreneurs in U.S. and international markets.

Offering full business assistance services in 36 states, the District of Columbia, the Virgin Islands, and Puerto Rico—MBDCs are operated in large metropolitan areas by business development organizations funded annually by MBDA to assist minority individuals.

MBDCs counsel individuals on accounting, administration, business planning, inventory control, negotiations, referrals, networking, construction contracting and subcontracting, marketing, and on SBA's 8(a) certification to participate in minority set-aside contracting opportunities with the Federal Government. They provide managerial and technical assistance for bonding, bidding, estimating, financing, procurement, international trade, franchising, acquisitions, mergers, joint ventures, and leveraged buyouts.

Atlanta Region

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Carlton Eccles, MBDA Regional Director, 401 W. Peachtree St., N.W., Suite 1930, Atlanta, GA 30308, 404/730-3300, FTS 267-3300.

Rodolfo Suarez, District Officer, MBDA Miami District Office, Federal Office Building, Room 1340, 51 S.W. First Ave., P.O. Box 25, Miami, FL 33130, 305/536-5054, FTS 350-5054.

Atlanta MBDC, 75 Piedmont Ave., N.E., Suite 256, Atlanta, GA 30303, 404/586-0973.

Augusta MBDC, 1208 Laney Walker Blvd., Augusta, GA 30901-2796, 404/722-0994.

Birmingham MBDC, 2100 16th Ave. South, Suite 203, Birmingham, AL 35205, 205/930-9254.

Charleston MBDC, 701 E. Bay St., Suite 1539, Charleston, SC 29403, 803/724-3477.

Cherokee IBDC, Alquoni Rd., Box 1200, Cherokee, NC 28719, 704/497-9335.

Cherokee IBDC, 165 French Broad Ave., Asheville, NC 28801, 704/252-2516.

Columbia MBDC, 2711 Middleburg Drive, Suite 114, Columbia, SC 29204, 803/256-0528.

Columbus MBDC, 1214 First Ave., Suite 430, Columbus, GA 31902-1696, 404/324-4253.

Fayetteville MBDC, 114-1/2 Anderson St., Fayetteville, NC 28302, 919/483-7513.

Greenville/Spartanburg MBDC, 300 University Ridge, Suite 200, Greenville, SC 29601, 803/271-8753.

Jackson MBDC, 5285 Galaxie Drive, Suite A, Jackson, MS 39206, 601/362-2260.

Jacksonville MBDC, 333 N. Laura St., Suite 465, Jacksonville, FL 32202-3508, 904/353-3826.

Louisville MBDC, 611 West Main St., 4th Floor, Louisville, KY 40202, 502/589-7603.

Memphis MBDC, 5 North Third St., Suite 2000, Memphis, TN 38103, 901/527-2298.

Miami/Ft. Lauderdale MBDC, 1200 N.W. 78th Ave., Suite 301, Miami, FL 33126, 305/591-7355.

Mobile MBDC, 801 Executive Park Drive, Suite 102, Mobile, AL 36606, 205/471-5165.

Montgomery MBDC, 770 S. McDonough St., Suite 207, Montgomery, AL 36104, 205/834-7598.

Nashville MBDC, 404 J. Robertson Pkwy., Suite 1920, Nashville, TN 37219, 615/255-0432.

Orlando MBDC, 132 E. Colonial Dr., Suite 211, Orlando, FL 32801, 407/422-6234.

Raleigh/Durham MBDC, 817 New Bern Ave., Suite 8, Raleigh, NC 27601, 919/833-6122.

Savannah MBDC, 31 W. Congress St., Suite 201, Savannah, GA 31401, 912/236-6708.

Tampa/St. Petersburg MBDC, 4601 W. Kennedy Blvd., Suite 200, Tampa, FL 33609, 813/289-8824.

West Palm Beach MBDC, 2001 Broadway, Suite 301, Riveria Beach, FL 33404, 407/393-2530.

Chicago Region

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin.

David Vega, MBDA Regional Director, 55 E. Monroe St., Suite 1440, Chicago, IL 60603, 312/353-0182, FTS 353-0182.

Chicago 1 MBDC, 35 E. Wacker Dr., Suite 790, Chicago, IL 60601, 312/977-9190.

Chicago 2 MBDC, 700 One Prudential Plaza, Chicago, IL 60601, 312/565-4710.

Cincinnati MBDC, 113 W. Fourth St., Suite 600, Cincinnati, OH 45202, 513/381-4770.

Cleveland MBDC, 601 Lakeside, Suite 335, Cleveland, OH 44114, 216/664-4150.

Cleveland MBDC, 6200 Frank Road, N.W., Canton, OH 44720-7299, 216/494-6170.

Columbus MBDC, 37 North High St., Columbus, OH 43215, 614/225-6959.

Gary MBDC, 567 Broadway, Gary, IN 46402, 219/883-5802.

Indianapolis MBDC, 617 Indiana Ave., Suite 319, Indianapolis, IN 46202, 317/685-0055.

Kansas City MBDC, 414 East 12th Street, Kansas City, MO 64106, 816/274-2201.

Milwaukee MBDC, 3929 N. Humboltd Blvd., Milwaukee, WI 53212, 414/332-6268.

Minneapolis MBDC, 2021 E. Hennepin Ave., Suite LL 35, Minneapolis, MN 55413, 612/331-5576.

Minnesota IBDC, 3045 Farr Ave., Cass Lake, MN 56633, 218/335-8583.

St. Louis MBDC, 500 Washington Ave., Suite 1200, St. Louis, MO 63101, 314/621-6232.

Dallas Region

Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming.

Melda Cabrera, MBDC Regional Director, 1100 Commerce St., Room 7B23, Dallas, TX 75242, 214/767-8001, FTS 727-8001.

Albuquerque MBDC, 718 Central S.W., Albuquerque, NM 87102, 505/843-7114.

Austin MBDC, 301 Congress Ave., Suite 1020, Austin, TX 78701, 512/476-9700.

Baton Rouge MBDC, 2036 Woodale Blvd., Suite D, Baton Rouge, LA 70806, 504/924-0186.

Beaumont MBDC, 550 Fannin, Suite 106A, Beaumont, TX 77701, 409/836-1377.

Brownsville MBDC, 2100 Boca Chica, Suite 301, Brownsville, TX 78521-2265, 512/546-3400.

Corpus Christi MBDC, 3649 Leopard, Suite 514, Corpus Christi, TX 78404, 512/887-7961.

Denver MBDC, 303 Arapahow, Suite 202, Denver, CO 80205; 303/296-5590.

El Paso MBDC, 1312-A East Rio Grande St., El Paso, TX 79902; 915/544-2700.

Houston MBDC, 1200 Smith St., Suite 2800, Houston, TX 77002; 713/650-3831.

Laredo MBDC, 777 Calle Del Norte, No. 2, Laredo, TX 78401, 512/725-5177.

Little Rock MBDC, One Riverfront Place, Suite 415, North Little Rock, AR 72114, 501/372-7312.

Lubbock/Midland-Odessa MBDC, 1220 Broadway, Suite 509, Lubbock, TX 79401, 806/762-6232.

McAllen MBDC, 1701 W. Bus., Hwy. 83, Suite 1108, McAllen, TX 78501, 512/687-5224.

New Mexico IBDC, 2401 Twelfth St., N.W., Albuquerque, NM 87197-6507, 505/889-9092.

North Dakota IBDC, 3315 University Dr., Bismarck, ND 58501-7596, 701/255-3225.

Oklahoma City MBDC, 1500 N.E. 4th St., Suite 101, Oklahoma City, OK 73117, 405/235-0430.

Oklahoma IBDC, 5727 Garnett, Suite H, Tulsa, OK 74146, 918/250-5960.

Salt Lake City MBDC, 350 East 500 South, Suite 101, Salt Lake City, UT 84111, 801/328-8181.

San Antonio MBDC, UTSA, Hemisphere Tower, San Antonio, TX 78285, 512/224-1945.

Shreveport MBDC, 820 Jordan St., Suite 105, Shreveport, LA 71101, 318/226-4931.

Tulsa MBDC, 240 East Apache St., Tulsa, OK 74106, 918/592-1995.

New York Region

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands.

John Iglehart, MBDA Regional Director, 26 Federal Plaza, Room 3720, New York, NY 10278, 212/264-3262, FTS 264-3262.

Shelley Schwartz, District Officer, MBDA Boston District Office, 10 Causeway St., Room 418, Boston, MA 02222-1041, 617/565-6850, FTS 835-6850.

Boston MBDC, 985 Commonwealth Ave., Room 201, Boston, MA 02215, 617/353-7060.

BRONX MBDC, 2027 Williamsbridge Road, Bronx, NY 10461, 212/824-1563.

Brooklyn MBDC, 16 Court St., Room 1903, Brooklyn, NY 11201, 718/522-5880.

Buffalo MBDC, 523 Delaware Ave., Buffalo, NY 14202, 716/885-0336.

Connecticut MBDC, 410 Asylum St., Suite 243, Hartford, CT 06103, 203/246-5371.

Harlem MBDC, 2090 Adam Clayton Powell Blvd., Room 604, New York, NY 10027, 212/749-8604.

Manhattan MBDC, 51 Madison Ave., Suite 2212, New York, NY 10010, 212/779-4360.

Mayaguez MBDC, 70 West Mendez Bigo, P.O. Box 3146 Marine Station, Mayaguez PR 00708, 809/833-7783.

Nassau/Suffolk MBDC, 150 Broad Hollow Road, Suite 304, Melville, NY 11747, 516/549-5454.

New Brunswick MBDC, 100 Jersey Ave., Bldg. D, Suite 3, New Brunswick, NJ 08901, 908/249-5511.

Newark MBDC, 60 Park Place, Suite 1404, Newark, NJ 07102, 201/623-7712.

Ponce MBDC, 19 Salud St., Ponce, PR 00731, 809/840-8100.

Queens MBDC, 110-29 Horace Harding Expwy., Corona, NY 11368, 718/699-2400.

Rochester MBDC, 350 North Street, Rochester, NY 14615, 716/232-6120.

San Juan MBDC, 122 Eleanor Roosevelt St., Hato Rey, PR 00918, 809/753-8484.

Virgin Islands MBDC, 81-AB Kronprindsens Gade, P.O. Box 838, St. Thomas, VI 00804, 809/774-7215.

Williamsburg/Brooklyn MBDC, 12 Heywood St., Brooklyn, NY 11211, 718/522-5620.

San Francisco Region

Alaska, America Samoa, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington.

Xavier Mena, MBDA Regional Director, 221 Main St., Room 1280, San Francisco, CA 94105, 415/744-3001, FTS 484-3001.

Joseph Galindo, Rodolfo Guerra, District Officers, MBDA Los Angeles District Officers, 977 North Broadway, Suite 201, Los Angeles, CA 90012 213/894-7157, FTS 798-7157.

Alaska MBDC, 1577 C St. Plaza, Suite 200, Anchorage, AK 99501, 907/274-5400.

Anaheim MBDC, 6 Hutton Centre Dr., Suite 1050, Santa Ana, CA 92707, 714/434-0444.

Arizona IBDC, 2111 East Baseline Road, Suite F-8, Tempe, AZ 85283, 602/831-7524.

Arizona IBDC, 2070 East Southern Ave., Tempe, AZ 85282, 602/946-2635.

Bakersfield MBDC, 218 South H St., Suite 103, Bakersfield, CA 93304, 805/837-0291.

California IBDC, 9650 Flair Dr., Suite 303, El Monte, CA 91731-3008, 818/442-3701.

Fresno MBDC, 2010 N. Fine, Suite 103, Fresno, CA 93727, 209/252-7551.

Honolulu MBDC, 1001 Bishop St., Suite 2900, Honolulu, HI 96813, 808/536-0066.

Las Vegas MBDC, 716 South Sixth St., Las Vegas, NV 89101, 702/384-3293.

Los Angeles 2 MBDC, 3807 Wilshire Blvd., Suite 700, Los Angeles, CA 90010, 213/380-9471.

Oxnard MBDC, 451 W. Fifth St., Oxnard, CA 93030, 805/483-1123.

Phoenix MBDC*, (For information contact the San Francisco Regional Office.)

Portland MBDC, 8959 S.W. Barbur Blvd., Suite 102, Portland, OR 97219, 503/245-9253.

Riverside MBDC, 1060 Cooley Dr., Suite F, Colton, CA 92324, 714/824-9695.

Sacramento MBDC, 530 Bercut Drive, Suite C&D, Sacramento, CA 95814, 916/443-0700.

Salinas MBDC, 14 Maple St., Suite D, Salinas, CA 93901, 408/422-8825.

San Diego MBDC, 6495 Alvarado Court, Suite 106, San Diego, CA 92120, 619/594-3684.

San Francisco/Oakland MBDC, One California St., Suite 2100, San Francisco, CA 94111, 415/989-2920.

San Francisco/Oakland MBDC, 1000 Broadway, Suite 270, Oakland, CA 94607, 415-465-6756.

San Jose MBDC, 150 Almaden Blvd., Suite 600, San Jose, CA 95150, 408/275-9000.

Santa Barbara MBDC, 4141 State St., Suite B-4, Santa Barbara, CA 93110, 805/964-1136.

Seattle MBDC, 156 N.E. 100th Ave., Suite 401, Seattle, WA 98125, 206/525-5617.

Stockton MBDC, 5361 N. Pershing Ave., Suite A-1, Stockton, CA 95207, 209/477-2098.

Tucson MBDC, 181 W. Broadway, Tucson, AZ 85702-0180, 601/629-9744.

Washington Region

Delaware, Maryland, Pennsylvania, Virginia, Washington, D.C., West Virginia.

Georgina Sanchez, MBDC Regional Director, 14th & Const. Ave., NW, Room 6711, Washington, DC 20230, 202/377-8275, FTS 377-8275.

Alphonso Jackson, District Officer, MBDC Philadelphia District Office, Federal Office Bldg., 600 Arch St., Room 10128, Philadelphia, PA 19106, 215/597-9236, FTS 597-9236.

Baltimore MBDC, 2901 Druid Park Drive, Suite 201, Baltimore, MD 21215, 301/383-2214.

Newport News MBDC, 5060 Jefferson Ave., Suite 6016, Newport News, VA 23605, 804/245-8743.

Norfolk MBDC, 355 Crawford Parkway, Suite 608, Portsmouth, VA 23701, 804/399-0888.

Philadelphia MBDC, 125 North 8th St., 4th Floor, Philadelphia, PA 19106, 215/629-9841.

Pittsburgh MBDC, Nine Parkway Center, Suite 250, Pittsburgh, PA 15220, 412/921-1155.

Richmond MBDC, (For information, contact the Washington Regional Ofice.)

Washington MBDC, 1133-15th St., NW, Suite 1120, Washington, DC 20005, 202/785-2886.

THE U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Offers several financial and procurement assistance which include:

SBA Answer Desk;

The Procurement Automated Source System (PASS);

SBA Financial Assistance which offers loan guarantees to eligible small businesses for export related activities: General Busi-

ness Loan; Export Revolving Line of Credit; International Trade Loan.

FACT SHEET ON GULF RECONSTRUCTION

The U.S. Small Business Administration (SBA) offers several financial and procurement assistance and business counseling programs that may prove useful to small businesses and individuals interested in Kuwait and Persian Gulf reconstruction opportunities.

SBA ANSWER DESK: 1-800-U-ASK-SBA.

Small business firms and individuals interested in general information about how the SBA can help them take advantage of reconstruction opportunities in Kuwait and the Persian Gulf should call SBA's Answer Desk by dialing 1-800-U-ASK-SBA (1-800-827-5722). The Answer Desk operates from 9:00 a.m. to 5:00 p.m., Monday through Friday.

PASS: (202) 205-6469.

Small businesses interested in subcontracting opportunities relating to the reconstruction of Kuwait should enter their names on the Procurement Automated Source System (PASS). PASS is a computerized directory containing detailed profiles of more than 200,000 small business firms interested in government prime and subcontracts. This automated directory can be used by government agencies and prime contractors to find small business sources and develop bidders lists for Persian Gulf reconstruction projects. There is no cost for listing a small firm in PASS. To receive an application call the SBA Answer Desk. Government agencies and large prime contractors that want direct access to the PASS computer directory or further information on the PASS system should call (202) 205-6469.

SBA FINANCIAL ASSISTANCE

The SBA offers a variety of loan guarantees to eligible small businesses. Among the guarantee programs available for export related activity are:

General Business Loan—Available to finance a wide range of business activity, including purchases of plant and equipment. The SBA's guarantee portion on these loans may not exceed $750,000.

Export Revolving Line of Credit.—A short-term available to provide working capital for export transactions, the Export Revolving Line of Credit is available for up to three years. During the life of the loan, the borrower may draw down on the loan as needed to finance the export activity. SBA's guaranty portion may not exceed $750,000.

International Trade Loan.—The SBA will guarantee loans of up to $1 million to finance purchases of plant and equipment to be used for export purposes. An additional $250,000 guarantee is available for working capital.

Call the SBA Answer Desk for the number of your local SBA district office, where a loan officer will provide additional information on each of these loan programs.

PROCUREMENT ASSISTANCE

The offices of Procurement Assistance and International Trade in SBA Regional Offices can provide the contact points in other government agencies and large private contractors that have procurement opportunities related to the Kuwait/Gulf Reconstruction Project. Call the SBA Answer Desk for the number of the SBA Regional Office nearest you.

EXPORT COUNSELING

Counseling on exporting is available though Small Business Development Centers and the Service Corps of Retired Executives (SCORE). For information on these programs, please call your local SBA district office.

OPIC PROGRAMS FOR UNITED STATES COMPANIES PARTICIPATING IN THE RECONSTRUCTION OF KUWAIT

INVESTOR SERVICES

OPIC is preparing a number of programs designed to inform the U.S. private sector of the contracting and investment opportunities in Kuwait.

Kuwait Seminar.—This will be a one day seminar in Washington with briefings from the government of Kuwait, OPIC, and other U.S. government agencies engaged in the reconstruction process. The purpose of the seminar will be to inform participants of the efforts underway, the opportunities available, and the procedures for getting involved in the Kuwaiti reconstruction process.

Contractors Mission.—Preliminary preparations are already underway to lead a mission of U.S. contractors to Kuwait after the termination of hostilities. This mission, to be organized in cooperation with the U.S. Department of Commerce and the Government of Kuwait, will allow U.S. companies to investigate specific investment and contracting opportunities first hand, as well as provide them with direct access to the public and private sector purchasing agents in Kuwait.

To be placed on the mailing list for these programs please write or phone:

John Hereford, Investment Development Associate, OPIC, 1615 M Street, N.W., Washington, D.C. 20527; (202) 457-8210.

FINANCE

OPIC offers a finance program to assist small business contractors in Kuwait. Small businesses are deemed to be industrial firms having general sales of less than $142 million and nonindustrial firms having a net worth of less than $48 million.

This program is designed to assist small contractors who have difficulty getting a financial institution to issue standby letters of credit or other instruments used as performance and advance payment guaranties for projects in Kuwait.

OPIC will guarantee an eligible bank or other financial institution against all risks for up to 75% of the letter of credit issued on behalf of the contractor in favor of the project owner.

CONTRACTORS INSURANCE

Efforts to rebuild the Kuwaiti economy are well under way. As part of the U.S. Government's effort to assist in this process, OPIC offers political risk insurance coverage to American contractors in Kuwait.

OPIC's Contractors and Exporters insurance program can help minimize the risks associated with doing contractor's business in the Gulf region.

OPIC can insure against wrongful calling of bid, performance or advance payment guaranties, customs bonds, and other guaranties, usually issued in the form of bank standby letters of credit. OPIC also provides suppliers of goods and services with political risk protection against loss of bank accounts and or damage to physical assets due to politically motivated violence, as well as protection against resolved contractual disputes with a foreign buyer.

Insurance offered under this program can protect a wide range of U.S. companies in such service industries as engineering, drilling, hotel and hospital management, construction, and telecommunications.

If you have questions regarding these or any other OPIC programs, please write or phone:

Information Officer, OPIC, 1615 M Street, N.W., Washington, D.C. 20527; Tel: (202) 457-7087.

Mr. Speaker, the chairman of the Congressional Black Caucus, the gentleman from New York [Mr. TOWNS], wishes to enter a statement in the RECORD. I would like to read one or two paragraphs.

The gentleman states:

Mr. Speaker, I would like to commend my colleague from California for providing us with an opportunity to discuss the participation of minority businesses in the reconstruction efforts in Kuwait. The Government of Kuwait is to be commended for awarding the lion's share of its reconstruction contracts to the United States, because of our assistance in liberating their country. It is important, however, that minorities benefit from the economic opportunities which will be made available due to the reconstruction of Kuwait's infrastructure.

To date, of the $28.2 million in awards by the Army Corps of Engineers, none of these funds have gone to minority firms. History has shown that minority Americans are often "the first to fight, but the last to prosper." Unfortunately, history seems to be repeating itself.

Mr. Speaker, the gentleman from New York [Mr. TOWNS] continues, but I shall enter his statement in the RECORD:

STATEMENT OF HON. EDOLPHUS TOWNS

Mr. Speaker, I would like to commend my colleague from California for providing us with an opportunity to discuss the participation of minority business in the reconstruction efforts in Kuwait. The Government of Kuwait is to be commended for awarding the lion's share of its reconstruction contracts to the United States because of our assistance in liberating their country. It is important, however, that minorities benefit from the economic opportunities which will be made available due to the reconstruction of Kuwait's infrastructure. To date of the $28.2 million in awards by the Army Corps of Engineers none of the funds have gone to minority firms. History has shown that minority Americans are often "the first to fight but the last to prosper". Unfortunately, history seems to be repeating itself.

The sacrifices of minority men and women in the Persian Gulf conflict are well-documented. Over 30 percent of the ground troops in the Persian Gulf were minorities. Close to 50 percent of the service women in the conflict were blacks and other minorities. Among some of the first casualties in the gulf were minority servicemen. In fact, news reports indicate that perhaps the youngest American casualty was a young black man from Newark. At age 18, Pvt. Robert Talley joined the Army in December of last year hoping to take advantage of the Army's educational benefits so that he could be a doctor one day. Unfortunately, Private Talley will not be able to fulfill his dream but other young minority men and women should not be denied an opportunity to participate in the economic benefits which will now be available because of his sacrifice and the sacrifices of so many others.

While the House has included language in both the emergency supplemental appropriations bill and the Desert Storm authorization bill urging that minority businesses be

included in the reconstruction effort, I am hopeful that the Army Corps of Engineers and the Department of Commerce will develop its own plan of action to ensure a high level of participation for minority businesses. Let me say that the administration should not be caught up in excuses and bureaucratic snags when it comes to including minority businesses. I would also like to encourage the prime contractors who have already received awards from the Army Corps of Engineers to include minorities in their subcontracting operations. Finally, Kuwait's Ambassador to the United States has agreed to meet with the Congressional Black Caucus specifically on this issue. We look forward to discussing these issues with him some time next month. In the interim, I hope that the administration will acknowledge the services of minority Americans in the gulf conflict and ensure that they participate in the economic benefits.

Mr. Speaker, we next have a letter from the Citizens for a Free Kuwait addressed to Gen. Colin Powell. In part the letter reads:

It is especially important at this time of victory that we acknowledge the vast African-American contribution to these efforts on behalf of our liberation and the upholding of international law and order. The participation of such large numbers of African-American men and women, separated from loved ones for many months, who have served with such outstanding distinction, gives us cause for genuine admiration. We are aware that their blood, which has been shed in defense of freedom, liberty, and justice, along with the ultimate sacrifices made by other Americans and members of the allied coalition, makes it all the more imperative that we restore Kuwait in its full commitment to these democratic values.

CITIZENS FOR A FREE KUWAIT,
Falls Church, VA, March 12, 1991.

Gen. COLIN L. POWELL,
Chairman, Joint Chiefs of Staff,
The Pentagon, Washington, DC.

DEAR GENERAL POWELL: Now that the struggle for the restoration of Kuwait's sovereignty has been won and the Iraqi aggression which threatened the very basis of the international order defeated, I wish to take this opportunity not only to renew the cordial personal contacts which I had with you during these past months of trial, but to thank you most sincerely for the magnificent leadership which you have demonstrated.

Personally, and on behalf of our organization, Citizens for a Free Kuwait, I also wish to extend to all of the valiant Armed Forces under your command, the gratitude of Kuwaitis everywhere for their sacrifices.

It is especially important at this time of victory that we acknowledge the vast African-American contribution to these efforts on behalf of our liberation and the upholding of international law and order. The participation of such large numbers of African-American men and women, separated from loved ones for many months, who have served with such outstanding distinction, gives us cause for genuine admiration. We are aware that their blood, which has been shed in defense of freedom, liberty and justice, along with the ultimate sacrifices made by other Americans and members of the Allied Coalition, makes it all the more imperative that we restore Kuwait in its full commitment to these democratic values. I hasten to point out in this context that although Kuwait makes no mention of color or race in its own self definition, that Africa has contributed substantially to the very substance of the Kuwaiti people. Priding ourselves on being a non-racial society we sincerely hope that the common struggle for freedom will redound to the national and ethnic well being of African-Americans as well as our own.

I am taking the liberty, General Powell, of releasing this letter to the press for appropriate public information.

Sincerely,

H.A. AL-EHRAHEEM, Ph.D.,
President.

□ 2110

Mr. Speaker, I wrote Secretary Mosbacher a letter which brought to his attention a press story about the reconstruction of Kuwait, a list of companies which will participate in Kuwait, none of which were from minority communities, and the existence of a task force in the Department of Commerce.

We also, at the suggestion of Gen. Colin Powell, wrote Secretary Michael Stone in the Department of Army about the role of the Corps of Engineers.

Then, to summarize most of these activities, I sent out on March 7 a letter to members of the Congressional Black Caucus in which I pointed out that African-Americans' participation in the gulf war was larger than all of the Western allies together. The total was about 121,800. Britian had 35,000, France had 13,500, a total of 48,000.

Even the Arab partners, Egypt, 40,000; Syria, 40,000, a total of 80,000. So, we see that African-Americans played a significant role in this whole effort.

Finally, Mr. Speaker, I am entering into the RECORD awards by the United States Army Corps of Engineers for the restoration of infrastructure in the state of Kuwait, and listed here are the companies which so far have benefited. I note with some regret, Mr. Speaker, that none of these companies here come from the African-American community.

The material referred to follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, February 21, 1991.

Hon. ROBERT A. MOSBACHER,
Secretary, U.S. Department of Commerce, Washington, DC.

DEAR MR. SECRETARY: My staff has brought to my attention:

1. A press story which reported that a reconstruction effort has begun for post occupation Kuwait.

2. A list of companies which will participate in the Kuwait's reconstruction.

3. The existence of a Task Force in the Department of Commerce working on this project.

I was struck by the absence of any involvement of minority firms in this project.

Given the large number of minority servicemen and women in the Persian Gulf fighting to restore the Government of Kuwait, I am alarmed about the failure of your department to comply with the affirmative action policy and law in your proposal.

This is a very disturbing development and I would like to pursue this issue with the principals in your department working on this project.

I look forward to hearing from you. With very best wishes.

Sincerely,

MERVYN M. DYMALLY,
Chairman, Subcommittee on Africa.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 28, 1991.

Secretary MICHAEL P. STONE,
Department of the Army,
The Pentagon, Washington, DC.

DEAR SECRETARY STONE: I am writing you at the recommendation of the Chairman of the Joint Chiefs of Staff, General Colin Powell, regarding ensuring the participation of minority businesses in the reconstruction of Kuwait.

In the spirit of the President's recent statement that the Armed Services are the nation's largest equal opportunity employer, and since minorities account for 28.2% of Operation Desert Storm, many in the U.S. Congress, and certainly around the nation are alarmed about the absence of minority participation in the reconstruction of Kuwait.

I understand that the Department of the Army played and is still playing a significant role in the reconstruction effort both through the Army's Civil Affairs Unit, which is on loan to the Kuwaiti Task Force, and the U.S. Army Corps of Engineers.

Given that minority businesses, according to press reports, are starting out at a disadvantage, I would greatly appreciate hearing from you as soon as possible regarding the following:

(1) What exactly is the role of the Army in the reconstruction effort?

(2) What are the U.S. Army Corps of Engineers' plans to ensure minority business participation?

(3) What has been the participation of minority business in the reconstruction effort?

(4) How does a U.S. business ensure its participation in the reconstruction effort, assuming that a procedure is developed to ensure some uniformity in the bidding process?

(5) Who are the staff persons within both the Army Civil Affairs Unit and the U.S. Army Corps of Engineers, or any other federal government entity, who are playing critical roles in the reconstruction, and who serve as a point of contact for minority business contractors?

Finally, I would appreciate a briefing as soon as possible on the Army's efforts to ensure minority participation in the reconstruction effort. Please feel free to contact me or Marwan Burgan, my Legislative Director, at 225-5425 to arrange a time for the briefing.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 7, 1991.

DEAR CBC COLLEAGUE:

This is to update you on some initiatives which have been taken regarding the inclusion of minority firms in the reconstruction of Kuwait:

(1) On February 21, 1991, I raised the issue of Minority participation with the Kuwaiti Ambassador during a Foreign Affairs briefing (the Ambassadors of Saudi Arabia and Egypt were both present).

(2) On the same day I sent a letter to Secretary Mosbacher expressing my concern about the absence of minority firms involvement in the Commerce Department task force for the reconstruction of Kuwait. (Two

weeks later, the Secretary of Commerce still has not responded to my letter).

(3) I followed up with the Ambassador of Kuwait by sending him a letter explaining the difference between providing economic opportunity to minorities who disproportionately participated in the liberation of Kuwait, and what he misunderstood as race relations in Kuwait. [African-Americans' (121,795) participation in the Gulf war was larger than all the western allies together (Britain 35,000; France 13,550; total 48,550) or even the major Arab partners (Egypt 40,500; Syria 40,000; total 80,500)].

(4) During the CBC meeting with General Colin Powell on February 26, 1991, I raised the issue of minority inclusion by the US Corps of Engineers.

(5) Based on the recommendation of General Powell, I sent a letter to the Secretary of the Army requesting information on Minority participation in the Corps of Engineers current work in Kuwait.

(6) My staff met with Kuwaiti Embassy personnel dealing with the reconstruction effort, again to explain the need for minority participation.

(7) I have met with the Deputy Chief of Mission of the Embassy of Saudi Arabia again to explain this issue.

(8) Congressman Dixon has introduced report language in the Desert Storm Supplemental Appropriations bill requesting that the U.S. Army Corps of Engineers make every effort to use and encourage the Government of Kuwait to use small, disadvantaged and minority businesses in any contracts and subcontracts, and to include small, disadvantaged, and minority businesses on the list of prequalified companies provided by the Corps of Engineers to the Government of Kuwait, and requesting a report by June 3, 1991 on the extent of minority participation of small and disadvantaged businesses in the reconstruction of Kuwait.

(9) During a Subcommittee on Africa hearing, Congressman Payne announced plans to introduce an initiative to enhance minority participation in Kuwait's reconstruction.

(10) Congressman Stokes is introducing a sense of Congress resolution to encourage the participation of minority businesses in Kuwait.

(11) Congressman Dellums introduced report language in the Desert Storm Authorization requiring that the U.S. Army Corps of Engineers would use section 1207 for guidance in its award of contracts, and expressing concern about the abuse of the surety bond issue which eliminates minority firms from participating in Corps contracts.

(12) At the request of Congresswoman Cardiss Collins, CBC Chairman Ed Towns has requested a meeting for the CBC Members with the Kuwaiti Ambassador.

(13) It is my understanding that other Members have expressed interest in pursuing other initiatives.

(14) There has been some press coverage on our initiatives already.

Finally I would like to suggest having a special order on the House Floor as early as next Tuesday, March 12, 1991 to focus attention on this problem. I am afraid that if we do not wage a fight now to ensure minority participation, then minorities will once again have been "the first to fight but the last to prosper."

I hope that you will join me on the House Floor on Tuesday, March 12, 1991 to let the nation, M.B.E.s, and the Government of Kuwait know our commitment on this issue. Please feel free to call me or Marwan Burgan, my Legislative Director, if you need more information or to confirm your participation, at 225-5425.

Sincerely,

MERVYN M. DYMALLY.

AWARDS BY THE U.S. ARMY CORPS OF ENGINEERS FOR THE RESTORATION OF INFRASTRUCTURE STATE OF KUWAIT

[Dollar amounts in millions]

Date of award	Description	Contractor	Country	Amount
Jan. 31, 1991	Acquisition of airport equipment	Raytheon Service Co., P.O. Box 503, 2 Wayside Road, Burlington, MA 01803. POC: Mr. Duggan, 617/272-9300 x2491.	United States	$5.7
Mar. 31, 1991	Emergency electrical repairs in Kuwait	Blount International, 4520 Executive Park Drive, Montgomery, AL 36116. POC: Mr. Rod Caesar, 205/244-5472.	United States	3.0
Mar. 3, 1991	Temporary repairs to public buildings	Blount International, 4520 Executive Park Drive, Montgomery AL 36116	United States	3.0
Mar. 3, 1991	Expedient survey of Shu'Aibh Port State of Kuwait	American Dredging Co. Beach and Erie Streets, P.O. Box 190, Camden, NJ 08101, POC: Mr. Don Roeder, 609/963-0963.	United States	0.4
Mar. 3, 1991	Repair of roads and airport runways.	Al Harbi Trading & Contracting Co. Ltd., P.O. Box 5750, Riyadh, Saudi Arabia 11432.	Saudi, Arabia	4.5
Mar. 3, 1991	Temporary repairs to public buildings	Brown & Root International, P.O. Box 3, Houston, TX 77001-0003. POC: Mr. W.R. Golson, 713/676-3236.	United States	3.0
Mar. 4, 1991	Temporary repairs to public buildings	Mohamed A. Kharafi,	Kuwait	5.0
Mar. 4, 1991	Repairs to sanitary and water systems	Shand Construction, Ltd. Shand House—Matlock, Derbyshire, England, DE4 3AF.	United Kingdom	2.6
	Repairs to key Government offices	Khudair Group	Saudi Arabia	1.0
	Total			$28.2

Mr. Speaker, I am pleased to yield to my very good friend, the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from California for yielding. I am glad that he brought up this subject of the restoration in Kuwait. I have been working a little bit in that arena because I did introduce a resolution calling upon the State of Kuwait to issue contracts proportionately to those countries which had contributed the most in the freeing of that country.

In a meeting with the Ambassador, he did assure me that he was going to be very fair. I think these initial contracts were done for emergency reasons, things that had to be done very, very quickly. They had to move in getting certain supplies and all of that. This is what he told me, and it will be some time before they really get into the construction contracts. I am sure when they do that they are going to be very, very fair because they fully appreciate all of the effort by the United States of America and all of its citizens in helping them to free their country.

I thank the gentleman for bringing that subject up tonight.

Mr. DYMALLY. Mr. Speaker, I am most grateful to the gentlewoman from Maryland. I have worked with her on a number of issues, especially the whole question of American trade with Japan, and she has always been very supportive of our efforts. I thank her for bringing this to the attention of the Ambassador and look forward to working with her on this issue.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, let me thank the gentleman from California [Mr. DYMALLY], chairman of the Subcommittee on Africa, for yielding that I might be able to add my thoughts and my own reflections on this very important subject, and that I might also thank him for his leadership on this.

Many of us are involved with this now, but the genesis, with all due respect, came from the gentleman from California who recognized early on how important it would be if we are to rebuild Kuwait or anywhere else that there is a semblance of fairness and equity and parity in the process. I want to thank the gentleman for sensitizing this Congress and all of the Members who are in this Congress to the idea and to the notion of fairness as it relates also to the rebuilding of Kuwait.

Let me, if I might, also add to the remarks of not only the gentleman from California, but the gentlewoman from Michigan [Mrs. COLLINS] who spoke earlier and the gentleman from New Jersey [Mr. PAYNE], who also spoke earlier, both of whom bring also a sensitivity to this very important issue. Also to thank the distinguished gentlewoman from Maryland [Mrs. BENTLEY] for being in all respects one of the most fair Members of this body when it comes to the idea of contracting and contracting fairly, and importantly to the citizens of this country. I would just add also that the gentlewoman has distinguished herself in the area of fairness as it relates to the Japanese, but I would urge persons who are watching this colloquy tonight to understand that her remarks are greatly appreciated on this side as it relates to the rebuilding of Kuwait.

This is a very interesting issue, Mr. Speaker, for many of us. Again, it was the gentleman from California [Mr. DYMALLY] who first raised it, and members of the Congressional Black Caucus who embraced it with a great sense of

passion and commitment because we adhered to the principle of inclusion.

As you know, it has been estimated that over the next 5 years the Government of Kuwait will spend $100 billion to repair the damages caused by Saddam Hussein's August 1990 invasion. I believe that small businesses and that disadvantaged businesses and that women's businesses and minority-owned businesses should also play a significant role in that effort through the awarding of contracts and subcontracts from the Kuwaitis here in the United States through our Government and through private American firms.

I have received an inordinate amount of telephone inquiries over the last week. I would suspect that the gentleman from California and others have received them also from persons all across this Nation, very much interested and anxious to do business in this new process. I have been encouraged to learn preliminarily of the desire of the Kuwaitis to want to do business with the Nation that really very much supported them during this 7-month occupation.

In our own State of Maryland, our Governor will be traveling tomorrow with pretty much an unprecedented delegation accompanying the Emir of Kuwait back to return to his homeland. I would simply say to all of those who recognize how important this issue is to us, and obviously to our government, to the Governor, and to the gentleman from California and others that they join with us in this particular effort. I have communicated with the Army Corps of Engineers, the Department of Commerce and the Small Business Administration to further go about the business of assisting interested small and disadvantaged and minority-owned firms in participating in this reconstruction effort.

Just today, along with Congressman STOKES, Congressman PAYNE who spoke earlier, and Congresswoman MORELLA of the State of Maryland, we joined in lifting the gentleman from California's idea into the form of a sense of the Congress resolution and introduced that here in this body. If I might take just a few minutes, I will give Members a sense of the resolution, how it was worded and what we hope to do with it.

RESOLUTION

Whereas the men and women of the Armed Forces together with allied forces have successfully liberated Kuwait and the independence and sovereignty of Kuwait have been fully restored;

Whereas much damage has been done to the infrastructure, environment, and industrial capacity of Kuwait and reconstruction of Kuwait's economy is desperately needed;

Whereas small and disadvantaged, minority and women owned businesses have always sought equal access to contracting and subcontracting opportunities that other small business enterprises enjoy;

Whereas the Department of Defense five percent set-a-side goal for small and disadvantaged, minority and women owned businesses have never been met;

Whereas small and disadvantaged, minority and women owned businesses are playing an increasingly important role in the United States economy and international trade;

Whereas small and disadvantaged, minority and women owned businesses have expressed an overwhelming interest in helping in the rebuilding and reconstruction of Kuwait, but face inherent difficulties in competing in foreign markets and in obtaining a share of procurement contracts from foreign governments, particularly those awarded in other parts of the world;

Whereas small and disadvantaged, minority and women owned businesses also must compete against larger better placed American Businesses: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the President, the Administrator of the Small Business Administration, the Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Export-Import Bank, and the Overseas Private Investment Corporation should cooperate in providing assistance to United States small and disadvantaged, minority and women owned enterprises seeking to become involved in the rebuilding of Kuwait.

(2) the Administrator of the Small Business Administration should conduct a public information campaign using its local and national offices and the Director of the Minority Business Development Agency to advise United States small and disadvantaged, minority and women owned enterprises about becoming involved in the rebuilding of Kuwait;

(3) the Administrator of the Small Business Administration and the Director of the Minority Business Development Agency should identify those United States companies that have been awarded contracts pertaining to the rebuilding of Kuwait, and encourage them whenever and wherever possible to subcontract with United States small and disadvantaged, women and minority owned enterprises; and

(4) All small, disadvantaged, minority and women owned businesses that have been awarded contracts in the rebuilding or reconstruction of Kuwait should seek to hire where appropriate veterans of the Armed Forces.

We would hope that the Senate would concur with the wording of this resolution so that we can move swiftly on it here in the House of Representatives and indeed in the full Congress, so that it becomes just what it is meant to be, a very strong sense of this body that it is adhered to, and that it takes into consideration much that the gentleman has talked about here this evening in terms of providing an informational campaign, setting up the sort of processes that are necessary to carry this forward and by providing the leadership, both through the SBA and the Minority Business Development Agency, to carry this out.

□ 2220

So for me it has been a pleasure and honor to be a part of this effort.

I want to thank the gentleman from California, the chairman of the Subcommittee on Africa, for his sensitivity in this issue, for raising it before this body, for allowing us, particularly those of us who are junior Members, to become associated with it.

Mr. DYMALLY. Mr. Speaker, I thank the gentleman from Maryland for his eloquent statement.

The good news is that the ambassador from Kuwait has agreed to meet with the Congressional Black Caucus to discuss this issue.

In conclusion, let me express my deep thanks to some people who have made this session possible and others who are helping us. First, I want to thank the Ambassador from Egypt to the United States for his help in bringing this together. I want the gentlewoman from Maryland [Mrs. BENTLEY] to know that we take very seriously her support. We are going to be looking forward to her to help us communicate the need to involve minorities in this whole project, and we really appreciate her expression of support.

I want to thank the gentlewoman from Michigan [Mrs. COLLINS], the gentleman from New Jersey [Mr. PAYNE], the gentleman from Maryland [Mr. MFUME], the gentleman from Ohio [Mr. STOKES], the gentleman from California [Mr. DELLUMS], the gentleman from California [Mr. DIXON], and the gentleman from New York [Mr. TOWNS], and all of those others who have made it possible for us to come here today to report to the Members.

Mr. STOKES. Mr. Speaker, I want to commend my colleague, Mr. DYMALLY, for reserving time to discuss the issue of small and disadvantaged business involvement in rebuilding Kuwait. With the attention of the world now riveted on efforts to rebuild this war-ravaged country, this issue has become one of the most important concerns facing our Nation.

According to initial reports, the rebuilding of Kuwait promises to be one of the largest construction projects in history, at an estimated cost of up to $100 billion over a five-year period. The government of Kuwait has formally requested U.S. assistance in this endeavor, and has indicated that countries who contributed to Operation Desert Storm will receive the bulk of reconstruction contracts. Thus, American businesses will play a major role in the rebuilding process.

The U.S. Army Corps of Engineers has managed the initial contracts under an agreement with Kuwait covering the first 90 days of reconstruction. The initial contracts were awarded to 8 companies, 5 of which are large U.S. firms with extensive experience working in the Middle East. However, no small and disadvantaged businesses have gotten contracts thus far.

It is time for the United States to use its influence to encourage the government of Kuwait to provide opportunities not only for large U.S. firms, but also for small and disadvantaged, minority and women-owned businesses to participate in the lucrative business development opportunities created by efforts to rebuild Kuwait.

United States troops risked their lives and fought successfully to liberate Kuwait from Iraqi occupation. Moreover, minorities and female U.S. servicemembers made a historic contribution. Almost 30% of the U.S. troops were African-Americans. More than 30,000 women served in the gulf; almost half of the women were African-Americans. Based on their contribution to the war effort, minorities and women deserve to be a part of reconstruction efforts. Furthermore, extending this opportunity to small and disadvantaged businesses would help to ease the slump precipitated by the U.S. recession—a recession which will probably hit small and disadvantaged businesses the hardest. Thus, it is important to ensure that our Nation's small and disadvantaged businesses are not shut out of an important economic opportunity.

Mr. Speaker, the U.S. Government has a major political advantage as it relates to efforts to rebuild Kuwait. Kuwaiti officials have publicly acknowledged their deep gratitude for the sacrifices and support of the American people in liberating their nation. It is now appropriate for the U.S. Government to use that advantage to promote the involvement of small and disadvantaged, minority, and women-owned businesses in the rebuilding of Kuwait.

It is because of my concern regarding minority and women-owned business involvement in restoration of Kuwait, that I introduce today a concurrent resolution urging U.S. Government officials involved in the restoration of Kuwait to solicit these businesses for contract awards, to encourage Kuwait to award contracts to these firms, and to encourage prime contractors to subcontract with them. It would be appropriate for the administration to do so. It would be a boost for our economy, and, most important, it would be good for America's small and disadvantaged, minority and women-owned businesses.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

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

There was no objection.

JAPANESE BUY NATIONAL TREASURE—PEBBLE BEACH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, Japanese companies are once again on the move—buying trophy American properties. This time they are buying our national treasure golf courses like Pebble Beach.

That is the course where the National Open Golf Tournament is played. Now that it is out of American hands we will have the Japanese able to determine the access and reap the profits off our all American tournament.

This sale is a scandal in several ways. Pebble Beach, a world class course, is included in a four-course sale package which includes Spyglass, Spanish Bay, Del Monte and Peter Hay practice course.

It not only is the inflated cost of the course, but of the memberships and the real estate development in one of the few pristine coasts in America. The 17-mile drive of Pebble Beach properties is one of California's popular tourist attractions.

In addition, we should be concerned that the cost of golf, which is already too high for many Americans is being driven to unbelievably sky-high prices by the Japanese.

An increase in the green fee from $175 to a membership of $750,000 at Pebble Beach is a 428,000 percent increase in fees. Japanese may pay from $900,000 to $2.7 million at their top courses in Japan, but in America this is not so—or at least it was not so until the Japanese bought our golf courses.

The golfers at San Geronimo Valley Golf Course in Martin County, CA, found out just how expensive it was to have the Japanese buy their course. The new owner, C&N Corp., bought the property for $13 million and was considering raising the membership fee to $50,000 plus $400 monthly dues. Currently they sell for $800 a year with $125 monthly dues. Some kind of inflation isn't it?

The company dropped the idea of increasing the fees after protest from the members and community.

At some of the golf courses the new Japanese owners discriminate by charging Japanese members outrageous fees. At the Honolulu International Country Club, resident membership fees are $19,000 but an international membership is $150,000.

This is no small business. According to the Kenneth Leventhal & Co., a real estate accounting firm, the Japanese investment in golf courses was in excess of $1 billion dollars in 1990.

Just how much will the Pebble Beach sale mean to the Japanese? According to Chris Mead of Mead Ventures, the total package should generate $721.2 million exclusive of the funds generated by the sale of high priced memberships in Japan. In addition there are other soft profits from ventures of the course via additional tourists, use of the logo or increased use of the course.

The reason for the Japanese investment was stated in a newspaper article in the Washington Post by Kirstin Downey and it quoted Donald Wizeman, president of Dai-Ichi Corp., a Japanese corporation. He said:

> There is no money in America now * * *. Banks don't have it. Forget the S&Ls (savings and loans institutions). There's no capital for large acquisitions. There isn't any investment money in the United States.

If there is no investment money in the United States, then why are the Japanese companies finding it necessary to run up the price of American properties way beyond their value.

I know funding has been tight in the United States, but if investment money is not available, then why are the Japanese unnecessarily throwing away their money by high prices for properties if funds are not available in the United States.

The prices certainly haven't stopped the Japanese acquisitions. According to Mead Ventures of Phoenix, AZ, there are "160 golf courses in the United States that are owned wholly or partly by Japanese companies or their United States subsidiaries."

In addition to the 160, negotiations now are underway also to buy PGA West, La Quinta and Mission Hills in California and Kiawah Island in South Carolina. Other courses now owned by the Japanese that are household names to golfers are Grand Cypress Resort in Florida and Princeville Makai-Prince Golf Course in Hawaii. If the landmark sale goes through, the Japanese will own an additional 20 golf courses.

The Japanese are currently in golf course developments in the following States according to Mead Ventures Japan Golf Course Investment Report. They include: Hawaii, California, Texas, Oregon, Arizona, Georgia, New York, Florida, Nevada, North Carolina, Washington, South Carolina, Colorado, Illinois, and Mississippi.

I hope the golfers in those States I mentioned are aware of what is going on in their golfing community. They should carefully check the land use plans and if the sale is subject to a Federal regulation for approval.

Mead Ventures also reports that Japanese companies own "nearly all the nonpublic courses in Hawaii." They also report that most of the 40 golf courses now planned or under construction in Hawaii are "being built with Japanese funds or with the expectation of a sale to a Japanese buyer."

In Japan, golf course memberships are traded as securities, according to Chris Mead. He reports the

> Total value of these memberships is about $200 billion, or about $117 million per course in Japan—Non-golfers buy memberships as a form of real estate speculation.

Although Japan has some 15 million Japanese golfers there is no reason for Americans to give up our trophy courses except they are being discriminated against by the high membership fees.

Japan Golf Course Investment Reports Mead Ventures' states:

> A course does not have to have any actual regulations favoring Japanese members to be, in effect, a Japanese-only club. High membership fees and marketing exclusively in Japan or in Japanese companies in the United States virtually assures that a club will be close to 100 percent Japanese.

Chris Read has coined a phrase "golf friction" for the resultant conflict of the Japanese ownership and practices towards memberships for the Americans and the attendant problems of purchase in the surrounding communities.

It is difficult to understand fully what these high costs will mean to American golfers. American owners of the course and golf brokers have made a profit, but the members and the American public are the ones who pay.

There is speculation that we will have to build more golf courses as the Americans are squeezed out of the prime courses in the United States. Where will the Lee Trevinos of the world learn to play golf if our public courses are lost and shut to Americans?

What a shame that American golfers cannot afford to share such beautiful views as Pebble Beach if the Japanese go through with their plans.

In addition, some of the courses, like Pebble Beach will have homes built on the adjoining property to help defray the high purchases price of the course. Naturally, these homes will be expensive and beyond the pocketbook of most Americans.

Disputes also have arisen over the environmental impact of Japanese intentions to use additional land around the courses.

In fact, the Washington Post article reports that "with land at a premium on the tiny island, Japanese builders, or Japanese-backed groups have announced plans to build dozens of the new golf courses.

Now American communities also will pay an environmental cost for Japanese investment, plus we should consider the tax consequences which are generally a local matter. The full fallout from the taxes is not yet known.

I do know though, that if the Japanese sell their golf courses, they will not have to pay capital gains under the agreement made in the SII talks last year—and under the terms of our tax treaty with Japan. That ought to make American investors very happy—since U.S. citizens do pay capital gains.

Something not considered in the sale of the courses is the access the Japanese will have in selling athletic gear, particularly the shoes which is a $11.7 billion a year business in America. Recent stories in the papers report Japanese investment in athletic apparel.

Americans are losing in the sale of our golf courses in a big way. Business is done on the golf course in addition to the recreation and health benefits.

Now Americans are becoming second class citizens in our own country and we no longer will have free access to the trophy golf courses. The Japanese high prices are pushing a class consciousness of the super rich for the better things in American life.

As Keniche Ohmae points out in his book "The Borderless State"—we are now in a period of the increasing "dominance of consumers over companies and countries."

If our golf courses are the true meaning of his book, then I don't believe the American people with their sense of liberty and freedom will accept being locked out of the best golf courses. Nor will they accept the Japanese using park land for access to their golf courses as they are attempting to do in the State of Washington.

The Americans are a fair-minded people but they turn hostile if pushed too far and their options are cut and then we truly have "golf friction."

In spite of the Japanese long assocition with us, they have proven by their actions that they do not understand the American people. Americans golfers will not give up the game to become a nation of checker players.

Mr. Speaker, I am inserting at this point in the RECORD a newspaper article entitled "Teed Off Over Sales of Golf Courses."

[From the Washington Post, Feb. 9, 1991]

TEED OFF OVER SALES OF GOLF COURSES

(By Kirstin Downey)

While Japanese investors are losing interest in buying American office buildings, they are queuing up to buy trophy golf courses in the United States.

In a handful of cases, the purchases are stirring a new controversy that is being called "golf friction."

Indisputably, the pace of golf course sales has accelerated. In the past six months, alone, avid golfers from Japan have purchased such well-known American golf courses as Pebble Beach in Californa, Grand Cypress Resort in Florida and Princeville Makai/Prince Golf Course in Hawaii.

Similarly, a group of Japanese investors is negotiating to buy a package of golf properties that includes PGA West, La Quinta and Mission Hills in California and Kiawah Island in South Carolina. More such purchases are on the way: Dai-Ichi Corp. of Myrtle Beach S.C., is currently marketing about 75 U.S. golf courses to Japanese buyers.

According to a new report by Phoenix/based Mead Ventures, a research and publishing firm, Japanese buyers have bought at least 160 U.S. courses, up from only a handful five years ago. Japanese buyers now own virtually all the non-public golf courses in the state of Hawaii, the report said.

"Japan has a love affair with golf but a shortage of available land," wrote Christopher Mead, founder and president of Mead Ventures. "As a result, many Japanese go overseas to golf or to invest in golf courses. . . . It appears moreover, that Japanese interest in American golf will deepen over the coming decade.

Golf is a relatively new sport in Japan, but many residents there have embraced it with a passion. About 15 million Japanese consider themselves golfers, although the cost is so prohibitive that most enthusiasts are forced to only practice at driving ranges, which operate 24 hours a day. Membership at a golf course is generally out of the question. When a spot is available, memberships at top courses cost at least $900,000 and range up to $2.7 million.

The solution? Golfing vacations, with airfare, hotel accommodations and greens fees offered as part of a tour package.

Consequently, Japanese investment in U.S. golf courses is soaring. According to the real estate accounting firm of Kenneth Leventhal & Co., outlays totaled about $202 million in 1988, doubled in 1989 and more than quadrupled in 1990 to an amount in excess of $1 billion. And 1991 is likely to be much higher: The deal involving the PGA West, La Quinta and Mission Hills, announced in January, is itself worth an estimated $739 million.

In many cases, Japanese buyers are the only bidders on golf courses up for sale in the United States.

"There is no money in America now," said Donald Wizeman, president of Dai-Ichi Corp. "Banks don't have it. Forget the S&Ls [savings and loan institutions]. There's no capital for large acquisitions. There isn't any investment money in the United States."

At the same time, Japanese interest in other sorts of American real estate purchases appears to be diminishing. Overall Japanese investment in U.S. real estate fell for the first time in a decade last year, dropping about 20 percent from 1989's $14.77 billion.

Unlike office buildings and shopping centers, golf course purchases have sometimes generated controversy. In a handful of incidents around the country, "golf friction" has erupted.

"Harsh words on trade are exchanged between national or corporate leaders, while golf acrimony occurs between individuals, some of them standing face-to-face," Mead wrote. "Golf friction, moreover, pits two proud elites against one another: wealthy Japanese versus wealthy Americans."

In particular, the strength of the Japanese yen, and the ability of Japanese tourists to pay more to play the U.S. courses, has sparked fears that the new owners of the courses could eventually raise the fees to a level affordable to Japanese but not American patrons. Across the board, the new buyers have paid prices far in excess of the levels previously paid for similar American courses.

Members of the Tamarack Country Club in Greenwich, Conn., for example, last year received Japanese purchase offers of $50 million and $77 million for their course—double or triple what would have been paid by local purchasers, according to Mead. Tamarack members were enthusiastic at first. Then they learned that under the purchase contract, they would only be allowed to retain their membership for 10 years, after which the new Japanese owners would have the option of kicking them out. They turned down the offers.

Meanwhile, in affluent Marin County, Calif., longtime golfers at the San Geronimo Valley Golf Course were dismayed to learn that the new buyer of their golf club, C&N Corp., another Japanese firm, which bought the property in May 1990 for $13 million, was considering privatizing the course and raising the membership fee to $50,000, with $400 monthly dues. Current memberships sell for $800, with $125 monthly dues, according to Mead.

"It got a rather chilly reception," said local resident William Sherman, who owns a golf course realty company. "The people who bought it didn't use good judgment."

The new owners subsequently changed their thinking and retained the old prices.

In a newsletter commentary, Mead facetiously headlined an item on the dispute as "Worst Fears Coming True Department."

Such fears, however, are unlikely to be realized, according to Wizeman. He said that although the Japanese are paying high prices, they realize that real estate is a long-term investment. Unlike American companies, he said, they are unlikely to jack up prices to obtain short-term profits at the expense of community goodwill.

And in fact, many Americans have been beneficiaries of the purchases. In many cases, the new Japanese owners have improved facilities, raised the pay of employees and shown themselves more attentive to the needs of the club members.

In addition, American golfers often receive a sort of subsidy from the buyers, who are charging higher rates to Japanese nationals than to Americans. At the Honolulu International Country Club on Oahu, for example, resident memberships cost $19,000, while international memberships cost $150,000, according to the Mead report. Such two-tier rates will also be imposed at Minami Country Club, now under construction on Oahu, Mead said.

The thorniest problems, however, arise over environmental questions. In Hawaii, where the Japanese have purchased all the available private courses, the only remaining step is to build new ones. With land at a premium on the tiny islands, Japanese builders or Japanese-backed groups have announced plans to build dozens of new golf courses.

Those proposals trouble environmental activists, who note that in states such as Hawaii and California, already troubled by serious water shortages, a well-maintained 18-hole golf course slurps down 1.5 million gallons of fresh water a day, every day, curtailing what remains for human consumption.

In addition, golf courses are generally built next to waterways or the ocean, which means that pesticides and fertilizers used in maintaining the courses' appearance run off into the water, often harming local vegetation and marine life.

"In Hawaii, where we have a very small land base . . . the proliferation of golf courses can be a serious problem," said Barbara Boyle, Sierra Club regional director for Northern California, Nevada and Hawaii. "The major concern to us is the number of the proposals."

Environmental fears and a backlash against economic colonization by Japanese investors have led Honolulu Mayor Frank Fasi and Hawaii Gov. John Waihee to propose a $100 million impact fee to be levied on each new course. It is unclear whether the proposal is constitutional, or whether it will be enacted.

Environmental disputes have spread to the Pacific Northwest as well. In Washington state, two environmental groups have filed suit against a Japanese-backed venture that offered the state's cash-strapped Parks Commission $1 million to use land designated as a park to provide access to a golf resort.

Such controversies are expected to spread as Japanese purchases of golf courses and golf course development sites grows. Mead projects that by the year 2000, Japanese owners are likely to have purchased between 500 and 1,000 U.S. courses.

Even 1,000 courses, however, would only total about 7 percent of the 15,000 golf courses in the United States.

"Japanese will certainly not take over the American golf business," Mead wrote. "In deed, they are unlikely ever to buy anything approaching a majority of U.S. courses. But they are going to make a mark on the industry in the coming decade, one that will make their impact in the 1980s seem faint indeed."

□ 1030

THE PRESIDENT'S CIVIL RIGHTS BILL

The SPEAKER pro tempore (Mr. POSHARD). Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 30 minutes.

Mr. MICHEL. Mr. Speaker, today, the House Republican leadership and the Republican Leadership Task Force on Civil Rights, along with many other colleagues, joined to introduce the President's civil rights bill.

This bill will significantly strengthen employment discrimination law, but will not place employers in the position of having to resort to quotas. This is not a quota bill, and it is not a lawyer relief act. It is good, solid civil rights legislation that brings people together, and reemphasizes the necessity of fairness in the workplace.

The bill and a section-by-section analysis of this important civil rights legislation follows:

H.R. 1375

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 "Civil Rights Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that additional protections and remedies under Federal law are needed to deter unlawful discrimination.

(b) PURPOSE.—The purpose of this Act is to strengthen existing protections and remedies available under Federal civil rights laws.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(*l*) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this Title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'justified by business necessity' means that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by, even if they do not require, the challenged practice.

"(o) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).

"(p)(1) The term 'harass' means, in cases involving discrimination because of race, color, religion, sex, or national origin, the subjection of an individual to conduct that creates a working environment that would be found intimidating, hostile or offensive by a reasonable person.

"(2) The term 'harass' also means, in cases involving discrimination because of sex, (i) making the submission to unwelcome sexual advances by an employer a term or condition of employment of the individual; or (ii) using the rejection of such advances as a basis for employment decisions adversely affecting the individual; or (iii) making unwelcome sexual advances that create a working environment that would be found intimidating, hostile or offensive by a reasonable person.".

SEC. 4. DISPARATE IMPACT CLAIMS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) is amended by adding at the end the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—Under this Title, an unlawful employment practice based on disparate impact is established only when a complaining party demonstrates that a particular employment practice causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is justified by business necessity; provided, however, that an unlawful employment practice shall nonetheless be established if the complaining party demonstrates the availability of an alternative employment practice, comparable in cost and equally effective in predicting job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and the respondent refuses to adopt such alternative.".

SEC. 5. FINALITY OF JUDGMENTS OR ORDERS.

For purposes of determining whether a litigated or consent judgment or order resolving a claim of employment discrimination because of race, color, religion, sex, national origin, or disability shall bind only those individuals who were parties to the judgment or order, the Federal Rules of Civil Procedure shall apply in the same manner as they apply with respect to other civil causes of action.

SEC. 6. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contract.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Subsection 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(e)) is amended by adding at the end the following sentence:

"For purposes of this section, an alleged unlawful employment practice occurs when a seniority system is adopted, when an individual becomes subject to a seniority system, or when a person aggrieved is injured by the application of a seniority system, or provision thereof, that is alleged to have been adopted for an intentionally discriminatory purpose, in violation of this Title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. PROVIDING FOR ADDITIONAL REMEDIES FOR HARASSMENT IN THE WORKPLACE BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN.

(a) Subsection 703(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(a)) is amended by deleting the period at the end and inserting in lieu thereof "; or" and by adding at the end the following new paragraph:

"(3) to harass any employee or applicant for employment because of that individual's race, color, religion, sex, or national origin; provided, however, that no such unlawful employment practice shall be found to have occurred if the complaining party failed to avail himself or herself of a procedure, of which the complaining party was or should have been aware, established by the employer for resolving complaints of harassment in an effective fashion within a period not exceeding 90 days."

(b) Section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5) is amended by adding at the end the following new subsections:

"(*l*) EMERGENCY RELIEF IN HARASSMENT CASES.—An employee or other complaining party alleging a violation of section 703(a)(3) of this Title may petition the court for temporary or preliminary relief. If the complaining party establishes a substantial probability of success on the merits of such harassment claim, the continued submission to the harassment shall be deemed injury sufficiently irreparable to warrant the entry of temporary or preliminary relief. A court having jurisdiction over a request for temporary or preliminary relief pursuant to this paragraph shall assign the case for hearing at the earliest practicable date and cause such case to be expedited in every way practicable.

"(m) EQUITABLE MONETARY AWARDS IN HARASSMENT CASES.—

"(1) In ordering relief for a violation of section 703(a)(3) of this Title, the court may, in addition to ordering appropriate equitable relief under subsection (g) of this section, exercise its equitable discretion to require the employer to pay the complaining party an amount up to but not exceeding a total of $150,000.00, if the court finds that an additional equitable remedy beyond those available under subsection (g) of this section is justified by the equities, is consistent with the purposes of this Title, and is in the public interest. In weighing the equities and fixing the amount of any award under this paragraph, the court shall give due consideration, along with any other relevant equitable factors, or (i) the nature of compliance programs, if any, established by the employer to ensure that unlawful harassment does not occur in the workplace; (ii) the nature of procedures, if any, established by the employer for resolving complaints of harassment in an effective fashion; (iii) whether the employer took prompt and reasonable corrective action upon becoming aware of the conduct complained of; (iv) the employer's size and the effect of the award on its economic viability; (v) whether the harassment was willful or egregious; and (vi) the need, if any, to provide restitution for the complaining party.

"(2) All issues in cases arising under this Title, including cases arising under section 703(a)(3) of this Title, shall be heard and determined by a judge, as provided in subsection (f) of this section. If, however, the court holds that a monetary award pursuant to paragraph (1) of this subsection is sought by the complaining party and that such an award cannot constitutionally be granted unless a jury determines liability on one or more issues with respect to which such award is sought, a jury may be empaneled to hear and determine such liability issues and no others. In no case arising under this Title shall a jury consider, recommend, or determine the amount of any monetary award sought pursuant to paragraph (1) of this subsection."

(c) Subsection 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) (as amended by section 7 of this Act) is further amended by adding at the end the following sentence:

"For purposes of actions involving harassment under section 703(a)(3) of this Title, the period of limitations established under this subsection shall be tolled during the time (not exceeding 90 days) that an employee avails himself or herself of a procedure established by the employer for resolving complaints of harassment."

SEC. 9. ALLOWING THE AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including reasonable expert fees up to but not exceeding $300 per day)" after "attorney's fee".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection 717(c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection 717(d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties".

SEC. 11. PROVIDING CIVIL RIGHTS PROTECTIONS TO CONGRESSIONAL EMPLOYEES.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) (as amended by section 10 of this Act) is further amended—

(1) in subsection 717(a), by striking "legislative and judicial branches" and inserting in lieu thereof "judicial branch".

(2) in subsection 717(a), by striking "in the Library of Congress" and inserting in lieu thereof:

"in the Congress of the United States, or its Houses, committees, offices or instrumentalities, or the offices of any of its Members".

(3) in subsection 717(b), by striking out the last sentence and inserting in lieu thereof:

"With respect to the Congress of the United States, its Houses, committees, offices, and instrumentalities, and the offices of its Members, authorities granted in this subsection to the Commission shall be exercised in each House of Congress as determined by that House of Congress, and in offices and instrumentalities not within a House of Congress as determined by the Congress."

(4) in subsection 717(c), by inserting, after ", "Equal Employment Opportunity Commission" each time it appears, or a congressional entity exercising the authorities of the Commission pursuant to subsection (b) of this section,".

SEC. 12. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where knowingly and voluntarily agreed to by the parties, reasonable alternative means of dispute resolution, including binding arbitration, shall be encouraged in place of the judicial resolution of disputes arising under this Act and the Acts amended by this Act.

SEC. 13. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provisions of this Act to other persons and circumstances, shall not be affected thereby.

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect upon enactment. The amendments made by this Act shall not apply to any claim arising before the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The legislation may be cited as the "Civil Rights Act of 1991."

SECTION 2. FINDINGS AND PURPOSE

The Congress finds that this legislation is necessary to provide additional protections and remedies against unlawful discrimination in employment. The purpose of this Act is to strengthen existing protections and remedies in order to deter discrimination more effectively and provide meaningful relief for victims of discrimination.

SECTION 3. DEFINITIONS

Section 3 adds definitions to those already in Title VII.

The definition of "demonstrates" requires that a party bear the burden of production and persuasion when the statute requires that he or she "demonstrate" a fact.

The definition of the term "justified by business necessity" is meant to codify the meaning of business necessity as used in *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 432 (1971), and subsequent cases including *New York City Transit Authority* v. *Beazer*, 440 U.S. 568, 587 n. 31 (1979). Such a definition was reaffirmed by the Court in *Wards Cove Packing Co., Inc.* v. *Atonio*, 109 S. Ct. 2115, 2125-2126 (1989). Even the dissent in *Wards Cove* acknowledged that "*Griggs* made it clear that a neutral practice that operates to exclude minorities is nevertheless lawful if its serves a *valid business purpose*." See 109 S. Ct., at 2129 (Stevens, J., dissenting) (italic added.)

The terms "complaining party" and "respondent" are defined to include those persons and entities listed in the Act. The definition of the term "harass" is explained in the analysis of Section 8 below.

SECTION 4. DISPARATE IMPACT CLAIMS

In *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), the Supreme Court ruled that Title VII of the Civil Rights Act of 1964 prohibits hiring and promotion practices that unintentionally but disproportionately exclude persons of a particular race, color, religion, sex, or national origin unless these practices are justified by "business necessity." Law suits challenging such practices are called "disparate impact" cases, in contrast to "disparate treatment" cases brought to challenge intentional discrimination.

In a series of cases decided in subsequent years, the Supreme Court refined and clarified the doctrine of disparate impact. In 1988, the Court greatly expanded the scope of the doctrine's coverage by applying it to subjective hiring and promotion practices (the Court had previously applied it only in cases involving objective criteria such as diploma requirements and height-and-weight requirements). Justice O'Connor took this occasion to explain with great care both the reasons for the expansion and the need to be clear about the evidentiary standards that would operate to prevent the expansion of disparate impact doctrine from leading to quotas. In the course of her discussion, she pointed out:

"[T]he inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prophylactic measures. . . . [E]xtending disparate impact analysis to subjective employment practices has the potential to create a Hobson's choice for employers and thus to lead in practice to perverse results. If quotas and preferential treatment become the only

cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted. The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met." *Watson* v. *Fort Worth Bank & Trust Co.*, 108 S. Ct. 2777, 2787–2788) (1988) (plurality opinion).

The following year, in *Wards Cove Packing Co.*, v. *Atonio*, 109 S. Ct. 2115, 2126 (1989), the Court considered whether the plaintiff or the defendant has the burden of proof on the issue of business necessity. Resolving an ambiguity in the prior law, the Court placed the burden on the plaintiff.

Under this Act, a complaining party makes out a prima facie case of disparate impact when he or she identifies a particular employment practice and demonstrates that the practice has caused a disparate impact on the basis of race, color, religion, sex, or national origin. The burden of proof then shifts to the respondent to demonstrate that the practice is justified by business necessity. It is then open to the complaining party to rebut that defense by demonstrating the availability of an alternative employment practice, comparable in cost and equally effective in measuring job performance or achieving the respondent's legitimate employment goals, that will reduce the disparate impact, and that the respondent refuses to adopt such alternative.

The burden-of-proof issue that Wards Cove resolved in favor of defendants is resolved by this Act in favor of plaintiffs. Wards Cove is thereby overruled. On all other issues, this Act leaves existing law undisturbed.

As Justice O'Connor emphasized in her Watson opinion, the use of disparate impact analysis creates a very real risk that Title VII will lead to the use of quotas. Indeed, there is evidence that the adoption of disparate impact analysis by the courts has led to the use of quotas, although the extent of this phenomenon is for obvious reasons not measurable. See, e.g., Hearings on H.R. 1, "Civil Rights Act of 1991," before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, U.S. House of Representative, 102d Cong., 1st Sess., February 7, 1991 (testimony of Assistant Attorney General John R. Dunne); Hearings on S. 2104, "Civil Rights Act of 1990," before the Committee on Labor and Human Resources, U.S. Senate, 101st Cong., 2d Sess., February 23, 1990 (testimony of Professor Charles Fried); Joint Hearings on H.R. 4000, "Civil Rights Act of 1990," before the Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, U.S. House of Representatives, 101st Cong., 2d Sess., March 20, 1990, vol. 2, pp. 516, 625, 633 (testimony of Glen D. Nager, Esq.); Fortune, March 13, 1989, at 87–88 (reporting a poll of 202 CEOs of Fortune 500 and Service 500 companies, in which 18% of the CEOs admitted that their companies have "specific quotas for hiring and promoting"). The use of quotas, however, represents a perversion of Title VII and of Disparate impact law. As the Court noted in *Griggs*, 401 U.S., at 431: "Discriminatory preference for any group, minority or majority, is precisely and only what Congress has proscribed."

Because of the serious dangers inherent in the use of disparate impact analysis, any codification of a cause of action under the disparate impact theory must include evidentiary safeguards recognized in Justice O'Connor's Watson opinion and in Justice White's opinion for the Court Wards Cove. The codification adopted in Sections 3 and 4 of this Act does so, and it is vital that courts and employers construe this Act in a manner that neither makes it possible to defend or justify the use of employment quotas nor encourage their use.

If an ability test, for example, has a disparate impact and the test is not justified by business necessity as defined in Section 3 of this Act, the test should not be used. If business necessity can be shown, then the disparate impact need not be reduced or eliminated unless the complaining party demonstrates the availability of an alternative employment practice as required by Section 4 of this Act and the respondent refuses to adopt such alternative. In neither event is an employer required or permitted to adjust test scores, or to use different cut-offs for members of different groups, or otherwise to use the test scores in a discriminatory manner. Manipulating test results in such a fashion is not an alternative employment practice of the kind that an employer must adopt to avoid liability at the surrebuttal phase of a disparate impact case. On the contrary, such discrimination violates Title VII, whether practiced by an employer, an employment agency, or any other "respondent" as defined in Section 3 of this Act. Similarly, a discriminatory practice could not be defended under Title VII on the ground that the practice was necessary or useful in avoiding the possibility of liability under the disparate impact theory. Cf. Civil Rights Act of 1964, sec. 703(j), 42 U.S.C. 200e–2(j).

It should be noted that in identifying the particular employment practice alleged to cause disparate impact, it is not the intention of this Act to require the plaintiff to do the impossible in breaking down an employer's practices to the greatest conceivable degree. Courts will be permitted to hold, for example, that vesting complete hiring discretion in an individual guided only by unknown subjective standards constitutes a single particular employment practice susceptible to challenge.

This approach is consistent with Wards Cove, see 109 S. Ct., at 2125, and has been employed since Wards Cove in *Sledge* v. *J.P. Stevens & Co.*, 52 EPD para. 39,537 (E.D.N.C. Nov. 30, 1989). The Sledge court alluded to the difficulty of "delving into the workings of an employment decisionmaker's mind" and noted that the defendant's personnel officers reported having no idea of the basis on which they made their employment decisions. The court held that "the identification by the plaintiffs of the uncontrolled, subjective discretion of defendant's employing officials as the source of the discrimination shown by plaintiff's statistics sufficed to satisfy the causation requirements of Wards Cove." This Act contemplates that the use of such uncontrolled and unexplained discretion is properly treated, as it was in the Sledge case, as one employment practice that need not be divided by the plaintiff into discrete sub-parts.

SECTION 5. FINALITY OF JUDGMENTS OR ORDERS

In *Hansberry* v. *Lee*, 311 U.S. 32, 40–41 (1940) (citations omitted), the Supreme Court held:

It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in personam in which he is not designated as a party or to which he has not been made a party by service of process. . . . A judgment rendered in such circumstances is not entitled to the full faith and credit which the Constitution and statutes of the United States . . . prescribe, . . . and judicial action enforcing it against the person or property of the absent party is not that due process which the Fifth and Fourteenth Amendments require.

In Hansberry, Carl Hansberry and his family, who were black, were seeking to challenge a racial covenant prohibiting the sale of land to blacks. One of the owners who wanted the covenant enforced argued that the Hansberrys could not litigate the validity of the covenant because that question had previously been adjudicated, and the covenant sustained, in an earlier lawsuit, although the Hansberrys were not parties in that lawsuit. The Illinois court had ruled that the Hansberrys' challenge was barred, but the Supreme Court found that this ruling violated due process and allowed the challenge.

In *Martin* v. *Wilks*, 109 S. Ct. 2180 (1989), the Court confronted a similar argument. That case involved a claim by Robert Wilks and other white fire fighters that the City of Birmingham had discriminated against them by refusing to promote them because of their race. The City argued that their challenge was barred because the City's promotion process had been sanctioned in a consent decree entered in an earlier case between the City and a class of black plaintiffs, of which Wilks and the white fire fighters were aware, but in which they were not parties. The Court rejected this argument. Instead, it concluded that the Federal Rules of Civil Procedure required that persons seeking to bind outsiders to the results of litigation have a duty to join them as parties, see Fed. R. Civ. P. 19, unless the court certified a class of defendants adequately represented by a named defendant, see Fed. R. Civ. P. 23. The Court specifically rejected the defendants' argument that a different rule should obtain a civil rights litigation.

This Section codifies that holding. Had the rule advocated by the City of Birmingham in Wilks been adopted in Hansberry, one judicial decree in one case between one plaintiff and one defendant would have prevented an attack on the racial covenant by anyone who had ever heard of the original case. That is not how the Federal Rule of Civil Procedure operates. And there is no reason why a different rule should be devised to prevent civil rights plaintiffs, as opposed to persons bringing all other kinds of cases, from bringing suit.

SECTION 6. PROHIBITION AGAINST RACIAL DISCRIMINATION IN THE MAKING AND PERFORMANCE OF CONTRACTS

Under 42 U.S.C. 1981, persons of all races have the same right "to make and enforce contracts." In *Patterson* v. *McLean Credit Union*, 109 S. Ct. 2363 (1989), the Surpeme Court held: "The most obvious feature of the provision is the restriction of its scope to forbidding discrimination in the 'mak[ing] and enforce[ment]' of contracts alone. Where an alleged act of discrimination does not involve the impairment of one of these specific rights, [sec.] 1981 provides no relief."

As written, therefore, section 1981 provides insufficient protection against racial discrimination in the context of contracts. In particular, it provides no relief for discrimination in the performance of contracts (as contrasted with the making and enforcement of contracts). Section 1981, as amended by this Act, will provide a remedy for individuals who are subjected to discriminatory performance of their employment contracts (through racial harassment, for example) or are dismissed or denied promotions because of race. In addition, the discriminatory infringement of contractual rights that do not involve employment will be made actionable under section 1981. This will, for example,

create a remedy for a black child who is admitted to a private school as required pursuant to section 1981, but is then subjected to discriminatory treatment in the performance of the contract once he or she is attending the school.

In addition to overruling the Patterson decision, this Section of the Act codifies the holding of *Runyon* v. *McCrary*, 427 U.S. 160 (1976), under which section 1981 prohibits private, as well as governmental, discrimination.

SECTION 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS

Section 7 overrules the holding in *Lorance* v. *AT&T Technologies, Inc.*, 109 S. Ct. 2261 (1989), in which female employees challenged a seniority system pursuant to Title VII, claiming that it was adopted with an intent to discriminate against women. Although the system was facially nondiscriminatory and treated all similarly situated employees alike, it produced demotions for the plaintiffs, who claimed that the employer had adopted the seniority system with the intention of altering their contractual rights. The Supreme Court held that the claim was barred by Title VII's requirement that a charge must be filed within 180 days (or 300 days if the matter can be referred to a state agency) after the alleged discrimination occurred.

The Court held that the time for plaintiffs to file their complaint began to run when the employer adopted the allegedly discriminatory seniority system, since it was the adoption of the system with a discriminatory purpose that allegedly violated their rights. According to the Court, that was the point at which plaintiffs suffered the diminution in employment status about which they complained.

The rule adopted by the Court is contrary to the position that had been taken by the Department of Justice and the EEOC. It shields existing seniority systems from legitimate discrimination claims. The discriminatory reasons for adoption of seniority system may become apparent only when the system is finally applied to affect the employment status of the employees that it covers. At that time, the controversy between an employer and an employee can be focused more sharply.

In addition, a rule that limits challenges to the period immediately following adoption of a seniority system will promote unnecessary, as well as unfocused, litigation. Employees will be forced either to challenge the system before they have suffered harm or to remain forever silent. Given such a choice, employees who are unlikely ever to suffer harm from the seniority system may nonetheless feel that they must file a charge as a precautionary measure—an especially difficult choice since they may be understandably reluctant to initiate a lawsuit against an employer if they do not have to.

Finally, the Lorance rule will prevent employees who are hired more than 180 (or 300) days after adoption of a seniority system from ever challenging the adverse consequences of that system, regardless of how severe they may be. Such a rule fails to protect sufficiently the important interest in eliminating employment discrimination that is embodied in Title VII.

Likewise, a rule that an employee may sue only within 180 (or 300) days after becoming subject to a seniority system would be unfair to both employers and employees. The rule fails to protect seniority systems from delayed challenge, since so long as employees are being hired someone will be able to sue. And, while this rule would give every employee a theoretical opportunity to challenge a discriminatory seniority system, it would do so, in most instances, before the challenge was sufficiently focused and before it was clear that a challenge was necessary. Finally, most employees would be reluctant to begin their jobs by suing their employers.

This change in the law, therefore, is warranted. Indeed, it is necessary to safeguard the same principles upheld by the Supreme Court in *Martin* v. *Wilks*, 109 S. Ct. 2180 (1989), which guarantees civil rights complainants a fair opportunity to present their claims in court.

SECTION 8. PROVIDING FOR ADDITIONAL REMEDIES FOR HARASSMENT IN THE WORKPLACE BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

This provision is designed to redress an anomaly in current law. Title VII prohibits discrimination in employment, but provides inadequate remedies for harassment in the workplace, including sexual harassment, which the Supreme Court has recognized as actionable under Title VII. See, *e.g.*, *Meritor Savings Bank, FSB* v. *Vinson*, 477 U.S. 57 (1986). Such harassment frequently will not be so intolerable that an employee subjected to it immediately leaves. In such circumstances, the only remedy the victim of harassment can obtain under Title VII's remedial scheme as currently drafted is declaratory and injunctive relief against continuation of the harassment.

Such a rule is plainly inequitable. It effectively tells employers that the only consequence of creating an environment so hostile to an employee that he or she is forced to sue to obtain relief is a directive to refrain in the future. This defect must be corrected.

At the same time, Title VII's existing framework, with its emphasis on conciliation and mediation, has served the country well for more than a quarter of a century as a tool for combatting discrimination. It would be most unwise to jettison or rewrite this basic statute in favor of a tort-style approach including compensatory and punitive damages at a time when our tort system is widely recognized to be in crisis. President Bush has made it clear that our civil rights laws "should not be turned into some lawyer's bonanza, encouraging litigation at the expense of conciliation, mediation, or settlement."

Section 8 is designed to meet both of these concerns. It creates a new remedy for on-the-job harassment, allowing courts to make a monetary award in addition to granting declaratory and injunctive relief. The new remedy is available on the same terms for all forms of on-the-job harassment, whether based on race, color, religion, sex, or national origin.

The new remedy created by this Section is capped at $150,000. Courts are directed to make a monetary award when an additional equitable remedy is justified by the equities, is consistent with the purposes Title VII, and is in the public interest. In weighing the equities and determining the amount of any award, courts are instructed to consider the nature of compliance programs implemented by the employer; the nature of the employer's complaint procedures, if any, used to resolve claims of harassment; whether the employer took prompt and effective remedial action upon learning of the harassment; the empoyer's size and the effect of the award on its economic viability (so that the maximum award would be available only against very large and financially secure employers); whether the harassment was willful or egregious; and the need, if any, to provide restitution for the complaining party.

This Section allows a court to make a monetary award "up to but not exceeding a total of $150,000." This language is intended to make clear that where there are several related incidents that could arguably be subdivided into distinct unlawful employment practices, the award that can be obtained under this new provision for all of them combined is limited to $150,000. Otherwise, plaintiffs and their lawyers will have incentives to spend resources on hair-splitting litigation over how many unlawful employment practices have occurred. $150,000 is a large enough amount to be an adequate and effective remedy for the type of conduct sought to be prevented, and no good purpose would be served by encouraging lawyers to use their inventiveness to circumvent the limitation of $150,000.

The substantive definition of harassment set out in Section 3 of this Act makes it an offense for an employer or its agents to harass any employee because of race, color, religion, sex, or national origin. The term "harass" encompasses "the subjection of an individual to conduct that creates a working environment that would be found intimidating, hostile or offensive by a reasonable person." The definition also explicitly defines sexual harassment to include certain conduct involving unwelcome sexual advances. The definition is intended to codify current law as stated by the Supreme Court. See *Meritor Savings Bank, supra*, 477 U.S., at 66 ("Since the Guidelines were issued, courts have uniformly held, and we agree, that a plaintiff may establish a violation of Title VII by proving that discrimination based on sex has created a hostile or abusive work environment.").

The new provisions of Title VII established in this Section are designed to deter and provide restitution for harassment, and to encourage employers to adopt meaningful complaint procedures to redress harassment and to encourage employees to use them. The employer will not be found liable if the complaining party failed to avail himself or herself of an effective complaint procedure. In determining the appropriate remedy, moreover, courts will consider whether an employer took prompt and effective remedial action. The effect of these requirements will be to encourage preventive measures and prompt remedial action by employers and to minimize litigation, thus maximizing the speed and efficacy of relief.

This provision of the Act protects employers from liability only when they have established a procedure "for resolving complaints of harassment in an effective fashion within a period not exceeding 90 days." Procedures under which victims of harassment are required to seek relief from the same supervisor who has engaged in the harassing conduct, or under which victims would otherwise reasonably expect their complaints to result in retaliation against them rather than in a fair investigation and effective resolution of their complaint, will not insulate the employer from liability. The new provisions of Title VII allow an employee, moreover, to petition a court for emergency relief, and they provide that the continued suffering of harassment shall be assumed to be sufficient irreparable harm to warrant judicial relief, whether or not the employee has fully exhausted a complaint procedure, so long as the employee has initiated a complaint.

This Section includes a provision reaffirming that Congress intends all issues to be de-

cided by judges, as has always been the case under Title VII. Such a provision is important in avoiding the creation of an inefficient tort-style litigation system that is foreign to the purposes of employment law. Because the courts have relatively limited experience with harassment cases, because particular cases will undoubtedly raise issues requiring clarification, and because employers therefore require the information contained in written judicial opinions to assist them in conforming their conduct with the law, it is particularly important to avoid a profusion of unexplained and inconsistent jury verdicts if possible.

Because the monetary relief authorized in these amendments to Title VII is characterized as equitable, the courts should find that bench trials are consistent with the Seventh Amendment. Because the question of constitutionality is not free from doubt, however, this Section also provides that should a court hold that a jury trial with respect to issues of liability is constitutionally required, it may empanel a jury to hear those issues and no others. This ensures that the additional relief this scheme makes available will not become a dead letter should the courts conclude that the Seventh Amendment requires a jury trial on liability. See *Tull* v. *United States*, 107 S. Ct. 1831 (1987).

SECTION 9. ALLOWING THE AWARD OF EXPERT FEES

Section 9 authorizes the recovery of expert witness fees (up to but not exeeding $300 per day) by prevailing parties according to the same standards that govern awards at attorney fees under Title VII. *Cf. Crawford Fitting Co.* v. *J.T. Gibbons, Inc.*, 482 U.S. 437 (1987). The provision is intended to allow recovery for work done in preparation for trial as well as after trial has begun, with the cap applying to each witness.

SECTION 10. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT

Section 10 extends the period for filing a complaint against the Federal government pursuant to Title VII from 30 days to 90 days. It also authorizes the payment of interest to compensate for delay in the payment of a judgment according to the same rules that govern such payments in actions against private parties.

SECTION 11. PROVIDING CIVIL RIGHTS PROTECTION TO CONGRESSIONAL EMPLOYEES

Section 11 extends the protections of Title VII to congressional employees of the same basis that they extend to Executive branch employees. The Executive branch, like private employers and state and local govenments, is forbidden by law to discriminate on the basis of race, color, religion, sex, or national origin. The Congress, however, has exempted itself from the law. President Bush has stated that Congress "should live by the same requirements it prescribes for others" and that Congress "should join the Executive branch in setting an example for these private employers."

In addition to setting a helpful example, and providing congressional employees with the same rights enjoyed by other Americans, coverage under Title VII will provide the Congress with the valuable experience of living under the same rules that it imposes on other employers. This experience should prove useful in encouraging the Congress to give prompt and serious consideration to proposals for improving the law and in enabling the Congress to resist ill-considered proposals—like the bill that President Bush vetoed on October 22, 1990—that would undermine the cause of civil rights and impose completely unjustified burdens on the employers of this nation.

It should be emphasized that this Section allows the Congress to create its own internal mechanisms for enforcing Title VII in the legislative branch. Like Executive branch employees, congressional employees would retain the right to judicial relief, but the Executive branch would have absolutely no role in enforcing Title VII against the Congress. For that reason, any objection to this Section on separation-of-powers grounds would not be well-founded.

SECTION 12. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

This provision encourages the use of alternative means of dispute resolution, including binding arbitration, where the parties knowingly and voluntarily elect to use these methods.

In light of the litigation crisis facing this country and the increasing sophistication and reliability of alternatives to litigation, there is no reason to disfavor the use of such forums.

SECTION 13. SEVERABILITY

Section 13 states that if a provision of this Act is found invalid, that finding will not affect the remainder of the Act.

SECTION 14. EFFECTIVE DATE

Section 14 specifies that the Act and the amendments made by the Act take effect upon enactment, and will not apply to cases arising before the effective date of the Act.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MILLER of Ohio (at the request of Mr. MICHEL) for today and Wednesday, March 13, on account of medical reasons.

Mrs. BOXER (at the request of Mr. GEPHARDT) for today, on account of flight delay.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIGGS) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 30 minutes, today.

Mr. DELAY, for 60 minutes each day, on March 13, and April 15 and 16.

Mr. DORNAN of California, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes each day, today and April 15.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MANTON, for 60 minutes, on April 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIGGS) and to include extraneous matter:)

Mr. PURSELL.

Mr. CAMPBELL of California in two instances.

Mr. CUNNINGHAM in two instances.

Mr. KOLBE.

Mr. PETRI.

Mr. GEKAS in three instances.

Mr. DORNAN of California.

Ms. SNOWE.

Mr. OXLEY.

Ms. MOLINARI.

Mr. BURTON of Indiana.

Mr. BEREUTER.

Mr. DANNEMEYER in three instances.

Mr. SCHAEFER.

Mr. MCDADE.

Mr. RITTER.

Mr. WOLF.

Mr. GOODLING.

Mr. MICHEL.

Ms. ROS-LEHTINEN in five instances.

Mr. BALLENGER.

Mrs. JOHNSON of Connecticut.

Mr. COX of California.

(The following Members (at the request of MFUME and to include extraneous matter:)

Mr. FOGLIETTA.

Mr. LAFALCE.

Mr. MORAN.

Mr. FALEOMAVAEGA.

Mr. BONIOR.

Mr. KANJORSKI.

Mr. SCHUMER.

Mr. ORTIZ.

Mr. HOYER.

Mr. LIPINSKI in two instances.

Mr. LAROCCO.

Mr. HALL of Ohio.

Mr. SWETT.

Mr. VOLKMER.

Mr. ACKERMAN.

Mr. BARNARD.

Mrs. SCHROEDER.

Mr. LEHMAN of Florida.

Mr. STARK in two instances.

Mr. WISE.

Mr. SIKORSKI.

Mr. MAZZOLI.

Mr. DONNELLY.

Mr. FORD of Tennessee.

Mr. STUDDS.

Mr. MAVROULES.

Mr. STALLINGS.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a Joint Resolution of the House of the following title:

H.J. Res. 98. Joint resolution designating March 4 through 10, 1991, as "National School Breakfast Week."

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, March 13, 1991, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

843. A letter from the Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of March 1, 1991, pursuant to 2 U.S.C. 685(e) (Doc. No. 102-59); to the Committee on Appropriations and ordered to be printed.

844. A communication from the President of the United States, transmitting a report on Antisatellite [ASAT] Arms Control which addresses the desirability of an agreement with the Soviet Union to impose limitations on antisatellite capabilities, pursuant to Public Law 101-189, section 1009(a) (103 Stat. 1545); to the Committee on Armed Services.

845. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of Fiscal Year 1990 Promotions—June 1, 1990-September 30, 1990," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

846. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of Receipts and Disbursements of the Office of the People's Counsel Agency Trust Fund," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

847. A letter from the Secretary, Department of Health and Human Services, transmitting an interim report on the "Comorbidity of Substance Abuse and Other Psychiatric Disorders: Prevalence, Etiology, and Implications for Course of Illness," pursuant to 42 U.S.C. 290aa; to the Committee on Energy and Commerce.

848. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes; to the Committee on Energy and Commerce.

849. A letter from the President, African Development Foundation, transmitting a draft of proposed legislation to authorize appropriations for the African Development Foundation, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

850. A letter from the Director, Arms Control and Disarmament Agency, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act in order to extend the authorization for appropriations, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

851. A letter from the Secretary of Commerce, transmitting a report on foreign policy controls to enhance U.S. efforts to stem the proliferation of chemical weapons; to the Committee on Foreign Affairs.

852. A letter from the Assistant Vice President, Amtrak, transmitting a report on its activities under the Freedom of Information Act during calendar year 1990, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

853. A letter from the Director, Federal Mediation and Conciliation Service, transmitting its report for fiscal year 1990 pursuant to the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

854. A letter from the Board of Governors, Federal Reserve System, transmitting the Board's annual report during the calender year 1990, pursuant to 5 U.S.C. 522b(j); to the Committee on Government Operations.

855. A letter from the Chairman, Copyright Royalty Tribunal, transmitting its annual report for the fiscal year ending September 30, 1990, pursuant to 17 U.S.C. 808; to the Committee on the Judiciary.

856. A letter from the Chairman, Merit Systems Protection Board, transmitting the 12th annual report on the activities of the Board during fiscal year 1990, pursuant to 5 U.S.C. 1209(b); to the Committee on Post Office and Civil Service.

857. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to provide comprehensive regulatory supervision over stocks and stock derivative instruments, to protect investors and assure the stability of the U.S. capital markets, to enhance innovation and competition in financial products, and for other purposes; jointly, to the Committee on Energy and Commerce and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 111. Resolution providing for the consideration of H.R. 1175, a bill to authorize supplemental appropriations for fiscal year 1991 in connection with operations in and around the Persian Gulf presently known as Operation Desert Shield/Storm, and for other purposes (Rept. 102-17). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLARD (for himself and Mr. SCHAEFER):

H.R. 1369. A bill to designate certain areas in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. HERTEL (for himself, Mr. JONES of North Carolina, Mr. DAVIS, and Mr. BATEMAN):

H.R. 1370. A bill to reauthorize the National Sea Grant College Program, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BILIRAKIS (for himself, Ms. ROS-LEHTINEN, Mr. FROST, Mr. HUNTER, and Mr. HYDE):

H.R. 1371. A bill to amend title II of the Social Security Act to provide increases in primary insurance amounts to account for depressed replacement rates; to the Committee on Ways and Means.

By Mr. BOEHLERT:

H.R. 1372. A bill to amend the Internal Revenue Code of 1986 to provide that, where there is a distress termination of a pension plan, the tax on the failure to meet minimum funding standards shall be waived in certain cases; to the Committee on Ways and Means.

By Mr. CAMPBELL of California (for himself and Mr. WALSH):

H.R. 1373. A bill to amend title II of the Social Security Act to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder, and to provide for additional financing of the OASDI trust funds based on income taxes payable under existing law by individuals who would therefore continue to earn income after attaining age 62; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.R. 1374. A bill to amend the internal Revenue Code of 1986 to clarify the requirement that hospitals provide certain emergency medical care in order to be exempt from income tax, and for other purposes; to the Committee on Ways and Means.

By Mr. MICHEL (for himself, Mr. HYDE, Mr. GINGRICH, Mr. LEWIS of California, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. MCCOLLUM, Mr. WEBER, Mr. VANDER JAGT, Mr. ARCHER, Mr. GRADISON, Mr. SOLOMON, Mr. MCDADE, Mr. GOODLING, Mr. GUNDERSON, Mr. FAWELL, Ms. MOLINARI, Mr. COBLE, Mr. GRANDY, Mr. FRANKS of Connecticut, Mr. WALKER, Mr. IRELAND, Mr. GALLO, Mr. CLINGER, Mr. HASTERT, Mr. LENT, Mr. ZELIFF, Mr. RHODES, Mr. HAMMERSCHMIDT, Mr. GALLEGLY, Mr. KYL, Mr. GEKAS, Mr. SENSENBRENNER, Mr. RAMSTAD, Mr. STEARNS, Mr. GILLMOR, Mr. RIDGE, Mr. INHOFE, Mr. BARRETT, Mr. PORTER, Mr. BOEHNER, Mr. SUNDQUIST, Mr. RAVENEL, Mr. LAGOMARSINO, Mr. THOMAS of Wyoming, Mrs. BENTLEY, Mr. CAMP, Mr. SANTORUM, Mrs. VUCANOVICH, Mr. WELDON, Mr. COUGHLIN, Mr. MCGRATH, Mr. FIELDS, Mr. ROGERS, Mr. MILLER of Washington, Mr. EMERSON, Mr. JAMES, Mr. SHAW, Mr. HANCOCK, Mr. BROOMFIELD, Mr. MCEWEN, Mr. BAKER, Mr. BUNNING, Mr. KOLBE, Mr. MCMILLAN of North Carolina, Mrs. ROUKEMA, Mr. SCHIFF, Mr. MOORHEAD, Mr. SCHAEFER, Mr. UPTON, Mr. BALLENGER, and Mr. LEWIS of Florida):

H.R. 1375. A bill to amend the Civil Rights Act of 1964 to strengthen protections against discrimination in employment, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. FRANK of Massachusetts:

H.R. 1376. A bill to amend the Immigration and Nationality Act to waive the Government knowledge requirement for the naturalization of certain persons over age 50; to the Committee on the Judiciary.

H.R. 1377. A bill to amend title 39, United States Code, to provide free insurance up to the value of $100 on mail items; to the Committee on Post Office and Civil Service.

H.R. 1378. A bill to permit certain Federal employees who retired or became entitled to receive compensation for work injury before December 9, 1980, to elect to resume coverage under the Federal employees' group life insurance program; to the Committee on Post Office and Civil Service.

H.R. 1379. A bill to amend the Internal Revenue Code of 1986 exclude from gross income that portion of a governmental pension

which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. HYDE:

H.R. 1380. A bill to amend title VI of the Civil Rights Act of 1964 to protect the free speech rights of college students; to the Committee on the Judiciary.

By Mr. JOHNSON of South Dakota:

H.R. 1381. A bill to strengthen the Foreign Agents Registration Act of 1938, as amended; to the Committee on the Judiciary.

H.R. 1382. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Ways and Means.

By Mr. KOLBE (for himself, Mr. KYL, Mr. RHODES, Mr. STUMP, and Mr. UDALL):

H.R. 1383. A bill to provide for the appointment of two additional bankruptcy judges for the judicial district of Arizona; to the Committee on the Judiciary.

By Mr. PAYNE of Virginia:

H.R. 1384. A bill to provide for a demonstration program by the Secretary of Veterans Affairs with respect to adjustable rate mortgages; to the Committee on Veterans' Affairs.

By Mr. ROSE (for himself, Mr. EVANS, Ms. SLAUGHTER of New York, Mr. SWETT, Mr. MAVROULES, Mr. GUNDERSON, Ms. SNOWE, Mr. ANDREWS of Maine, and Mr. ROE):

H.R. 1385. A bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself, Mr. LEHMAN of Florida, Mr. DE LUGO, Mr. RAVENEL, Mr. MCGRATH, Mr. OWENS of Utah, Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. MATSUI, Mrs. LLOYD, Mr. RAMSTAD, Mr. HORTON, Mr. FOGLIETTA, Mrs. BOXER, Mr. BLILEY, Mr. EVANS, Mr. HYDE, Mr. KENNEDY, Mr. GEJDENSON, Mr. INHOFE, Mr. BONIOR, Mr. CAMPBELL of Colorado, Mr. SERRANO, Mr. DWYER of New Jersey, Mrs. MEYERS of Kansas, Mr. ROE, and Mr. EMERSON):

H.R. 1386. A bill to amend title 5, United States Code, to provide for the reimbursement of expenses incurred by a Federal employee in the adoption of a child; to the Committee on Post Office and Civil Service.

By Mr. SIKORSKI (for himself, Mr. MILLER of California, Mr. SCHEUER, Mr. LIPINSKI, Mr. HOCHBRUECKNER, Mr. PERKINS, Mr. GEJDENSON, Mr. OWENS of Utah, Mrs. UNSOELD, Mr. ABERCROMBIE, and Ms. PELOSI):

H.R. 1387. A bill to amend title 5, United States Code, to allow Federal employees to take parental leave for purposes of participating in or attending certain education-related activities; to the Committee on Post Office and Civil Service.

By Mr. SIKORSKI (for himself, Mr. MILLER of California, Mr. SCHEUER, Mr. LIPINSKI, Mr. HOCHBRUECKNER, Mr. PERKINS, Mr. TOWNS, Mr. GEJDENSON, Mr. OWENS of Utah, Mrs. UNSOELD, Mr. ABERCROMBIE, and Ms. PELOSI):

H.R. 1388. A bill to entitle employees to family leave for attending school activities; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. TORRICELLI (for himself, Mr. SHAYS, Mr. OBERSTAR, Mr. DORNAN of California, Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. PEASE, Mr. STARK, Mr. JACOBS, Mr. NOWAK, Mr. BILBRAY, Mr. SCHUMER, Mr. RAVENEL, Mr. MRAZEK, Mr. MCGRATH, Mr. DELLUMS, Mr. ACKERMAN, Mr. HUGHES, Mr. HYDE, Mr. RINALDO, Mr. PALLONE, Mr. MARTINEZ, Mr. LIPINSKI, Mr. SAXTON, Mr. CLAY, Mr. GALLO, Mr. OWENS of New York, Mr. MFUME, Mr. MINETA, Mr. GILMAN, Mr. PAYNE of New Jersey, Mr. GUARINI, and Mr. LANTOS):

H.R. 1389. A bill to promote the dissemination of biomedical information through modern methods of science and technology and to prevent the duplication of experiments on live animals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON:

H.R. 1390. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit; to the Committee on Interior and Insular Affairs.

By Mr. WAXMAN (for himself, Mr. HYDE, Mr. SCHEUER, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. SYNAR, Mr. WYDEN, Mr. RICHARDSON, Mr. SIKORSKI, Mr. BOUCHER, Mr. BRUCE, Mr. TOWNS, Mr. STUDDS, Mr. KOSTMAYER, Ms. PELOSI, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. PAYNE of New Jersey, Mr. LEVINE of California, Mr. BERMAN, Mr. RANGEL, Mr. DURBIN, Mr. BEILENSON, and Mr. DWYER of New Jersey):

H.R. 1391. A bill entitled the "Medicaid Infant Mortality Amendments of 1991"; to the Committee on Energy and Commerce.

By Mr. SLATTERY (for himself, Mr. WAXMAN, Mr. SCHEUER, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. SYNAR, Mr. WYDEN, Mr. RICHARDSON, Mr. SIKORSKI, Mr. BOUCHER, Mr. BRUCE, Mr. ROWLAND, Mr. TOWNS, Mr. STUDDS, Mr. KOSTMAYER, Ms. PELOSI, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. PAYNE of New Jersey, Mr. LEVINE of California, Mr. BERMAN, Mr. RANGEL, Mr. DURBIN, Mr. BEILENSON, and Mr. DWYER of New Jersey):

H.R. 1392. A bill to amend title XIX of the Social Security Act to improve access to basic health care services for needy children; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself, Mrs. COLLINS of Illinois, Mrs. SCHROEDER, Ms. SNOWE, Mr. SCHEUER, Mr. MARKEY, Mr. SYNAR, Mr. WYDEN, Mr. ECKART, Mr. RICHARDSON, Mr. SIKORSKI, Mr. BOUCHER, Mr. BRUCE, Mr. ROWLAND, Mr. TOWNS, Mr. STUDDS, Mr. KOSTMAYER, Mrs. BOXER, Mrs. COLLINS of Michigan, Ms. DELAURO, Ms. KAPTUR, Mrs. LLOYD, Ms. LONG, Mrs. LOWEY of New York, Mrs. MINK, Ms. MOLINARI, Mrs. MORELLA, Ms. NORTON, Ms. OAKAR, Mrs. PATTERSON, Ms. PELOSI, Ms. SLAUGHTER of New York, Mrs. UNSOELD, Ms. WATERS, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. PAYNE of New Jersey, Mr. LEVINE of California, Mr. BERMAN, Mr. RANGEL, Mr. STOKES, Mr. DURBIN, Mr. BEILENSON, and Mr. DWYER of New Jersey):

H.R. 1393. A bill entitled the "Medicaid Breast and Cervical Cancer Amendments of 1991"; to the Committee on Energy and Commerce.

By Mr. SCHEUER (for himself, Mr. WAXMAN, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. WYDEN, Mr. SIKORSKI, Mr. TOWNS, Mr. STUDDS, Mr. KOSTMAYER, Ms. PELOSI, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. PAYNE of New Jersey, Mr. LEVINE of California, Mr. STOKES, Mr. RANGEL, Mr. BEILENSON, and Mr. DWYER of New Jersey):

H.R. 1394. A bill to amend title XIX of the Social Security Act to give States the option of providing for coverage for certain HIV-related services for certain individuals who have been diagnosed as being HIV-positive, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS

H.R. 1395. A bill to amend section 312 of the Immigration and Nationality Act to exempt from the Government knowledge requirement for naturalization persons who are exempt from the English language requirement; to the Committee on the Judiciary.

By Mr. CAMPBELL of California (for himself, Ms. LONG, Mr. JACOBS, Mr. MARTINEZ, Mr. BURTON of Indiana, Mr. BILBRAY, Mr. ROHRABACHER, Mr. HYDE, Mr. INHOFE, Mr. MACHTLEY, Mrs. BENTLEY, Mr. MOORHEAD, Mr. HORTON, Mr. COSTELLO, Mr. RINALDO, Mr. MCDADE, Mr. MARTIN, Mr. GOSS, Mr. BRUCE, Mr. SOLOMON, Mr. LAGOMARSINO, Mr. GILLMOR, Mr. HARRIS, Mr. MCCANDLESS, Mr. THOMAS of Wyoming, Mr. JONTZ, Mr. SUNDQUIST, Mr. NEAL of North Carolina, Mr. JOHNSON of South Dakota, Mr. JONES of Georgia, Ms. KAPTUR, Mr. HANCOCK, Mr. TALLON, Mr. TORRICELLI, Mr. ROE, and Mr. COMBEST):

H.R. 1396. A bill to amend the Trade Act of 1974 in order to require reciprocal responses to foreign acts, policies, and practices that deny national treatment to U.S. investment; to the Committee on Ways and Means.

By Mr. DANNEMEYER (for himself, Mr. BARTON of Texas, Mr. HOLLOWAY, Mr. BLILEY, Mr. SCHAEFER, Mr. HASTERT, Mr. FIELDS, Mr. RITTER, Mr. DORNAN of California, Mr. BURTON of Indiana, and Mr. SANTORUM):

H.R. 1397. A bill to amend title X of the Public Health Service Act to establish in the program for family planning projects a requirement relating to parental notifications; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. TOWNS, Mrs. COLLINS of Illinois, Ms. NORTON, Mr. SAVAGE, Mr. PAYNE of New Jersey, Mr. HORTON, Ms. SLAUGHTER of New York, Mrs. MORELLA, Mrs. UNSOELD, Ms. PELOSI, Mr. ESPY, Mr. OWENS of New York, Mr. GREEN of New York, Ms. MOLINARI, Mr. MOODY, Mr. MFUME, Mrs. MINK, Mrs. KENNELLY, Mr. FROST, and Mr. JEFFERSON):

H.R. 1398. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LEACH:

H.R. 1399. A bill to increase the number of immigrant visa numbers for natives of the Soviet Union and Eastern European countries; to the Committee on the Judiciary.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. LEWIS of California, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. MCCOLLUM, Mr. WEBER, Mr. SENSENBRENNER, Mr. MOORHEAD, Mr. GEKAS, Mr. SMITH of Texas, Mr. SCHIFF, Mr.

RAMSTAD, Mr. LIVINGSTON, and Mr. PORTER):

H.R. 1400. A bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendants to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

By Mr. LEACH:

H.R. 1401. A bill regarding the establishment of free trade areas between the United States and certain East European countries; to the Committee on Ways and Means.

H.R. 1402. A bill regarding the establishment of a free trade area between the United States and the European Community; to the Committee on Ways and Means.

By Mr. LIPINSKI (for himself, Mr. ABERCROMBIE, Mr. ANNUNZIO, Mr. BONIOR, Mr. BORSKI, Mrs. COLLINS of Illinois, Mr. COSTELLO, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. HAYES of Illinois, Mr. HYDE, Mr. LEWIS of Georgia, Ms. NORTON, Mr. PORTER, Mr. RUSSO, Mr. SANGMEISTER, Mr. SAVAGE, Mr. TOWNS, Mr. TRAFICANT, Mr. VISCLOSKY, and Mr. CLEMENT):

H.R. 1403. A bill to amend title 23, United States Code, to establish a strategic urbanized program for providing additional assistance for the Federal-aid highway systems in urbanized areas with population of 50,000 or more, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McDADE (for himself, Mr. PENNY, and Mr. MONTGOMERY):

H.R. 1404. A bill to amend the Small Business Act to establish programs and undertake efforts to assist and promote the creation, development, and growth of small business concerns owned and controlled by veterans of service in the Armed Forces, and for other purposes; jointly, to the Committees on Small Business and Veterans' Affairs.

By Mr. PICKETT:

H.R. 1405. A bill to amend the Solid Waste Disposal Act to provide financial and technical assistance to State, regional, and local agencies for the development of markets for recovered resources; to the Committee on Energy and Commerce.

By Mr. PICKLE (for himself, Mr. THOMAS of California, Mr. ANDREWS of Texas, Mr. SCHULZE, and Mr. MAZZOLI):

H.R. 1406. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. RITTER (for himself, Mr. OXLEY, and Mr. TAUZIN):

H.R. 1407. A bill to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SIKORSKI:

H.R. 1408. A bill to establish a program to regulate environmental marketing claims, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SKELTON:

H.R. 1409. A bill to suspend until January 1, 1995, the duty on Pyrantel Tartrate with Zeolex; to the Committee on Ways and Means.

H.R. 1410. A bill to suspend until January 1, 1995, the duty on oxytetracylcline amphoteric; to the Committee on Ways and Means.

By Mr. SKELTON (for himself, Mr. STENHOLM, Mr. BRUCE, Mr. LANCASTER, Mrs. MORELLA, Mr. PENNY, Mr. BARNARD, Mr. TALLON, Mr. SAXTON, Mr. YATES, Mr. PAXON, Mr. HENRY, Mr. WALSH, Mr. ACKERMAN, Mr. BEREUTER, Mr. SARPALIUS, Mr. CLINGER, Mr. ROGERS, Mr. HOCHBRUECKNER, Mr. BROOMFIELD, Mr. BUNNING, Mr. HORTON, Mr. DYMALLY, Mr. UPTON, Mr. HATCHER, Mr. OLIN, Mr. VENTO, Mr. COLEMAN of Missouri, Mr. COSTELLO, Mr. PORTER, Mrs. UNSOELD, Mr. SOLOMON, Mrs. JOHNSON of Connecticut, Mrs. MEYERS of Kansas, Mr. CHAPMAN, Mr. FIELDS, Mr. FROST, Mr. HAYES of Louisiana, Mr. BLILEY, Mr. FOGLIETTA, Mr. HUGHES, Mr. TAUZIN, Mr. CALLAHAN, Mr. BARTON of Texas, Mr. HASTERT, Mr. OXLEY, Mr. SCHAEFER, Mr. MOODY, Mr. HUCKABY, Mr. FAWELL, Mr. CAMP, Mr. FALEOMAVAEGA, and Mr. BUSTAMANTE):

H.R. 1411. A bill to protect the used oil recycling system, conserve a valuable resource, establish used oil management standards, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROYBAL:

H.J. Res. 186. Joint resolution directing the President to conduct an initial feasibility study of an Alaska-California under-ocean fresh water pipeline; to the Committee on Public Works and Transportation.

By Mr. RINALDO:

H.J. Res. 187. Joint resolution designating the month of March 1992 as "National Computing Education Month"; to the Committee on Post Office and Civil Service.

By Mr. TORRICELLI:

H. Con. Res. 97. Concurrent resolution expressing the sense of the Congress that the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense, and that the United States should seek the repeal of United Nations Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike; to the Committee on Foreign Affairs.

By Mr. McDERMOTT:

H. Con. Res. 98. Concurrent resolution requesting the United States Trade Representative to enforce the rights of United States beer exporters against unjustified treatment by Canadian provincial liquor control boards; to the Committee on Ways and Means.

By Mr. STOKES (for himself, Mr. PAYNE of New Jersey, Mrs. MORELLA, and Mr. MFUME);

H. Con. Res. 99. Concurrent resolution expressing the sense of the Congress regarding the award of contracts for the reconstruction of the civil infrastructure of Kuwait; jointly, to the Committees on Small Business, Public Works and Transportation, Foreign Affairs, and Banking, Finance and Urban Affairs.

By Mr. LIGHTFOOT (for himself, Mr. BEREUTER, Mr. HOAGLAND, and Mr. SKELTON):

H. Res. 110. Resolution relating to the role of the Corps of Engineers in the management of the Missouri River System; to the Committee on Public Works and Transportation.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

27. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Iraqi missile attacks on Israel; to the Committee on Foreign Affairs.

28. Also, memorial of the General Assembly of the State of New Jersey, relative to environmental war crimes; to the Committee on Foreign Affairs.

29. Also, memorial of the General Assembly of the State of New Jersey, relative to offshore oil leases and offshore oil drilling; to the Committee on Interior and Insular Affairs.

30. Also, memorial of the Legislature of the State of California relative to American Troops in the Middle East; jointly, to the Committees on Armed Services and Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. BOEHLERT, Mr. ALEXANDER, Mr. COOPER, Mr. COYNE, Mr. DAVIS, Mr. DURBIN, Mr. HOAGLAND, Mr. LOWERY of California, Mr. MORRISON, Mr. NEAL of Massachusetts, Mr. PICKLE, Mr. REED, Mr. RINALDO, Mr. ROYBAL, Mr. SABO, Mr. SISISKY, Mr. SPRATT, Mr. SMITH of New Jersey, and Mr. TRAXLER.

H.R. 68: Mr. GOODLING, Mr. McCRERY, Mr. RUSSO, Mr. UPTON, Mr. VENTO, and Mr. WHEAT.

H.R. 77: Mr. HANCOCK, Mr. JEFFERSON, Mr. CAMP, Mr. DANNEMEYER, Mr. OWENS of Utah, Mr. LAGOMARSINO, Mr. EMERSON, and Mr. PAXON.

H.R. 78: Mr. SHAYS, Mr. NUSSLE, Mr. PACKARD, Mr. LAGOMARSINO, and Mr. EMERSON.

H.R. 81: Mr. AUCOIN, Mrs. UNSOELD, Mr. FRANK of Massachusetts, Mr. DE LUGO, Mr. HYDE, Mr. RANGEL, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. KILDEE, Mr. SYNAR, Mr. EMERSON, Mr. BEREUTER, Mr. LIPINSKI, Mr. SIKORSKI, Mr. PENNY, Mrs. LOWEY of New York, Mr. JEFFERSON, Mr. ABERCROMBIE, and Mr. BROWN.

H.R. 85: Mr. BAKER, and Mr. TAYLOR of North Carolina.

H.R. 86: Mr. NEAL of North Carolina and Mr. RAMSTAD.

H.R. 117: Mr. ANDREWS of New Jersey and Mr. DANNEMEYER.

H.R. 196: Mr. SERRANO.

H.R. 233: Mr. ZELIFF.

H.R. 246: Mr. EMERSON, Mr. FISH, Mr. SANTORUM, Mr. YOUNG of Alaska, Mr. BATEMAN, Mrs. VUCANOVICH, Mr. DREIER of California, Mrs. MEYERS of Kansas, Mr. HASTERT, and Mr. GILMAN.

H.R. 249: Mr. RIGGS, Mr. SOLOMON, Mr. PACKARD, and Mr. FISH.

H.R. 300: Mr. SMITH of New Jersey.

H.R. 317: Mrs. UNSOELD.

H.R. 327: Mrs. ROUKEMA.

H.R. 328: Mrs. MEYERS of Kansas.

H.R. 330: Mr. MINETA.

H.R. 355: Mr. DOOLITTLE.

H.R. 371: Mr. BOEHNER.

H.R. 386: Mr. MFUME, Ms. PELOSI, Mr. JONTZ, Mr. DURBIN, Mrs. MORELLA, Mr. MAVROULES, and Mr. DWYER of New Jersey.

H.R. 392: Mr. ANDREWS of Maine and Mr. PRICE.

H.R. 431: Mr. KYL, Mr. DICKS, Mr. CUNNINGHAM, Mrs. MINK, Mr. HAMMER-

SCHMIDT, Mr. SLATTERY, Mr. TRAFICANT, Mr. HANSEN, Mr. PETERSON of Florida, Mr. THOMAS of California, Mr. PACKARD, Mr. PAXON, Mr. SLAUGHTER of Virginia, Mr. DOOLITTLE, Ms. ROS-LEHTINEN, and Mr. GINGRICH.

H.R. 479: Mr. COLEMAN of Missouri.

H.R. 481: Mr. JONES of Georgia, Mr. KILDEE, Mr. Fish, and Mr. SHAYS.

H.R. 500: Mr. BILIRAKIS, Mrs. BOXER, Mr. BRUCE, Mrs. BYRON, Mr. CARR, Mr. CRANE, Mr. FALEOMAVAEGA, Mr. FISH, Mr. GEKAS, Mr. GEREN, Mr. HOYER, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. KOPETSKI, Mr. LANCASTER, Mrs. LOWEY of New York, Mr. MCEWEN, Mr. MILLER of California, Mr. NEAL of North Carolina, Ms. NORTON, Mr. OBERSTAR, Mrs. PATTERSON, Mr. PRICE, Mr. PURSELL, Mr. RIDGE, Mr. ROTH, Mr. RUSSO, Mr. SCHULZE, Ms. SLAUGHTER of New York, Mr. SMITH of Iowa, Mr. SMITH of Oregon, Mr. SPRATT, Mr. STAGGERS, Mr. VOLKMER, and Mr. WEISS.

H.R. 501: Mr. FISH, Mr. HERTEL, Mr. HOAGLAND, and Ms. OAKAR.

H.R. 516: Mr. RAHALL, Mr. SCHEUER, Mr. EDWARDS of California, Mr. BRYANT, Mr. KOLTER, Mr. DAVIS, and Mr. PALLONE.

H.R. 523: Mr. CAMPBELL of Colorado and Mr. KOPETSKI.

H.R. 531: Mrs. COLLINS of Illinois, Mr. SLATTERY, Mr. SIKORSKI, Mr. BRUCE, Mr. TOWNS, Mr. LEHMAN of California, Mr. HARRIS, Mr. AUCOIN, Mr. BILBRAY, Mr. DWYER of New Jersey, Mr. GORDON, Mr. HAMILTON, Mr. HENRY, Mr. JOHNSTON of Florida, Ms. KAPTUR, Mr. LIPINSKI, Mr. NEAL of North Carolina, Mr. RAVENEL, Mr. STARK, Mrs. UNSOELD, Mr. EDWARDS of California, Mr. RAHALL, Mr. FRANK of Massachusetts, and Mr. DELLUMS.

H.R. 560: Mr. BEILENSON, Mr. LANTOS, Mr. MINETA, Mr. FISH, Mr. NEAL of Massachusetts, Ms. HORN, and Mr. RIGGS.

H.R. 585: Mr. HAYES of Louisiana, Mr. KENNEDY, Mr. SIKORSKI, Mr. BILBRAY, and Mr. COOPER.

H.R. 587: Ms. LONG.

H.R. 588: Mr. GALLO.

H.R. 611: Mr. CUNNINGHAM.

H.R. 644: Mr. OWENS of Utah.

H.R. 661: Mr. FASCELL, Mrs. LOWEY of New York, Mr. LANCASTER, Mr. GUARINI, Mr. STOKES, and Mr. JOHNSTON of Florida.

H.R. 667: Mr. SMITH of Florida, Mr. BENNETT, Mr. PANETTA, and Mr. OLIN.

H.R. 676: Mr. TOWNS, Mr. PALLONE, Mr. MURTHA, Mr. KOPETSKI, Mr. HARRIS, Mrs. MEYERS of Kansas, Mr. TAYLOR of Mississippi, Mr. PAYNE of Virginia, Mr. FUSTER, Mr. DORGAN of North Dakota, Mr. DE LUGO, Mr. VALENTINE, Mr. GALLO, Mr. AUCOIN, Mr. MFUME, Mr. LAFALCE, Mr. MURPHY, Mr. HUGHES, Mr. BILBRAY, Mr. ANNUNZIO, Mr. SCHIFF, Mrs. UNSOELD, Mr. GILMAN, Mr. EVANS, Mr. DYMALLY, Mr. MCNULTY, Mr. ABERCROMBIE, Mr. PERKINS, Ms. SNOWE, Mrs. PATTERSON, Mr. MARTINEZ, Mr. ROYBAL, Mr. PETERSON of Minnesota, Mr. BERMAN, Mr. ANDREWS of Maine, Mr. LEVINE of California, Mr. RAVENEL, Mr. TRAFICANT, Mrs. LLOYD, Mr. NEAL of North Carolina, Mr. LANCASTER, Mr. MCGRATH, Mr. SIKORSKI, Mr. JEFFERSON, and Mr. OWENS of Utah.

H.R. 744: Mr. MAVROULES and Mr. RAVENEL.

H.R. 751: Mr. JEFFERSON, Mr. GORDON, Mr. FRANKS of Connecticut, Mr. LANCASTER, Mr. RAMSTAD, Mr. HYDE, Mr. COOPER, Mr. GINGRICH, Mr. GEJDENSON, Mr. EMERSON, Mr. ROEMER, Mr. WHEAT, Ms. SNOWE, Mr. CHAPMAN, and Mr. CONDIT.

H.R. 768: Mr. HORTON, Mr. INHOFE, Mr. RHODES, Mr. PETRI, and Mr. NEAL of North Carolina.

H.R 769: Mr. OWENS of Utah and Mr. SOLOMON.

H.R 774: Mr. MACHTLEY and Mr. PAYNE of Virginia.

H.R 783: Mr. ARMEY, Mrs. LOWEY of New York, Mr. JEFFERSON, Mr. SANTORUM, Mr. HUGHES, Mr. BATEMAN, Mr. LIGHTFOOT, Mr. ECKART, Mr. KOLBE, and Mr. HATCHER.

H.R 785: Mr. SCHUMER and Mr. TOWNS.

H.R 791: Mr. FROST.

H.R 830: Mr. ABERCROMBIE and Mrs. SCHROEDER.

H.R 840: Mr. CAMP, Mr. LEWIS of Georgia, Mr. GUNDERSON, Mr. TRAFICANT, and Mrs. JOHNSON of Connecticut.

H.R 856: Mrs. LOWEY of New York, Mr. MCDADE, and Mr. NEAL of Massachusetts.

H.R 861: Mr. BEILENSON.

H.R 906: Mr. GREEN, Mr. FISH, Mr. UDALL, Mr. GORDON, Mr. JOHNSTON of Florida, Mr. STUDDS, and Mrs. LOWEY of New York.

H.R 907: Mr. DIXON, Mr. THOMAS of California, Mr. PACKARD, Mr. POSHARD, Mr. ROSE, Mr. CUNNINGHAM, Mr. HEFNER, and Mr. WISE.

H.R 908: Mr. BEVILL, Mr. INHOFE, Mr. HYDE, Mr. STOKES, Mr. OWENS of New York, and Mr. GONZALEZ.

H.R 912: Mr. DE LUGO and Mr. OLIN.

H.R 924: Mr. HASTERT, Mr. HANSEN, Mr. HUBBARD, Mr. STUMP, Mr. SLATTERY, Mr. RAMSTAD, Mr. EMERSON, Mr. LIGHTFOOT, and Mr. HORTON.

H.R. 941: Mr. MATSUI.

H.R. 961: Mr. ROHRABACHER, Mr. WALSH, Mr. GOSS, Mr. STEARNS, Mr. HANCOCK, and Mr. PICKLE.

H.R. 963: Mr. MCGRATH, Mr. HERGER, Mr. HORTON, and Mr. FROST.

H.R. 967: Mr. TAYLOR of Mississippi, Mr. BILBRAY, Mr. KOLTER, and Mr. OWENS of New York.

H.R. 980: Mr. COMBEST and Mr. GUNDERSON.

H.R. 993: Mr. LIPINSKI, Mr. OWENS of New York, Mr. SKAGGS, Mr. HAYES of Illinois, Mr. MARTINEZ, Mr. BLILEY, Mr. JEFFERSON, Mr. MFUME, Mr. DARDEN, and Mr. LAGOMARSINO.

H.R. 1013: Mr. BREWSTER, Mr. HEFLEY, Mr. KLUG, Mr. SOLOMON, and Mr. SANTORUM.

H.R. 1016: Mr. TORRICELLI, Mr. ROE, Mr. DOOLITTLE, and Mr. NUSSLE.

H.R. 1052: Mr. HYDE, Mr. CRAMER, Mr. WOLPE, and Mr. GILMAN.

H.R. 1072: Mr. LIPINSKI, Mr. GILMAN, Mr. MFUME, Mrs. BOXER, Mr. DWYER of New Jersey, Mr. TORRES, Mr. WYDEN, Mr. FOGLIETTA, and Mr. MCDERMOTT.

H.R. 1073: Mr. LIPINSKI, Mr. GILMAN, Mr. MFUME, Mrs. BOXER, Mr. DWYER of New Jersey, Mr. TORRES, Mr. WYDEN, Mr. FOGLIETTA, and Mr. MCDERMOTT.

H.R. 1081: Mr. GONZALEZ and Mr. NAGLE.

H.R. 1092: Mr. JACOBS, Mr. BREWSTER, and Mr. SCHIFF.

H.R. 1110: Mrs. LOWEY of New York, Mr. MARTINEZ, Mr. GILMAN, Mr. REED, Mr. KOLBE, Mr. JONES of Georgia, Mr. KOPETSKI, Mr. MCMILLEN of Maryland, Ms. NORTON, Mr. CONYERS, and Mr. NEAL of North Carolina.

H.R. 1116: Mr. KOLTER and Mr. OWENS of Utah.

H.R. 1163: Mr. RANGEL, Mr. DANNEMEYER, Mr. DORNAN of California, Mr. PETRI, Mr. DOOLITTLE, and Mr. LEWIS of California.

H.R. 1164: Mr. RANGEL, Mr. DANNEMEYER, Mr. DORNAN of California, Mr. PETRI, Mr. DOOLITTLE, and Mr. LEWIS of California.

H.R. 1179: Mr. LEVINE of California, Mr. PEASE, Mr. DYMALLY, Mr. GILMAN, Mr. BOEHLERT, Mr. LANCASTER, and Mr. DIXON.

H.R. 1186: Mr. BUSTAMANTE, Mr. ANDREWS of New Jersey, Mr. HOUGHTON, Mr. ANTHONY, Mr. NEAL of North Carolina, Mr. MARKEY, Ms. KAPTUR, Mr. MURTHA, Mr. BORSKI, Ms. OAKAR, Mr. MCGRATH, Mrs. BYRON, Mr. GOODLING, Mr. ESPY, Mr. REED, and Mr. GUNDERSON.

H.R. 1189: Mr. RANGEL, Mr. SERRANO, Mr. TORRES, Mr. WYDEN, Mr. MINETA, Mr. COLEMAN of Texas, Ms. KAPTUR, Mrs. JOHNSON of Connecticut, Mr. KENNEDY, Mr. MFUME, Mr. MARKEY, Mr. FOGLIETTA, Mr. FLAKE, and Mr. MOAKLEY.

H.R. 1230: Mr. LAGOMARSINO and Mr. INHOFE.

H.R. 1234: Mr. LIPINSKI, Mr. RANGEL, Mr. STOKES, Mr. MCNULTY, and Mr. GILMAN.

H.R. 1245: Mr. MINETA, Mr. DREIER of California, Mr. SLATTERY, Mr. TRAFICANT, Mr. HASTERT, Mr. KYL, Mr. PETRI, Mr. WILSON, and Mr. OBERSTAR.

H.R. 1250: Mr. LAGOMARSINO, Mr. YOUNG of Alaska, and Mr. OBEY.

H.R. 1251: Mr. LEHMAN of Florida, Mr. FROST, Mr. LEVIN of Michigan, Mr. WYDEN, Mr. EVANS, Mr. BONIOR, Mr. WASHINGTON, Mrs. LOWEY of New York, Mr. ROE, Mr. KOLTER, Mr. DWYER of New Jersey, and Mr. LAGOMARSINO.

H.R. 1252: Mr. LEHMAN of Florida, Mr. FROST, Mr. LEVIN of Michigan, Mr. WYDEN, Mr. EVANS, Ms. SLAUGHTER of New York, Mr. BONIOR, Mr. WASHINGTON, Mrs. LOWEY of New York, Mr. ROE, Mr. MILLER of California, Mr. KOLTER, and Mr. DWYER of New Jersey.

H.R. 1253: Mr. LEHMAN of Florida, Mr. FROST, Mr. LEVIN of Michigan, Mr. WYDEN, Mr. EVANS, Mr. BONIOR, Mr. WASHINGTON, Mrs. LOWEY of New York, Mr. ROE, Mr. KOLTER, and Mr. DWYER of New Jersey.

H.R. 1259: Mr. HARRIS, Mr. RANGEL, Mrs. BYRON, Mr. MILLER of California, Mr. SANDERS, Mr. ENGLISH, Mr. HUTTO, Mr. PAXON, Mr. RAHALL, Mr. LANCASTER, Mr. PETRI, Mr. GREEN, Mr. BATEMAN, Mr. OWENS of Utah, Mr. MCGRATH, Mr. LEWIS of California, Mr. MCMILLEN of Maryland, Mrs. MEYERS of Kansas, Mr. DORNAN of California, Mr. LAFALCE, and Mr. YATRON.

H.R. 1262: Mr. HORTON.

H.R. 1263: Mrs. MEYERS of Kansas and Mr. LAGOMARSINO.

H.R. 1264: Mrs. MEYERS of Kansas and Mr. LAGOMARSINO.

H.R. 1285: Mr. WILLIAMS, Mr. JEFFERSON, Mr. MARTINEZ, Ms. MOLINARI, Mr. GUNDERSON, Mr. ROEMER, Mr. ERDREICH, Mr. ANDREWS of New Jersey, Mr. MATSUI, Mr. CHAPMAN, Mr. EDWARDS of California, and Mr. ANDREWS of Texas.

H.R. 1296: Mr. YATES, Mr. SOLOMON, Mr. RINALDO, Mrs. MINK, Mr. JACOBS, Mr. ALLARD, Mr. BARTON of Texas, Mr. YOUNG of Florida, Mr. GUARINI, Mr. MARTINEZ, Mr. SCHIFF, Mr. MILLER of Washington, Mr. FRANKS of Connecticut, Mr. JENKINS, Mr. HUBBARD, Mr. GONZALEZ, Mr. MCMILLAN of North Carolina, Mr. FAWELL, Mr. PORTER, Mr. MAZZOLI, Mr. PERKINS, Mr. GREEN, Mr. GOSS, Mr. DORNAN of California, Mr. BALLENGER, Mr. GRANDY, Mr. GUNDERSON, Mr. SLAUGHTER of Virginia, Mr. WOLF, Mr. ROSE, Mr. LAROCCO, Mr. MARKEY, Mr. MURTHA, Mr. UPTON, Mr. KOLTER, Mr. TRAFICANT, Mr. MORAN, Mr. ROEMER, Mr. SMITH of Iowa, Mr. QUILLEN, Mr. WOLPE, Mr. STEARNS, Mr. HYDE, Mr. CUNNINGHAM, Mr. CARPER, Mr. SHARP, Mr. ERDREICH, Mr. RAY, Mr. BARNARD, Mr. SISISKY, Mr. NATCHER, Mr. BROOMFIELD, Mr. GOODLING, Mr. ROHRABACHER, Mr. DREIER of California, Mr. PARKER, Mr. WYLIE, Mr. LIGHTFOOT, Mr. ANDERSON, Mr. THORNTON, Mr. BILIRAKIS, Mr. ROBERTS, Mr. MARTIN, Mr. WYDEN, Mr. CHANDLER, Mr. HOCHBRUECKNER, Mr. ASPIN, Mr. SKAGGS, Mr. RAHALL, Mr. WEISS, Mr. PENNY, Mr. BROOKS, Mr. MINETA, Mr. PICKLE, Mr. ANDREWS of Texas, Mr. SARPALIUS, Mr. VOLKMER, Mr. SKEEN, Mr. RAVENEL, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. HOLLOWAY, Mr. HANCOCK, Mr. YOUNG of Alaska, Mr. SMITH of

New Jersey, Mr. BOEHNER, Mr. BAKER, Mr. MCCRERY, Mr. BURTON of Indiana, Mr. HEFLEY, Mr. SCHAEFER, Mr. NICHOLS, Mr. ANDREWS of New Jersey, Mr. BILBRAY, Mr. SAWYER, Mr. ACKERMAN, Mr. VISCLOSKY, Ms. HORN, Ms. SLAUGHTER of New York, Ms. DELAURO, Mr. KOPETSKI, Mr. FORD of Michigan, Mr. FEIGHAN, Mr. LIPINSKI, Mr. CARR, Mr. KLECZKA, Mr. MCDADE, Mr. SKELTON, Mr. POSHARD, Mr. THOMAS of California, Mr. MCEWEN, Mr. BOEHLERT, Ms. ROS-LEHTINEN, Mr. FIELDS, Mr. HANSEN, Mr. GEKAS, Mr. GILMAN, Mr. SENSENBRENNER, Mr. JAMES, Mr. COLEMAN of Missouri, Mr. HAMILTON, Mr. HAMMERSCHMIDT, Mr. BEVILL, Mr. THOMAS of Wyoming, Mr. SPENCE, Mr. RITTER, Mrs. MORELLA, Mr. MARLENEE, Mr. GILLMOR, Mr. GALLEGLY, Mr. COMBEST, Mr. HAYES of Louisiana, Mr. DICKS, Mr. GIBBONS, Mr. NEAL of Massachusetts, Mr. COYNE, Mr. SLATTERY, Mr. HEFNER, Mr. KYL, Mr. DE LA GARZA, Mr. COX of California, Mr. PURSELL, Mr. CLINGER, Mr. LEHMAN of California, Mr. SANTORUM, Mr. PETERSON of Florida, Mr. ABERCROMBIE, Mr. MCMILLEN of Maryland, and Mr. MCGRATH.

H.R. 1316: Mr. HOYER.

H.R. 1346: Ms. DELAURO, Mr. FOGLIETTA, Mr. TOWNS, Mr. OWENS of Utah, Mr. STARK, Mr. PENNY, Mr. MARKEY, Mr. KLECZKA, AND Mr. KOPETSKI.

H.R. 1360: Mr. JOHNSTON of Florida, Mrs. MORELLA, Mr. BRUCE, Mr. HOCHBRUECKNER, Mr. LIPINSKI, Mrs. JOHNSON of Connecticut, Mr. LANCASTER, and Mr. FOGLIETTA.

H.J. Res. 2: Mr. VANDER JAGT.

H.J. Res. 5: Mr. EMERSON, Mr. GIBBONS, Mr. PACKARD, Mr. DREIER of California, Mr. ZIMMER, Mr. COBLE, Mr. SKEEN, Mr. BALLENGER, Mr. HOUGHTON, Mr. DANNEMEYER, Mr. LAGOMARSINO, Mr. INHOFE, Mr. RITTER, Mr. ROHRABACHER, Mr. ZELIFF, Mr. CUNNINGHAM, Mr. YOUNG of Florida, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. BOEHNER, Mr. DOOLITTLE, Mr. HERGER, Mr. PAXON, Mr. RIGGS, Mr. KOLBE, Mr. COUGHLIN, Mr. FISH, Mr. SANTORUM, Mr. SCHIFF, Mrs. VUCANOVICH, Mr. ARMEY, Mr. SHAW, Mr. HEFLEY, Mr. WILSON, Mr. SLAUGHTER of Virginia, Mr. LOWERY of California, Mr. HUNTER, Mr. MCCOLLUM, and Mr. ROBERTS.

H.J. Res. 23: Mr. ALEXANDER, Mr. BILBRAY, Mr. BROWN, Mr. BRUCE, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CLEMENT, Mr. DARDEN, Mr. DUNCAN, Mr. EMERSON, Mr. GALLO, Mr. GEKAS, Mr. GORDON, Mr. HAMILTON, Mr. HANSEN, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. HUCKABY, Mr. HYDE, Mr. KOPETSKI, Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mr. LEWIS of Florida, Mrs. LLOYD, Ms. LONG, Mr. MCDADE, Mr. MCGRATH, Mr. MCHUGH, Mr. MCNULTY, Mr. MAVROULES, Mr. MFUME, Mr. MILLER of Ohio, Mr. MURPHY, Ms. OAKAR, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. PAXON, Ms. PELOSI, Mr. PICKETT, Mr. PURSELL, Mr. RAMSTAD, Mr. RANGEL, Mr. RHODES, Mr. ROYBAL, Mr. SCHEUER, Ms. SLAUGHTER of New York, Mr. SPRATT, Mr. TANNER, Mr. VANDER JAGT, Mr. VENTO, Mrs. VUCANOVICH, Mr. WEBER, Mr. WEISS, Mr. WYLIE, and Mr. YOUNG of Alaska.

H.J. Res. 58: Mr. TORRICELLI, Mr. LEWIS of California, Mr. HYDE, Mr. RAHALL, Mr. CAMP, Mr. HANSEN, Mr. LEVINE of California, Mr. GORDON, Mr. HALL of Ohio, Mr. WISE, Mr. BORSKI, Mr. DOOLITTLE, Mr. LANTOS, Mr. ORTIZ, Mr. ABERCROMBIE, Ms. OAKAR, Mr. GOODLING, Mr. NUSSLE, and Mr. RAMSTAD.

H.J. Res. 95: Mr. SKEEN, Mr. GORDON, Mr. CLEMENT, Mr. MCDERMOTT, Mr. DOOLITTLE, Mr. BILBRAY, and Mr. LANCASTER.

H.J. Res. 134: Mr. ACKERMAN, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. BACCHUS, Mr. BERMAN, Mr. BILBRAY, Mr. BOUCHER, Mrs. BOXER, Mr. CAMP, Mr. CARR, Mr. CLEMENT, Mr. COYNE, Mr. DORNAN of California, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. ERDREICH, Mr. FASCELL, Mr. FAWELL, Mr. FISH, Mr. FROST, Mr. FUSTER, Mr. GEJDENSON, Mr. GREEN, Mr. GUARINI, Mr. HARRIS, Mr. HENRY, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOYER, Mr. JONES OF GEORGIA, Mr. JONTZ, Ms. KAPTUR, Mr. KOPETSKI, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEVINE of California, Mr. LIPINSKI, Mrs. LOWEY of New York, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCNULTY, Mr. MACHTLEY, Mr. MANTON, Mr. MARTIN, Mr. MATSUI, Mr. MAZZOLI, Ms. MOLINARI, Mr. NOWAK, Mr. OWENS of Utah, Mr. OWENS of New York, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. POSHARD, Mr. RAMSTAD, Mr. RANGEL, Mr. REVENEL, Mr. RAY, Mr. RINALDO, Mr. ROE, Mr. SCHUMER, Mr. SERRANO, Mr. SISISKY, Mr. SMITH of Florida, Mr. STARK, Mr. STOKES, Mr. SWETT, Mr. TOWNS, Mr. TRAXLER, Mr. WAXMAN, Mr. WEBER, Mr. WOLF, and Mr. YATES.

H.J. Res. 144: Mr. ROYBAL, Mr. LEHMAN of Florida, Mr. KILDEE, Mr. YATES, Ms. KAPTUR, Mr. COSTELLO, Mr. FORD of Michigan, Mr. HERTEL, Mr. LUKEN, Mr. LAGOMARSINO, Mr. SKAGGS, Mr. HEFNER, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. FAWELL, Mr. AUCOIN, Ms. SLAUGHTER of New York, Mr. LEVINE of California, Mr. ESPY, Mr. BALLENGER, Mrs. MINK, Mr. LIPINSKI, Mr. MILLER of Washington, Mr. HUGHES, Mr. MARTINEZ, Mr. EVANS, Mr. STUDDS, Mr. SCHEUER, Mr. LAFALCE, Mr. LANCASTER, Mr. GUARINI, Ms. LONG, Mr. ZIMMER, Mr. KOPETSKI, Mr. JEFFERSON, Mr. CAMP, Mr. JONTZ, Mr. MCCRERY, Mr. OWENS of Utah, Mr. FROST, and Mr. SWETT.

H.J. Res. 147: Mr. RANGEL, Mrs. MEYERS of Kansas, and Mr. TAYLOR of Mississippi.

H.J. Res. 154: Mr. LANCASTER, Mr. LEVIN of Michigan, Mr. FISH, Mr. DEFAZIO, Mr. NEAL of Massachusetts, Mr. DE LUGO, Mr. VENTO, Mr. SAWYER, Mr. BARNARD, Mr. SMITH of New Jersey, Mr. EMERSON, Mr. SERRANO, Mr. RAMSTAD, Mr. UPTON, Mr. SPENCE, Mrs. MORELLA, Mr. FROST, Mr. LANTOS, Mr. MURPHY, Mr. MARKEY, and Mrs. MINK.

H.J. Res. 162: Mrs. UNSOELD.

H.J. Res. 169: Mr. COSTELLO, Mr. OWENS of Utah, Mr. CLEMENT, Mr. GILMAN, Mr. HORTON, Mr. UDALL, Mrs. UNSOELD, Mr. MCGRATH, Mr. GILCHREST, Mr. ERDREICH, Mr. MCDERMOTT, Mr. DWYER of New Jersey, Mr. DE LA GARZA, and Mr. PAYNE of New Jersey.

H. Con. Res. 45: Mr. RAMSTAD and Mr. GILMAN.

H. Con. Res. 56: Mr. STOKES, Mr. ROYBAL, and Mr. MAVROULES.

H. Con. Res. 73: Mr. CUNNINGHAM, Mr. HUTTO, and Mr. KYL.

H. Con. Res. 81: Mr. MCCOLLUM, Mr. BOEHNER, Mr. THOMAS of California, Mr. FRANKS of Connecticut, Mr. HANCOCK, Mr. APPLEGATE, Mr. LIVINGSTON, Mr. COX of California, Mr. DORNAN of California, Mr. HANSEN, Mr. NEAL of North Carolina, Mr. FAWELL, Mr. GUNDERSON, Mr. RAHALL, Mr. LAGOMARSINO, Mr. GEREN, Mr. SCHIFF, Mr. SUNDQUIST, and Mr. MACHTLEY.

H. Con. Res. 89: Mr. ROWLAND, Mr. LEHMAN of Florida, Mr. FROST, Mr. LEVIN of Michigan, Mr. WYDEN, Mr. EVANS, Ms. SLAUGHTER of New York, Mrs. BYRON, Mr. BONIOR, Mr. WASHINGTON, Mrs. LOWEY of New York, Mr. ROE, Mr. KOLTER, Mr. DWYER of New Jersey, and Mr. LAGOMARSINO.

H. Res. 26: Mr. BAKER, Mr. BATEMAN, Mr. BLAZ, Mr. CARPER, Mr. EMERSON, Mr. FISH, Mr. GALLEGLY, Mr. GILLMOR, Mr. GINGRICH, Mr. HENRY, Mr. HORTON, Mr. HUGHES, Mr. HUTTO, Mr. HYDE, Mr. INHOFE, Mr. KOLBE, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LENT, Mrs. LOWEY of New York, Mr. MARTIN, Mr. MCEWEN, Mr. MCMILLAN of North Carolina, Mr. MOORHEAD, Mrs. MORELLA, Mr. OXLEY, Mr. PENNY, Mr. PORTER, Mr. RAMSTAD, Mr. RANGEL, Mr. RAVENEL, Mr. ROE, Mr. SANTORUM, Mr. SCHIFF, Mr. SLATTERY, Mr. SMITH of New Jersey, and Mr. STOKES.

H. Res. 100: Mr. MCNULTY and Mr. NOWAK.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 328: Mr. Myers of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1175

By Mr. MICHEL:

—At the end of the bill add the following new section:

SEC. 503. BUDGET ENFORCEMENT.

To guarantee that the assistance for veterans authorized by Title III of this Act is provided in a manner consistent with the fiscal requirements of the Budget Enforcement Act, notwithstanding any other provision of this Act, this Act (including the amendments made by this Act) shall be implemented for all purposes relating to Federal budget procedures in accordance with the procedures and requirements enacted in the Budget Enforcement Act of 1990 (title XIII of Public Law 101-508).

EXTENSIONS OF REMARKS

FIGHTING HUNGER: A JOB HALFWAY DONE—A CHALLENGE HALFWAY MET

HON. TONY P. HALL
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. HALL of Ohio. Mr. Speaker, I would like to share with my colleagues a paper on fighting hunger which was prepared by the staff of the House Select Committee on Hunger. Forty thousand children die each year before their first birthday, and 20 million Americans depend on food banks or soup kitchens to supplement their diet each month. Americans discovered a tremendous amount of energy and force of will in our war against Iraq. It's time for us to use that energy to fight a war against hunger, poverty, and preventable disease.

The briefing paper, entitled "Fighting Hunger: A Job Halfway Done—A Challenge Halfway Met," is designed to look at America's current antihunger policy, and examine how it fails to adequately address the size and scope of the hunger problem. The paper lists insufficient funding levels and eligibility criteria for domestic food assistance programs such as food stamps and WIC, notes that the U.S. Government currently has no operational definition of hunger that recognizes food insecurity, and has no appropriate mechanism for measuring the extent of food insecurity in American communities.

Regarding international antihunger policy, the paper examines insufficient funding levels for child survival and education programs, and notes that the use of food as a weapon has never been recognized as a specific human rights violation through a U.N. Convention on the Right to Food.

With the fighting in the gulf behind us, it's time to redirect our energies toward a domestic and humanitarian agenda. As this paper makes clear, we have much work to do.

For the benefit of my colleagues, a copy of the briefing paper follows:

FIGHTING HUNGER: A JOB HALFWAY DONE—A CHALLENGE HALFWAY MET

Hunger has plagued humanity since the beginning of time. Food is among the most basic of all human needs. The problem of hunger is, on one level, simple to address: you give food to the hungry. However, solving hunger requires a more complicated and comprehensive approach.

Many current approaches are based on the direct, recurring provision of food. This is necessary for those in extreme need. However, to solve the long-term problem of hunger requires moving beyond responding to daily hunger needs to promoting individual self-reliance and empowerment through programs to reduce poverty.

Hunger has a simple cause: lack of access to food. And a well-understood connection exists between poverty and hunger. At least half a billion people are chronically hungry today; nearly all of them are poor. Nevertheless, the reasons why individuals and their families become unable to obtain food vary widely. In the deserts of Africa, food is scarce because of weather conditions, unsuitable agricultural techniques, and, in many cases, war. In war-torn Angola, people starved because the farmers' fields contained too many land mines to harvest the crop. In some of the poorest countries in Asia, recurring natural disasters restrict food production and transportation. Latin American nations crippled by debt or civil strife have great difficulties in adequately feeding their citizens.

In America, the breadbasket of the world, it is difficult to understand how hunger—how food insecurity, the lack of a consistent access to food from conventional sources—can exist in a country that produces food in such massive quantities. And yet millions of Americans are food insecure: 21 million rely on food stamps, 20 million Americans each month are forced to rely on a food bank or a soup kitchen to supplement their diet.

In a land where food is plentiful, the root cause of food insecurity is once again poverty: 31 million Americans live under the official poverty line; another 13 million live in real poverty (the outdated official poverty measurement adjusted for contemporary economic and societal assumptions). Opportunities to use our vast wealth in resources and in real poverty (the outdated official poverty measurement adjusted for contemporary economic and societal assumptions). Opportunities to use our vast wealth in resources and energy to help the hungry are often ignored: twenty percent of the food produced in the United States—137 million tons—is wasted.

In recent decades, the fight against domestic and international hunger has included efforts to provide basic subsistence—food—to hungry people. Internationally, efforts to promote economic development are supplemented by the provision of emergency assistance to people in famine situations. Not enough is done to support indigenous humanitarian and social service organizations within Third World countries. Across the developing world, much of the humanitarian infrastructure still depends on outside groups and outside resources.

In this country, we have in place an array of programs which address hunger in terms of maintenance: we attempt to give a meal to a hungry person. But in doing so—in addressing the symptom of the hunger without similarly addressing the cause of the hunger—we fail to prevent someone who is hungry today from being hungry again tomorrow. In short, we address the hunger but not the poverty which creates it. This is a policy that breeds dependence.

Hunger can be a potent political force. From Robespierre to Roosevelt, many national leaders have been swept into power by the power—and anger—of hungry people who sought to change their condition. In the early 1930's, this country experienced what became known as the "hunger riots." Destitute World War I veterans and unemployed victims of the Great Depression rallied and protested in cities across the country against their conditions of hunger and poverty. In the political campaign of 1932, Franklin Roosevelt acknowledged their condition and promised to solve it, and was elected President. In 1941, exactly half a century ago, FDR identified a vision for the post-WWII world, embodied in the famous Four Freedoms; Freedom from Fear, Freedom of Expression and Freedom of Religion, and Freedom from Want: Roosevelt understood that freedom from hunger and poverty were fundamental rights of all people.

Fifty years later, Roosevelt's vision remains unfulfilled. In a world where twenty percent of the population is poor, malnourished and diseased; in a country where twenty million people are unable to regularly feed themselves, there is no freedom from want. Current anti-hunger policy fails to give life to Roosevelt's vision, both by inadequately addressing immediate hunger, and by ignoring longer-term solutions.

The purpose of this paper is to identify the problems in current anti-hunger policy, and seek to understand how it fails to address the problem in a long-term, sustainable way.

DOMESTIC HUNGER PROGRAMS

Access to basic assistance programs

The Federal Government sponsors an array of programs to help low-income households access a consistent, nutritious food supply. However, many needy persons suffering from problems these programs were designed to address, receive no—or inadequate—assistance. For example, the Special Supplemental Food Program for Women, Infants and Children (WIC)—a program which offers food, health care access and nutrition education services to low-income women, infants and children who are at health or nutritional risk—currently serves only about half of the eligible population because of inadequate funding. Eligibility restrictions in the Food Stamp Program reflect outdated assumptions about the amount of resources participating households have available to expend on food. Consequently, benefits do not adequately cover the food needs of participants.

Approximately 8.7 million Americans are eligible for the WIC program; but the program is underfunded, only 4.5 million are served. Yet WIC saves money; a recent USDA study showed that every $1 spent on the prenatal component of the WIC Program reduced related infant care Medicaid costs by up to $3.13.

Food Stamp assistance demands recently jumped 400,000 in one month (October 1990). Because the Food Stamp Program operates like an entitlement program, every eligible person should receive benefits. However, asset and resource limitations are kept artificially low, barring participation to millions.

Food purchasing power

Low-income households in poor urban and rural communities face logistical and financial obstacles in their attempts to access an affordable, consistently nutritious food supply. Over the past two decades, supermarkets migrating from inner-city communities have been replaced by convenience stores and independent grocery stores whose prices are up to 30 percent higher than more efficient

supermarket chains. In rural areas, recent research finds, on average, the existence of only one supermarket per every 265 square miles. The lack of marketplace competition results not only in higher food prices, but in fewer fresh fruits and vegetables and meats—items which research indicates are lacking in the diets of many low-income persons.

In rural North Dakota, there is a supermarket every 1,276 square miles; in rural Mississippi, there is a supermarket every 134 square miles.

In urban areas, most poor people do not live within walking distance of a supermarket. The smaller convenience stores found in low-income urban areas charge up to 30 percent higher prices for the items they sell.

Most states do not encourage farmer's markets or food co-ops, where fresh, nutritious food is readily available, to become certified to redeem food stamps and WIC vouchers.

Assessing food security

Over the past decade, there has been extensive debate concerning the magnitude and severity of hunger problems in the United States. Difficulty in ascertaining the extent of this problem stems from the fact that there currently exists no universally accepted definition for the non-clinical manifestations of hunger, nor is there a uniform system for assessing household food shortage problems.

The U.S. Department of Agriculture "has no operational definition of 'hunger' in terms of food sufficiency," according to John Bode, Ass't Sec'y Of Agriculture for Food and Consumer Services.

Because of the diversity and number of state and local survey instruments for measuring hunger, it is difficult to make any national comparisons of national food insecurity problems.

Communities making the transition to food secure status

A growing number of national, state and local reports have heightened public awareness about the prevalence of food insecurity problems in the United States. Consequently, community-based organizations and private citizens across the country have begun to mobilize efforts to eradicate this condition. While many such organizations have launched programs and services which respond to the immediate food needs of low-income persons, there is no comprehensive set of goals in place for achieving permanent food security—access by all people at all times through normal food channels to enough nutritionally adequate food for a normal, healthy life.

EMPOWERMENT PROGRAMS

Asset-based welfare policy

Traditional welfare policies in America—which are humane and justifiable—have sustained millions of low-income persons, but rarely have those policies made them strong. As a result, most low-income persons remain in poverty, which is a drain on the nation, a loss of human resources, and an assault on human dignity. Welfare dependency continues and poverty rates remain high, in part, because welfare theory has taken for granted that a certain level of income or consumption is necessary for one's economic well-being. But very few people manage to spend or consume their way out of poverty. Economic well-being does not come through spending and consumption; rather, it is achieved through savings, investment, and accumulation of assets, which provide stability and orient people towards the future. While the Federal Government has offered middle- and upper-income persons incentives to accumulate savings and assets (e.g., home mortgage interest deductions and tax deductions for retirement pension accounts), it has not provided those incentives to low-income persons; indeed, under current welfare policies, poor families must deplete most of their assets before qualifying for public assistance.

Under current welfare policy, billions of dollars are spent promoting consumption (Food Stamps—$19 billion; AFDC—$17.5 billion) while actually prohibiting the asset accumulation that could reduce welfare dependency.

Federal Tax policy will subsidize homeownership by more than $50 billion in 1991.

Micro-enterprise programs for the poor

Self-employment and micro-enterprise activities (business employing five or fewer people, one of whom is the owner) are particularly important to areas where there are few formal job opportunities—such as many rural areas and inner-city urban areas—and to groups of people who have few job options due to lack of formal education and training. Yet the Federal Government has done little to promote self-employment opportunities in these economically depressed areas or for low-income and disadvantaged persons. In fact, Federal programs, while providing critically needed food, cash, and health assistance, actually drastically reduce or terminate benefits of participants who attempt to acquire the capital and assets necessary to launch a self-employment venture. Further, self-employment is usually not included in the definition of "employment" in current employment and training programs. Finally, the Federal Government has not sufficiently explored the potential contributions to general economic development derived from self-employment activities by low-income persons.

Between 1981 and 1985, 88 percent of all net job creation came from companies with fewer than 20 workers.

Self-employment is "counter-cyclical"—that is, it seems to be strong during recessions. Self-employment rates have increased during recessionary periods when wage and salary employment was decreasing.

INFANT DEATH—A PREVENTABLE DISGRACE

Infant mortality

The United States currently ranks last on the list of 21 top industrialized nations in infant mortality. While the U.S. infant mortality rate has dropped from about 20 per 1000 live births in 1960 to about 10 in 1988, most experts attribute the drop to significant advancements in sophisticated medical technology. Yet, these same experts acknowledge that an emphasis on preventing the conditions that influence high rates of infant mortality in this country has been lacking. Thousands of children still die before their first birthday because of a lack of basic pre- and post-natal care. In spite of the proliferation of prenatal care programs serving high-risk women, a significant percentage delay seeking care until their second or third trimester, resulting in a high percentage of low birthweight babies and high infant mortality rates. In addition, high-risk pregnant women often have significant social, economic and psychological problems which impact on the outcome of pregnancy. As important as the need to provide supplemental care to high-risk women, there is a need to develop better mechanisms for disseminating this care, and for evaluating the effectiveness of these mechanisms. Narrowly targeting high-risk pregnant women and infants in a well defined geographical area would enable health and supplemental care providers to adequately identify and treat the at-risk population in a more manageable and effective way.

While the overall U.S. infant mortality rate is about 10, the rate for African Americans is 17.9.

The teen birth rate among African Americans is about 65 percent; infants born to teens are twice as likely to die before their first birthday and three times as likely to be low birthweight.

In rural western Alabama, community-based pre-natal care programs lowered the infant mortality rate from 36 to 5.9 over a five year period.

Breastfeeding

There is a growing body of evidence that suggests that breastfeeding has significant benefits for infants and mothers. However, much of the research generating these claims has focused on populations in developing countries. Current research conducted in the U.S. is divided and has not been done on a wide scale. Much of the debate centers around the notion that significant health benefits from breastfeeding and particularly those that reduce infant mortality and morbidity are the result of the natural and sanitary source of breast milk, as opposed to unsanitary conditions, lack of clean water and a lack of medical care, conditions that predominate in developing countries. However, many of these conditions *do* exist in the U.S., and especially in low-income areas such as the Mississippi Delta, or the "colonias" in the Southwest. There is a need then to determine what benefits exist especially regarding infant mortality and morbidity in this country, and if they do, whether they have particular merit for reducing the high infant mortality and morbidity rates within low-income populations, who generally have low rates of breastfeeding.

Breastfeeding protects infants against a variety of illnesses including respiratory infections and diarrhea.

The WIC program spends $500 million each year on infant formula; nearly $30 million of that could be saved if recipients breastfed for one month instead of using formula.

A recent study showed that the breastfeeding rate among low-income women was below 36 percent.

HUMAN RIGHTS POLICY

Food as a human right

Although food is a basic essential for life, access to food is not recognized as an essential basic human right. Access to food is listed in the Universal Declaration of Human Rights, but it has never been the subject of a specific United Nations Convention, which would have the effect of elevating the issue internationally. In many developing countries, especially countries experiencing civil war or strife, government leaders as well as rebel combatants use food as a weapon to further their military or political aims. While humanitarian relief officials often express their frustration at their inability to feed hungry people, the United Nations and the international community have no recognized device for putting public pressure on those who would use hunger as a weapon.

For example, in Sudan, drought was predicted one year ago by relief workers within the country, and by the U.N. Food and Agriculture Organization (FAO), whose satellite photos showed drought conditions and crop failure. Sudan's President Bashir, however, refused to officially ask for relief, and pre-

vented private voluntary relief organizations from distributing food. As the famine worsened, President Bashir continued to block relief. Current estimates place about 10 million Sudanese people at risk of starvation, due in large part to President Bashir's refusal to acknowledge a disaster which was foreseen and predicted, and which the international and donor community was mobilized to avert.

An international convention on the right to food, similar to international conventions on torture and other human rights abuses, would force governments to respect the right to food. Also, the United Nations currently has no regular mechanism for addressing humanitarian crises, especially those that occur in countries that are in the midst of civil strife.

When a country is accused of systematically violating human rights, such as the right not to be tortured, the UN has a system to evaluate the charge and report on its findings in an effort to stop the criminal violation of rights. No such mechanism exists on a permanent basis for countries accused of not respecting the right to food.

The present UN system has structures to respond to refugee problems and to longterm development needs, but has regular structure set up to respond to humanitarian crises.

INTERNATIONAL HUNGER PROGRAMS

Democracy and hunger

Promoting the expansion and strengthening of democratic systems must be a priority of any efforts to forge a "new world order." In undemocratic states, the government, by definition, does not need to be responsive to the needs of its citizens. This leads to greater disparities of well-being—and acute hunger—in many of these countries. One important way to strengthen democracy is by encouraging the growth and empowerment of local nongovernmental organizations working for the development of the country. The United States needs to design new aid structures to promote democracy by supporting local, grassroots organizations working to end hunger. U.S. foreign aid should be focussed on those countries that are moving towards democratic systems.

Of the 50 countries in the world with the highest child mortality rates, only 10 are now democracies.

Of the 25 countries in the world with the lowest child mortality rates, 24 are democracies.

Many of the poorest countries in the world are in the early stages of efforts to become more democratic.

Children

Every year 14 million children die in the developing world. Ten million of these children die unnecessarily from diseases easily prevented like tetanus, measles, and whooping cough. The World Summit for Children brought more than seventy heads of state together last Fall to work for children. They pledged to intensify their efforts to end this tragedy of unnecessary child death and suffering. Programs to improve programs for child and maternal health and systems of primary education are critical to this process.

Simple, low-cost, easy to administer treatments for such health problems as diarrhea, respiratory infections, measles, and neonatal tetanus save millions of children's lives now.

More than 2½ million children in developing countries die every year because they are not fully immunized.

With sufficient resources, it may be possible to develop a new vaccine, administered once in infancy, which would produce lifelong immunity to a wide range of diseases.

Women in development

Women in developing countries play multiple and vital roles in development, but in many development efforts their roles have been overlooked or ignored. Development projects have often not been designed to target women, who provide the majority of labor for food production in many countries. Research has shown that the full participation of women in the development process is essential to achieving growth, a more equitable distribution of resources and services to meet basic needs, and sustainable development. When women's participation in development is high, project success and sustainability tend to be high; when participation is low, project success and sustainability tend to be low.

In Africa, 77 percent of all farmers are women.

According to the United Nations, in 1980 women, a) were half the world's population, b) performed two-thirds of the world's work hours, c) were recognized for only one-third, d) received ten percent of the world's income (and controlled even less), and e) had one percent of the world's property registered in their name.

In 1991, after a decade of unprecedented economic growth, the situation remains the same.

Refugees

There are an estimated sixteen million refugees worldwide right now. Many of them are ill-housed, undernourished, and left without hope for themselves and their families. They rely on support from U.S. agencies and international agencies like the United Nations High Commissioner for Refugees. Without adequate support for these agencies, not only will many refugees continue to suffer unnecessarily, but opportunities to work for their resettlement and repatriation will be lost.

Between 1984 and 1991, the world refugee population grew from 9 million to 16 million.

Between 1984 and 1990 U.S. Government funding for refugees overseas actually dropped, in real terms, by 22 percent; from $206 million in FY 1984 to $169 million in FY 1990.

Agriculture and the environment

Environmental degradation plays a critical role in exacerbating poverty and hunger in many developing countries. Increasingly, poverty forces rural residents to intensify their use of land and water resources, resulting in a spiral of degradation that reduces their ability to produce food and other basic necessities. An estimated six million hectares of forest land each year are denuded and degraded by shifting cultivation, conventional agriculture, and timber harvesting. Unfortunately current strategies to alleviate hunger by promoting agriculture in the developing world often lack an understanding of the relationship between the environmental, social, political, and cultural context in these countries. This has served to enhance the dangerous cyclical relationship between a lack of food self-reliance and environmental degradation. Developmental projects in the Third World sponsored by AID should promote the principles of sustainable agriculture; farming techniques which foster, rather than deplete, the capacity of farmable land to produce food in a renewable manner.

In Ethiopia, with one of the world's highest soil erosion rates, the loss of over 1 billion tons of topsoil a year has perpetuated a cycle of recurrent famine.

On Madagascar, one of the most eroded places on earth, population growth and severe environmental degradation has led to a 20 percent decline in grain consumption, pushing food intake below the survival level for many.

Debt

The debt burden of developing countries worsens hunger and poverty. Hunger tends to increase in these countries because, in an effort to save money, the government sometimes chooses policies which increase unemployment and underemployment. Without jobs, already severe problems of malnutrition worsen for the affected families. Also, in many instances, these governments decrease funding for basic educational and primary health services. Cuts in government health budgets can lead to increases in child mortality rates, while cuts in education budgets leave children unable to gain the tools to help them break out of this cycle of debt, unemployment, poverty, and hunger.

In total, indebted developing countries spend $50 billion more every year repaying their debts than they receive through foreign aid and investment.

In order to service its foreign debt, AIDS-plagued Nigeria drastically reduced its spending for public health.

Private voluntary organizations

Private voluntary organizations (PVOs) like CARE, Catholic Relief Services, World Vision, and Save the Children have proven themselves to be particularly effective in the delivery of development and humanitarian assistance to those most in need. They tend to be better at getting needed resources to the poorest of the poor—at a lower cost—than the U.S. Government or the host government. Efforts to make every foreign aid dollar stretch as far as possible—and help as many people as possible—require that these groups receive additional resources.

Between 1985 and 1989 the U.S. Government provided nearly $180 million to PVOs to promote child survival in developing countries.

In Peru, CARE and other PVOs are using U.S. Government food to provide locally-organized community kitchens with the supplies they need to meet the nutritional needs of people in the poorest neighborhoods of Lima.

In a poor area of Malawi in southern Africa, World Vision, working with the Government of Malawi, has trained more than 90 percent of the workers responsible for educating mothers on the measures they need to take to promote their children's survival.

Multilateral development banks and the IMF

Increasingly, the World Bank has begun to focus its efforts on poverty alleviation, as illustrated by its "1990 World Development Report," which had poverty as its theme. The World Bank has begun to move towards the goal of poverty reduction by using a strategy of linking their assistance programs to the poverty reduction efforts made by developing countries. Following this trend, the International Monetary Fund (IMF), whose programs can determine a country's macroeconomic situation, has recently begun to acknowledge the importance of addressing problems of poverty in the design of their program. However, the IMF has yet to begin incorporating these policy goals into their planning process and programs.

The World Bank, with 152 member countries, is the largest single source of development assistance.

The World Bank accounts for more than 15 percent of international support for education.

JOHN BZDIL III RECEIVES EAGLE SCOUT AWARD

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in congratulating a fine young man from Sunbury in my congressional district in Pennsylvania.

On April 7, John Bzdil III will join an elite class of individuals in receiving the award of Eagle Scout, the highest and most prestigious honor in the Boy Scouts of America.

As a Cub Scout, John received the Par—vuli—Dei in 1983, and as a Boy Scout he received both the Ad Altare Dei, and the Pope Pius XII Award in 1986 and 1987, respectively.

John became active in school activities early in life. While in the sixth grade at St. Michael School, he was a member of the student council and was selected to the honor roll. At Sunbury Middle School, he was on the National Honor Society and was awarded the American Legion Award for being the outstanding male student in the eighth grade.

His high school years at Shikellamy High School have given John the determination, motivation and self-discipline needed to reach the highest of goals. Not only was he involved in student council, class president, and student representative for the school, but he was also actively involved in three sports: basketball, football and track—receiving a varsity letter in both track and football. John was one of only four to be recently named to the All Star Team for his outstanding performance as safety on the football team. Such diligence and perseverance has given John the extra effort needed to achieve his goals and to strive for future endeavors.

John also devoted his summers to the American Red Cross where he became a lifeguard and taught swimming for a Learn to Swim Program.

For his Eagle Scout project John recruited volunteers to assist him with refurbishing the Keller Street Playground in Sunbury. They cleaned the area of garbage, filled in holes, and refinished and painted all playground equipment and the recreation pavilion. To help pay the expenses, John raised a total of $250, including some of his own money from his summer employment.

Mr. Speaker, as you can see, John is well-deserving of the rank of Eagle Scout. He has worked exceptionally hard, has maintained a fine academic record, and has fully participated in three separate sports. He has represented both his school and his community, and has proven himself to be a fine, upstanding citizen of Sunbury.

I join his family and friends when I say I am proud of his accomplishments, and I wish him luck in all future endeavors.

PROLIFERATION PROFITEERS: PART 1

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. STARK. Mr. Speaker, nuclear proliferation is now the No. 1 national security threat facing the United States. Too many countries have the bomb already. If we don't take steps today, we might soon live in a world in which Iran, Iraq, Libya, and Syria are all nuclear-armed.

In recent years, countries like Iraq and Pakistan have relied on weak and poorly enforced export controls to obtain vital technology for their nuclear weapons programs.

Last week representatives from the major nuclear supplier countries are meeting in London to discuss the current state of nuclear export controls, especially relating to dual-use technology.

I hope these talks will generate substantial results, but if they do not we must be prepared to take steps of our own. If our allies won't clamp down on their firms' nuclear wheeling and dealing then we will have to provide some deterrence for them.

To help address this issue, I recently introduced the Nuclear Non-Proliferation Enforcement Act (H.R. 830). This legislation would punish foreign companies that sell nuclear equipment, materials, technology, and dual-use items without the proper safeguards to countries of proliferation risk.

I have obtained from the emerging nuclear suppliers and nonproliferation project at the Monterey Institute for International Studies 12 case studies of foreign firms found furthering nuclear proliferation. Beginning today, I will, each day, place one of these case studies into the CONGRESSIONAL RECORD to help illustrate the need for more stringent export controls:

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ[1]

FIRM 1: BRAZILIAN AERONAUTICS COMPANY (BRAZIL)

The Brazilian Aeronautics Company (Embraer) is Brazil's state-owned aircraft manufacturing concern. Early in 1989, Embraer became involved in negotiations with two other Brazilian firms. Orbit Aerospace Systems and Specialized Engineers, Inc. (Engesa), that could have led to a wide-ranging scientific and technological cooperation program with Iraq. Embraer has been involved in attempts to acquire a U.S.-manufactured IBM supercomputer for use on the evaluation of aircraft projects. Critics have charged that this equipment could be used to help build a Brazilian nuclear bomb. Embraer has denied accusations that it would supply the means to make nuclear calculations of any kind to anyone. However, the firm has strong connections to Brazil's Aerospace and Technology Center (CTA) which has worked to enrich weapons grade uranium and to enlarge missiles to give them the capacity to carry nuclear warheads. A congressional report alleges "strong evidence" that Embraer personnel have exchanged information with Iraqi weapons experts while another article suggests that Embraer and CTA have together trained Iraqi rocket engineers. President Bush decided in November 1990 that the supercomputer sale would be allowed pending the establishment of sufficient safeguards. The decision was criticized by many nonproliferation experts. In August 1990, Westair Holding Inc. and its airline operating division, United Express, signed a $700 million purchase option to buy up to 60 Embraer aircraft.

[1] Sources: "Los Angeles Times" 9/15/90 by Douglas Frantz; "O Globo," 3/19/90, p. 46; "O Globo," 8/1/90, p. 19 by Jose Eustaquio; "O Globo" 8/28/90, p. 15 by Marcia Margues; "New York Times," 7/29/90 by Gary Milhollin and David Dantzic; "New York Times," 12/4/90, p. A10; "Wall Street Journal," 8/15/90, p. B8.

INTERNATIONAL OVERSIGHT OF THE PORNOGRAPHY TRADE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. DANNEMEYER. Mr. Speaker, the cruel societal effects of pornography and obscenity on the spirit of this Nation rival the physical effects of illicit drugs. We have international cooperation in attempting to control illicit drugs. We do not have its equivalent regarding pornography and obscenity.

Mr. Speaker, I commend the following speech by Archbishop Roger Mahony to our colleagues. A dialog should begin now on this important matter.

PUBLIC FORUM ON PORNOGRAPHY

(Speech by Archbishop Roger Mahony)

I would like to express my deep gratitude to the Southern California Chapter of the Knights of Columbus and the Archdiocese's Commission on Obscenity and Pornography for inviting me to be with you here today.

It is indeed gratifying to see the Knights present an award to United States Attorney General Richard Thornburgh in recognition of the pro-family position taken by the Justice Department in enforcing the nation's obscenity laws.

It is also gratifying to see the Knights give an award to Dove Video for their efforts to clean up regular motion pictures, which have become an embarrassment to family viewers.

Chris Blatchford of KCBS certainly deserves the award that he is receiving from the Knights for his report that exposed the pornography industry, which is a blot on the good name of Southern California's entertainment industry around the world.

The actions of these award recipients should inspire all of us to increase the pressure on this multinational industry which continually exploits the dignity of the human person.

Today I would like to focus your attention on a new way to pursue our goals. The United Nations is a powerful force in our world that can play a major role in eliminating pornography. As former Chairman of the Committee on International Policy for the United States Catholic Bishops' Conference, I call upon the United Nations to enforce the international pornography laws that have been already agreed upon by treaty.

I urge this distinguished international body of nations to identify and to impose sanctions upon those nations which attack the family of humanity by means of pornography. Pornography is not more acceptable in the new world order than are slavery,

apartheid, cocaine smuggling or germ warfare.

My friends, if we are to have true peace in the world, it will require that respect for human rights and human dignity be international in scope. Pope John Paul II has spoken of an emerging, worldwise consensus on human rights. We who believe in God know this must be based on moral values that transcend time and space, and are permanent in nature. I am talking about the Ten Commandments given to all of us on Mount Sinai.

Thirty-five years ago, one of the greatest figures in the history of Hollywood, Cecil B. DeMille, said this at a gathering prior to the New York opening of his epic film, "The Ten Commandments":

"The Ten Commandments are not the laws. They are the law—The Ten Commandments are the principles by which man may live with God and man may live with man. They are the expressions of the mind of God for His creatures. They are the charter and guide of human liberty, for there can be no liberty without the law. . . . In the final analysis, we do not break the Commandments. They break us if we disregard them. They are not rules to obey as a personal favor to God. They are fundamental principles without which mankind cannot live together."

Was there ever a time when we more urgently needed to return to these values than now, when our world is emerging from the most atheistic, and bloodiest, of all centuries?

The 20th century has been ravaged by three major atheistic philosophies which have led to bloodshed on a horrifying scale: fascism, communism and materialism—much of it spawned and spread by the Western nations. I believe it was no coincidence that the Weimar Republic that led directly to German Nazism, and Lenin's USSR, and our post-World War II secularized West, made access to pornography a so-called "right."

This "right" helped to destroy many laws safeguarding true human rights, human dignity and, indeed, life itself: If a society views women as mere commodities to be exploited by pornography, it will view preborn babies, the elderly, and the handicapped as "inconveniences" to be terminated.

The mentality that has divorced itself from the laws of God has helped to destroy countless people in the United States through rape, rape-murder, date rape, child molestation, veneral diseases and the killer disease, AIDS—all the fallout of pornography. Certainly the pornography shops along Hollywood Boulevard, which is just outside the front door of this hotel, are testimony to values gone insane, as were those values that led to slavery and segregation in this country.

When the Supreme Court of California cannot recognize that paying people to "act" in pornographic movies is prostitution, it shows that moral bankruptcy has penetrated the highest levels of our society. We should also recognize that the most dangerous place for pornography is the home, where it teaches susceptible young people that suicidal sex acts are perfectly all right.

But I want to leave you on a hopeful note today. Let us thank God for the efforts of the federal government and many local governments against pornography, and for the great victories won by citizen boycott groups. These victories are largely due to organizations such as the National Coalition Against Pornography, Morality in Media, the American Family Association, the National Family Legal Foundation and the Religious Alliance Against Pornography.

And let us rejoice at the bright prospect of the ancient Christian nations in Eastern Europe that are emerging in our times, thanks to the will of God and the intercession of millions of people praying, especially through the intercession of Mary, Mother of the Redeemer, Mother of the Church. A new Ukraine, Byelorussia and Russia will take their places in the United Nations along with the other states of the world, the great majority of which will represent populations made up of Christian, Moslem and Jewish believers.

As a Catholic, I believe that the God of Abraham, Isaac and Jacob is extending to the world a new graced opportunity for real peace and unity based on His Law.

We Catholics believe God has given to Mary the task of ushering in an era of peace through the triumph of her Immaculate Heart. This will fulfill the great promise made by Our Lady in 1917 at Fatima, a Portuguese town named for the favorite daughter of Mohammed. Allow me to quote from the Koran: O Mary, God has chosen you and purified you. He has chosen you above all the women of the world.

I believe that God, through His humble, gentle and pure Mother, is calling all of His children to unite in determination to protect everyone's human rights through international law.

Yes, both United Nations resolutions dealing with Kuwait and international treaties on pornography must be respected if we are to have true peace. Together, let us seize the moment and unite our world in this first great opportunity to have a world order based on God's plan for peace, love and law.

May God bless you for the difference you are making in helping to shape a society and a world community in which God's plan and design for the human person becomes the norm, not the exception.

FAIRNESS FOR FILIPINOS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. CUNNINGHAM. Mr. Speaker, some 4,000 men and women who fought for America in the gulf—cannot become citizens of America.

They are Filipinos who serve in America's Armed Forces.

This injustice can be corrected.

If President Bush makes a "declaration of hostilities" with respect to the war in the gulf—the Filipino men and women who so heroically served there—will gain eligibility to apply for American citizenship.

Similar Executive orders followed conflicts in Vietnam and Grenada. But Filipinos serving in the battle, for example, in Grenada had to wait 4 years to become eligible for citizenship.

Such a long wait for our Filipino veterans of the gulf is neither fair, nor necessary. My colleague Congressman DUNCAN HUNTER and I have already written one letter to President Bush, asking him to declare a "period of hostilities" promptly.

I encourage all Members of the House to sign a second letter I will send to the President, which should arrive in congressional offices via "Inside Mail" soon.

Mr. Speaker, let's encourage President Bush to declare a "period of hostilities"—so Filipinos who fought for America become eligible to apply for American citizenship.

TRIBUTE FOR THE 60TH ANNIVERSARY OF THE UNITED CREDIT UNION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. LIPINSKI. Mr. Speaker, to all whom these presents shall come:

ORDER OF PROCLAMATION

Whereas, The United Credit Union was founded February 2, 1931.

Whereas, The Sixtieth Anniversary of its founding will be celebrated this month, March 9, 1991.

Whereas, The celebration of this anniversary would not have been possible without the dedicated service of the Directors, Officers, Committee Members and Staff.

Whereas, The membership of United Credit Union has placed full faith and trust in its management with over fifty million dollars of deposits.

Whereas, The democratic control of the United Credit Union is the foundation of the trust of its members.

Whereas, The United Credit Union's recognition that thrift is the wisest use of one's resources and that financial security is the key to personal satisfaction.

Whereas, For over 60 years Howard S. Bechtolt, Edward M. Fitzgerald, Anton A. Schlichte, Gerald O'Connor, John N. Ryan and Ronald J. Nawrocki, Presidents of United Credit Union, served United's membership with enthusiasm and dignity.

Whereas, United Credit Union has adopted as its motto: "People Serving People, not for Profit, but for Service."

Whereas, Consideration and help in the attainment of the financial well-being of its membership has always been the guiding force of the United Credit Union.

I, William O. Lipinski, as Congressman of the 5th District of the State of Illinois; and on behalf of the City of Chicago and of the United States of America, do hereby congratulate the United Credit Union on their sixtieth anniversary and grant this certificate in recognition of the 60 years of dedicated service to its members.

PUERTO RICO SENDA A SIGNAL

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. BEREUTER. Mr. Speaker, as a cosponsor of legislation to declare English as the official language of the Federal Government of the United States, I noted with much concern the passage by the Puerto Rican Senate of a bill making Spanish the sole official language of Puerto Rico. This Member invites his colleagues to examine the following editorial from the March 11, 1991, edition of the Omaha World Herald which addresses this subject in a most effective and coherent fashion.

[From the Omaha World Herald, Mar. 11, 1991]

PUERTO RICO SENDS A SIGNAL

The Puerto Rican Senate weakened the case for Puerto Rican statehood when it approved a bill making Spanish the sole official language of Puerto Rico.

Some residents want the island commonwealth to become the 51st state, although others want independence or continued commonwealth status. The U.S. House and Senate eventually will take up a bill that would let the islanders decide.

Puerto Rico has a 1902 law designating English and Spanish as the languages of government. Spanish is the first language of most people. But if dealings with Washington had to be conducted in Spanish instead of English, as is currently the case, the symbolism would be potent.

The widespread use of the English language has been a national strength for America since the early days of the republic. Immigrants have poured into this country speaking hundreds of different languages and dialects. The predominance of a single national language, English, has brought them together.

Enclaves of various nationalities have become established in cities of all sizes. But no matter what language was spoken in those enclaves, most learned English to pursue the opportunities of the larger society. English is the language of business, of entertainment and of education. The ability to communicate in English is one of the tickets to success in America.

Ethnic pride and the need to cling to a personal heritage can help people maintain strong roots and preserve moral and ethical values. But in keeping an individual cultural background there is no need to trash the elements that have strengthened the larger society and made it great. Language is one of those elements.

Canada has learned, to its sorrow, what can happen when citizens are divided into different linguistic camps. French-language purists, after several years of trying to suppress the use of English in parts of Quebec, are threatening to pull out of the union, creating a French-speaking entity and fragmenting one of the world's largest nations. The French-English split isn't the only point of disagreement. But it symbolizes the hard feelings, and it has made healing them more difficult.

The official embrace of Spanish by the Puerto Rican Senate seems to suggest that members are not wholeheartedly behind statehood. U.S. leaders officials should consider that message before deciding what to do about the island's political future.

The desire for statehood should imply a willingness to embrace the laws, the customs and the language of America. Advocates of statehood are now being saddled with a situation in which they could have to work much harder to persuade America that the statehood campaign is sincere.

FASCELL AND WAR POWERS: ALIVE AND WELL

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. GEPHARDT. Mr. Speaker, one of the most important lessons of the gulf war is the necessity for Congress to be a partner with the President in the decision to commit U.S. troops into combat.

That fundamental principle, as reflected in article I of the U.S. Constitution and reaffirmed in the War Powers Resolution, is also found in the Authorization To Use Military Force Against Iraq Resolution, Public Law 102–1.

This fact is due more to one Member of Congress than any other—DANTE B. FASCELL, the chairman of the Foreign Affairs Committee and the only original sponsor of the War Powers Resolution still serving in the U.S. Congress.

That reality was captured most astutely in a February 3, 1991, article entitled "Defining Hour for War Powers" by Christopher Matthews, the nationally recognized Washington bureau chief of the San Francisco Examiner. Matthews wrote:

As Fascell sees it, the Jan. 12 vote unleashing Desert Storm capped a long series of carefully worked precedents stretching from Beirut to Grenada and Panama, then back to the Persian Gulf. They establish the President's duty to inform and consult the legislative branch on foreign military ventures and the Congress' right to approve any sizable, long-term campaign.

"By specific language," Fascell insists, "we authorized the war." In so doing, it defended a concept written into the Constitution: Congress and the President's "shared responsibility" on matters of peace and war.

Matthews then concluded:

Decades from now, this single Bush decision, which triggered the landmark congressional vote, may be an important as his order, four days later, to attack Iraq.

Notwithstanding White House posturing prior to January 12 on the President's allegedly sole authority to commit troops into combat, the President ultimately did acknowledge the important and necessary role of Congress and formally requested congressional authorization to commit troops into combat. With the two branches of Government acting in concert, the American position was strengthened and contributed to the ultimate success and brevity of the war to liberate Kuwait.

In light of this very important war powers precedent, I request that Chris Matthew February 3 article and Chairman FASCELL's January 22d statement describing the role of the Congress and the President working together in enacting Public Law 102–1 be included in the RECORD. The article and remarks follow:

"DEFINING HOUR" FOR WAR POWERS

(By Christopher Matthews)

WASHINGTON.—The one good thing to come of this harrowing war in the Arabian desert may be the precedent that it has set for future military campaigns. Who in the United States has the right and power to make war? That question, which has dogged this country for decades, has been powerfully dispatched by the events of this young year.

Jan. 12. Mark that date well. It is when the House voted 250 to 183 and the Senate voted 52 to 47 for the United States to "use all necessary means" to get Iraq out of Kuwait.

What will matter, years from now and in a situation wrapped in as much peril as today's Persian Gulf episode, is not the arithmetic but the count itself, not how Congress reacted to the president's call for authority to make limited war against Saddam Hussein, but how the president acted in requesting that authority.

Bush could have gone it alone, but didn't.

"He acknowledged the principle!" the House Foreign Affairs Committee chairman Dante Fascell, D-Fla., exuberantly proclaimed in an interview this past week.

"This is very, very important," he continued. "By specific language, Congress authorized the war!" For the 73-year-old lawmaker, the Congress' formal approval of the Persian Gulf campaign was a landmark achievement.

Fascell and his colleagues have devoted decades to re-asserting the war-declaring powers given Congress in 1789, but eroded through years of compliance with executive branch decision-making.

As Fascell sees it, the Jan. 12 vote unleashing Desert Storm capped a long series of carefully worked precedents stretching from Beirut to Grenada and Panama, then back to the Persian Gulf. They establish the president's duty to inform and consult the legislative branch on foreign military ventures and the Congress' right to approve any sizable, long-term campaign.

The most powerful and enduring of those war-making precedents was set early this year.

"By specific language," Fascell insists, "we authorized the war." In so doing, it defended a concept written into the Constitution: Congress and the president's "shared responsibility" on matters of peace and war.

For Fascell, who came to Congress in 1955, the battle to enshrine the War Powers Act has been longer than President Bush's crusade for a "new world order."

It began with the enactment, over Richard Nixon's veto, of the 1973 War Powers Act. The statute contains two governing requirements: that presidents formally notify Congress whenever U.S. troops are sent "where hostilities might be imminent" and that any long-term troop commitment—beyond 90 days—receives legislative approval.

While the "legislative veto" provision in the 1973 act remains subject to judicial challenge, Fascell is right when he argues that the issue of who in America has the power to make war is, in the end, a "political" question. No matter what the courts decree or what the Founding Fathers wrote, this life-and-death decision lies with those elected officials who must serve and face the people.

Why did President Bush relent to having Congress vote up-or-down on Desert Storm?

Because, as the feisty Fascell puts it, he "got tired of playing the games."

Decades from now, this simple Bush decision, which triggered the landmark congressional vote, may be as important as his order, four days later, to attack Iraq.

STATEMENT BY REPRESENTATIVE DANTE B. FASCELL, JANUARY 22, 1991

"Congress' War Powers Resolution is alive and well. Congress and the President share responsibility for war powers under our democratic constitution. The legislative history of this decision to use force proves that war powers are properly shared by the President and Congress under the constitution and that the War Powers Resolution is alive and well."

Representative Fascell recalled the legislative history:

"Congress received a report from President Bush dated January 18, 1991 which places the military actions taken in the Persian Gulf in compliance with the War Powers Resolution. Specifically, Section 4(a)(1) of the War Powers Resolution requires the President to submit a written report to Congress within 48

hours once United States armed forces are introduced into hostilities in the absence of a formal declaration of war. That report was submitted by President George Bush to the Speaker of the House on Friday, January 18, 1991. The debate and legislative actions taken by the Congress to address the crisis in the Persian Gulf reaffirm Congress' proper constitutional war powers authorities."

The legislation passed by the House on January 12, 1991, H.J. Res. 77, is a statutory authorization of the use of force to implement UN Security Council Resolutions. That legislation is now public law P.L. 102-1. It is consistent with, and an implementation of, the War Powers Resolution. As specified in Sec. 2(c)(2) of P.L. 102-1, that law does not supersede anything in the War Powers Resolution. The legislation is an authorization to use force for purposes of the War Powers Resolution, therefore, the corresponding sections of the War Powers Resolution apply and the President is meeting those requirements by submitting this report.

H.J. Res. 77 authorizes the conditional use of force to implement UN resolutions. In Section 2(c)(1) of H.J. Res. 77, the Congress declares that this conditional authorization of the use of force constitutes the specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution. As a result, U.S. Forces may continue in hostilities beyond 60 days without additional congressional action.

In other words, under H.J. Res. 77, force is authorized by the Congress only after the President determines that the United States has used all appropriate diplomatic and other peaceful means to obtain compliance by Iraq with the twelve United Nations Security Council resolutions and that those efforts have not been and would not be successful in obtaining such compliance. That report was sent by President George Bush to the Speaker of the House on January 16, 1991. Pursuant to the presentation of that determination the President was then authorized to use force to implement the UN resolutions. This procedure established by H.J. Res. 77 is consistent with and meets the requirements of the War Powers Resolution and the U.S. Constitution."

Fascell commented further on war powers: "War powers are shared powers under our constitution. The President is Commander-in-Chief of our armed forces. Congress has the responsibility and authority to declare war.

The strength and wisdom of the War Powers Resolution is that it establishes procedures and a process by which Congress can authorize the use of force in specific settings for limited purposes short of a total state of war. We find ourselves in such a situation today where H.J. Res. 77 authorizes the use of force under the specific conditions cited. It is not an unlimited, unconditional authorization of the use of force, nor is it a formal declaration of war. Therefore, the War Powers Resolution still applies and that is why the President has sent to the Speaker this 4(a)(1) report.

Building on the precedent established in the 1983 Multinational Force in Lebanon Resolution (P.L. 98-119), the Authorization To Use Military Force Against Iraq resolution (P.L. 102-1) represents another example of the President and Congress acting together within the framework of the War Powers Resolution.

Congress is proud of its debate concerning war in the Persian Gulf and its decision to authorize force and meet its responsibilities under the War Powers Resolution. As the Constitution intended, in this case the executive and legislative branches share responsibility for a most solemn foreign policy and national security decision involving the use of our armed forces in hostilities to implement UN Security Council resolutions. I sense the wisdom of our forefathers who wrote the Constitution when I step back and see that the pain and anguish of sharing war powers are natural to a democratic system which must make sure that a democratic majority of its people support this most grave national decision, a decision to use American armed forces in any hostilities or war to deter aggression and seek peace."

PENNSYLVANIA YOUTH HONORED FOR EAGLE SCOUT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing and congratulating a young man from the 17th Congressional District of Pennsylvania.

On April 7, 1991, Michael Bzdil will join an exclusive class of individuals in the United States when he receives the award of Eagle Scout, the most difficult and highest achievement a Boy Scout can earn.

To acquire this award, Michael completed a project in which he volunteered to raise funds for and provide over 100 manhours of work for the Danville State Hospital Summerfest.

The hospital patients credited the success of the festival to Mr. Bzdil, who recruited volunteers to help him paint and refurbish game booths, solicit contributions to pay for refreshments and prizes, and remarkably present a donation—partly financed by his cutting lawns—to the hospital volunteer fund.

Previous to his pursuit of the Eagle Scout Award, Michael has made extracurricular activities one of his lifelong pursuits. As an active altar boy at his church, Michael received the Parvuli Dei and the Ad Altare Dei Religious Awards. He participated in student council in his days at St. Michael School until seventh grade, and then Michael's eighth grade year at the Shikellamy schools found him being one of only two eighth graders to win a spot on the ninth grade football team.

In addition to his Boy Scout activities, Michael has been an avid outdoorsman, teaching Red Cross swimming lessons and acquiring a sponsorship to study at the Cumberland County Junior Conservation School at Camp Tuckahoe in the vicinity of Dillsburg, PA.

Of all his accomplishments, however, Michael considers the Eagle Scout Award to be the pinnacle. He describes the project he undertook to achieve that prize as a "very worthwhile experience" during which he "learned the joys and frustrations of organizing a major event." Michael "also felt enrichment at being able to bring joy and happiness to—hospital—patients who are not able to enjoy the many events that we often take for granted."

I am very proud of Michael for his supreme accomplishment. He has worked very hard for his Eagle Scout Award, and I join with his troop, family, and friends in congratulating Michael for a job well done.

AMERICAN HEROES: THE NAVY AND MARINE CORPS RELIEF SOCIETY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. CUNNINGHAM. Mr. Speaker, the best way we can support our troops in the gulf is to support their families here at home.

Thousands of American families have answered the call to send their fathers, mothers, sons, and daughters to military service in the gulf, and when a service man or woman in the gulf is a family's chief breadwinner, the family left at home endures difficult financial sacrifice.

I know this, not just because I headed a military family for 20 years, but because military families all over San Diego call my office daily to ask for my help.

Where I send them is to the local chapter of the Navy and Marine Corps Relief Society. This worldwide nonprofit organization, staffed by some 3,600 dedicated volunteers, buys groceries for hungry families, clothe children, and pays the rent or the mortgage whenever a military family in need simply asks.

The service men and women who contribute their financial resources to Navy and Marine Corps Relief and the thousands of volunteers who staff their offices at 141 bases and 134 U.S. Navy ships are all unsung American heroes.

But now that nearly a half-million Americans have been called overseas, often on very short notice, the need for Navy and Marine Corps Relief services has never been greater.

Mr. Speaker, I encourage all the Members of this House who represent military men and women to voice their support for the hard-working volunteers at Navy and Marine Corps Relief. Members of Congress can record public service announcements, recruit volunteers, and make sure everyone who needs Navy and Marine Corps Relief knows that they are available.

Let's remember the needs of our military families, and support our American heroes on the home front, the people of the Navy and Marine Corps Relief Society.

Following is a list of Navy and Marine Corps Relief Society offices around the world, which I would like to include in the RECORD at this point.

NAVY-MARINE CORPS RELIEF ACTIVITIES

Albany Auxiliary.

Bermuda Auxiliary.

Camp Lejeune Auxiliary: New River Branch.

Camp Pendleton Auxiliary: Barstow Branch, Bridgeport Office, San Onofre Branch.

Cherry Point Auxiliary.

Connecticut Auxiliary: Windsor Office, Scotia Office.

District of Columbia Auxiliary: Bethesda Branch, Dahlgren Branch, Henderson Hall Branch, Indian Head Office, Patuxent Branch, Sugar Grove Office.

El Toro Auxiliary: Tustin Branch, Yuma Branch.

Great Lakes Auxiliary: Detroit Branch, Glenview Branch.

Guantanamo Bay Auxiliary.

Hampton Roads Auxiliary: Little Creek Branch, Portsmouth Branch, Shipboard Branch, Yorktown Office.

Hawaiian Auxiliary: Australia Office, Bahrain Office, Barbers Point Branch, Barking Sands Office, Christchurch Office, Kaneohe Branch.

Headquarters: Iceland Office, Augsburg Office, Stuttgart Office.

Jacksonville Auxiliary: Cecil Field Branch.

Japan Auxiliary: Atsugi Office, Chinhae Office, Iwakune Office, Misawa Office, Sasebo Office.

Key West Auxiliary.

Lemoore Auxiliary.

London Auxiliary: Brawdy Office, Edzell Office, Holy Loch Office, Lisbon Office, Machrihanish Office, Mildenhall Office, St. Mawgan Office, Thurso Office.

Long Beach Auxiliary: China Lake Branch, Albuquerque Branch.

Mare Island Auxiliary: Concord Branch, Stockton Branch.

Marianas Auxiliary.

Mayport Auxiliary: Kings Bay Branch.

Memphis Auxiliary.

Miramar Auxiliary: El Centro Branch.

Naples Auxiliary: Gaeta Branch, La Madalena Branch, San Vito del Normanni Office.

Naval Academy Auxiliary.

New Hampshire Auxiliary.

New Jersey Auxiliary.

New Orleans Auxiliary.

New York Auxiliary.

Oceana Auxiliary: Dam Neck Office, North West Office.

Okinawa Auxiliary: Camp Hansen Office, Camp Kinser Office.

Orlando Auxiliary.

Parris Island Auxiliary: Beaufort Branch.

Pennsylvania Auxiliary: Earle Branch, Willow Grove Branch.

Pensacola Auxiliary: Gulfport Branch, Meridian Branch, Panama City Office, Pascagoula Branch, Whiting Field Branch.

Philippines Auxiliary: Hong Kong Office.

Port Hueneme-Point Mugu Auxiliary.

Puerto Rican Auxiliary: Sabana Seca Office.

Puget Sound Auxiliary: Bangor Branch.

Quantico Auxiliary.

Rhode Island Auxiliary: Argentia Branch, Brunswick Branch, Cutler Office, South Weymouth Branch, Winter Harbor Office.

San Diego Auxiliary: MCRD Branch, North Island Branch, NTC Branch.

San Francisco Bay Auxiliary: Centerville Office, Fallon Branch, Moffett Field Branch, Monterey Branch, Oakland Naval Hospital, Treasure Island Branch.

Seattle Auxiliary: Idaho Falls Branch.

Sigonella Auxiliary.

South Carolina Auxiliary: Athens Branch, Atlanta Branch, NWS Charleston Branch.

Spain Auxiliary.

Texas Auxiliary: Chase Field Branch, Dallas Branch, Kingsville Branch.

Twentynine Palms Auxiliary.

Whidbey Island Auxiliary: Adak Branch, Anchorage Branch.

TRIBUTE TO GEORGE FURGALA ON HIS 106TH BIRTHDAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to pay tribute to an extraordinary member of the Fifth Congressional District of Illinois, Mr. George Furgala. On March 12, 1990, Mr. Furgala will turn 106 years old, an accomplishment worthy of special recognition.

George Furgala was born in Galicia, Poland, in 1885. In 1920, he migrated to the United States settling in Chicago's Bridgeport neighborhood and later moving to Brighton Park. Mr. Furgala worked for R.R. Donnelley & Sons printing plant for 26 years retiring in 1951. However, he is known for his knowledge of faith and religion which he has shared with others for over 70 years. Mr. Furgala has three children, Josef, Walter, and Rose Kodak, seven grandchildren and five great-grandchildren.

George Furgala's commitment to his community and family is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to George Furgala for his many years of selfless dedication, loyalty, professionalism, and priceless contributions to his community. I wish him well on his 106th birthday and hope his life continues to be an adventure full of pleasant memories.

THE SPANISH SPEAKING CITIZEN'S FOUNDATION CELEBRATES ITS 25TH ANNIVERSARY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. STARK. Mr. Speaker, I rise today to pay tribute to the Spanish Speaking Citizen's Foundation of Oakland, in California's Ninth Congressional District. The Spanish Speaking Citizen's Foundation is a nonprofit, multiservice organization incorporated in 1965. Since its inception, the foundation has worked to improve the social and economic welfare of the disadvantaged. The mission of the foundation is to improve the quality of life of both the community and the individual while preserving and enhancing the cultural heritage of both. All services are provided in both Spanish and English as well as to the deaf and the speech-impaired.

Currently, the foundation provides comprehensive bilingual services in five areas including; employment and career development, educational enrichment, youth and family counseling, recreation and special activities, and information and referral services.

In the areas of employment and career development, the foundation offers such services as testing and appraisal of individual's abilities and interests, job placement and referral, individual and group work with clients and employers, post-placement follow-up with the employer and employee, and, a summer youth employment program for youth aged 14–21. The career development department offers such services as job search techniques, interview and resume writing services, and career and life planning.

The educational enrichment portion of the program offers such services as after-school classes in English as a second language and classes in basic mathematics and English. The foundation also established the East Side Oakland Saturday Institute [ESOSI], a creative learning center open on Saturday mornings during the school year. At the ESOSI, credentialed instructors and trained volunteers teach subjects ranging from reading and writing to mathematics and science for grades one to nine. All volunteers are recruited from local colleges and universities. The ESOSI students also enjoy field trips to places like the Lawrence Hall of Science on Berkeley.

In the area of counseling, the foundation counseling staff members work directly with the community. The counseling staff has formed multiracial rap groups in which local junior high school students are able to discuss their problems. The foundation's counseling component also works with neighborhood gangs and, in one case, has been able to redirect group energy to initiate a neighborhood cleanup campaign.

Each month, the foundation's information and referral service assists at least 300 people by referring clients to service organizations providing emergency food and shelter, medical care, and tax services. This service also assists low-income clients who are experiencing problems with utilities, housing, insurance, immigration, and other social service needs.

The foundation, together with La Raza Athletic Association, also sponsors recreational activities for school-aged youngsters such as volleyball, soccer, softball, basketball, swimming, and bowling. They have also begun, a little people's academy which provides an outlet for children to develop creativity, leadership skills, and self-esteem through drama, music, dance, and arts and crafts.

The foundation has developed ties with other community based organizations, social service providers and other Government agencies—the Social Security Administration, the State Disability Insurance Office, and the Probation Department each have a representative assigned to the center 1 day each week. They have also established partnerships with schools, neighborhood groups, and local businesses to generate employment opportunities for both youth and adults.

Mr. Speaker, the Spanish Speaking Citizen's Foundation has been providing these services to the community for 25 years. I would like to take this opportunity to congratulate the Spanish Speaking Citizen's Foundation on its anniversary and to commend the foundation for its dedication to the community. It is a model program for both the community and the Nation.

A GI FAMILY'S PRAYER

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. DANNEMEYER. Mr. Speaker, I am glad to see that public prayer has regained its stature in America. The President has called on all sectors of the populace to pray for our troops in the Middle East and to pray for peace—that is, all sectors except public school children, who will be offended somehow by such an exercise.

President Bush, like most Americans, has increased his testimony of the efficacy of prayer. The Reverend Robert H. Schuller has known the value of prayer for along time. In fact, the following prayer, written by Reverend Schuller, has been answered for the vast majority of service men and women:

A G.I. FAMILY'S PRAYER

(By Robert H. Schuller, January 1991)

Hear, Lord, my prayer for my G.I.,
so eager to live—too young to die.
Beneath an alien blistering sun,
He faces a dangerous enemy gun.
The storm clouds gather, the horror of war,
my soldier stands bravely guarding the door.
Defending justice, peace, and freedom,
to his Commander-in-Chief give Holy wisdom.
From wars' alarms, bring swift release.
Hasten the day of honorable peace.
On land and sand and sea and air,
I back my soldier with this prayer:
"No matter how far he's forced to roam,
just bring, I pray, my G.I. home." Amen

LORRI S. KELLOGG—1991 "OUTSTANDING CITIZEN" AWARD RECIPIENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I would like to pay tribute today to a special Floridian with an especially big heart. Lorri Kellogg is founder of "Universal Aid for Children," a licensed, nonprofit adoption agency. UAC has located loving families for over 1,000 foreign-born children, both healthy and physically disabled, since 1977. Because of her extensive work, Ms. Kellogg recently was honored by the South Florida and South Dade Councils of B'nai B'rith as an outstanding citizen for 1991. Her good works also have been singled out for praise in such diverse publications as "Working Mother" and "South Florida" magazine.

Lorri Kellogg first came to my attention in the early 1970's when, through her determination to adopt a Korean child and with my help and that of then-Senator Chiles, our immigration law was amended to allow single persons to adopt foreign-born children. Since that time, Ms. Kellogg has worked tirelessly to help adoptive parents benefit from her experience, and now from her expertise. With her assistance and guidance, deserving children and hopeful parents are brought together to create or augment loving, caring families.

I hope that the House will join me in recognizing Ms. Kellogg's contributions, paying tribute to the person as well as to the unselfish ideals which she represents. Also in her honor I would like to insert in the CONGRESSIONAL RECORD the text of the letter nominating her for this well deserved award.

LORRI KELLOGG, NOMINEE, B'NAI B'RITH 1991 OUTSTANDING CITIZEN AWARD

In 1972, life was very full for a busy, community minded Miami real estate executive, Lorri Kellogg, who founded the Vietnam Prisoner of War Missing in Action organization. While relaxing at home one evening, she flipped through the T.V. channels, stopping when she saw the sad little faces of little Korean orphans on a very compelling program presented by Art Linkletter, who was seeking monthly sponsors. He said that $12 a month would make a difference in each child's life.

Lorri was very moved. There was no way she could anticipate that moment's ultimate impact on her relatively quiet life. After the telecast, Lorri placed her check in an envelope, sealed it, and changed her life forever. She was also sealing the fate of the lives of children around the world. It would be a few years later that Lorri would create the internationally respected Universal Aid for Children, this state's first adoption agency licensed to bring together Florida couples seeking adoption of orphans, worldwide.

In the mid 1970's, Lorri Kellogg served on the H.R.S. District 11 (Dade-Monroe) Human Rights Advocacy Committee and Chaired the Subcommittee on Child Nurturing and Growth, where she was a trouble shooter for our community's underprivileged, abused, and orphaned children. During this time, Lorri's devotion grew for little Myung Sook, to whom she faithfully sent her monthly $12 checks for food and clothing. When Lorri discovered the bleakness of Myung Sook's future in Korea, she made inquiries regarding her adoption. Every obstacle was placed in her path, even though Myung, she had learned, was adoptable. The greatest obstacle was that Lorri was a divorced single person. Lorri's determination to rescue Myung from a hopeless life threatening situation heightened. For several years, driven by love, fortitude, and keen intelligence, Lorri Kellogg painstakingly overcame each obstacle and changed the laws when she obtained the backing of Representative William Lehman and then-Senator Lawton Chiles who signed a bill allowing single people to adopt foreign born children. On April 9, 1976, Jaime Susan (Myung Sook) Kellogg, a precious, dazed, and tired little four year old girl arrived in America, giving her overjoyed mother the courage to continue pioneering and reforming the system of international adoption here in Florida as well as worldwide.

Lorri made a major sacrifice at that point in her life. She left her well-paying job to be with Jaime around the clock and opened a day-care program which she knew would not be financially profitable.

In 1977, Lorri Kellogg founded Universal Aid for Children (UAC), which has located loving families for over 1,000 foreign born babies and older children, both healthy and physically disabled.

This past November, Lorri returned from Bucharest, Romania, with five little children who otherwise would have had no hope for survival. These children were placed with loving South Florida families and were subjects of much publicity. As we all know, Romania is festering with a monumental number of orphans crowded into cold, unheated orphanages with inadequate food, no love, and a galloping outbreak of AIDS due to the ineptitude of care takers.

It took months of planning, establishing a network of couriers here and in Canada, and setting up contacts in Bucharest, to accomplish this pioneering feat of opening the doors for the exodus of these otherwise tragically doomed babies. When Lorri left for Bucharest, she was not feeling well, but too much was at stake and she refused to postpone the journey. For seventeen cold days, Lorri and three UAC colleagues stayed in a tiny unheated flat which had cold running water for only three hours each day. Food was very scarce, and conditions, in general, were deplorable. She visited every orphanage. She also visited every church and the one single synagogue left standing in Bucharest. She traveled to neighboring villages to assess the extent of the nightmarish numbers and conditions of the orphanages. Lorri returned to Florida with severe dysentery which weakened her for weeks but did not diminish her plans to return to evacuate more orphans, with her special concern for those with physical disabilities. She is hoping to establish an aid program for the children suffering from cancer who are without treatment and, even worse, without any medicines to relieve intractable pain.

Lorri Kellogg has also lead over 36 expeditions into war-torn El Salvador to bring supplies to and rescue orphans in refugee camps. She mobilized an impressive volunteer team of caring individuals from Dade County, including prominent medical specialists who brought their skills, as well as needed medicines, clothing, toys, wheelchairs, and hope to the children. Scores of children were brought back to Florida where their otherwise hopeless medical conditions were corrected. One child, Sara (now 13 years old), had severe burns as the result of a bombing and has since undergone ten reconstructive operations with several more required to achieve a normal appearance. Sara's last name is now Kellogg, and she is one of Lorri's six children. Also, there is Jillian (now 17 years old), another daughter of Lorri's. Tarabeth, now 15 years old, arrived from Korea thirteen years ago to join her loving mother and sister Jaime, now 19 years old.

This past August, Lorri went from "Godmother" to "Mom", after the tragic and untimely death of Larry Rosenthal, who helped to found the UAC program in the Dominican Republic, and served as Executive Vice Director. The two youngest of his seven adopted sons, Jake (age 13), and Tiger (age 12), have since joined the Kellogg family.

Lorri's capacity for caring and giving is limitless. Her courage is boundless. There are thousands of people in our community whose lives have been miraculously changed because of Lorri . . . people who have become parents, grandparents, American born children who now have new brothers and sisters, and, most important, innocent children who were brought out of the world's worst conditions and given the greatest gifts: hope, improved health, and a loving family they can call their own. In addition, Lorri has enriched our community with her program for unwed pregnant women, encouraging and arranging for good pre- and post-natal care. With her contagious compassion, she has attracted a broad spectrum of Dade County professionals who volunteer in all aspects of UAC programs. She is constantly collecting medicines, food, clothing, shoes, food staples, and other items to better the living conditions of children locally as well as abroad.

Lorri Kellogg exemplifies the truly outstanding individual who enriches our community, our nation, and the world, and is surely worthy of the B'nai B'rith Outstanding Citizen Award for 1991.

PENNSYLVANIA FAMILY HEADS THE PAXTANG LIONS CLUB

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in congratulating the Waltz family from the 17th Congressional District of Pennsylvania.

Richard K. Waltz, Jr., has just been elected president of the Paxtang Lions Club for 1990–91. This position was held by his father, Richard K. Waltz, Sr., in 1969–70. His grandfather, Robert J. Swab, held the same position in 1959–60. This is the first time that three successive generations have held the office of president in the club.

The legacy of the Waltzes has been of interest to many and was recently documented in an article in the Harrisburg Patriot News.

The newly elected president has previously held every major office in the past 14 years. Richard Jr. started helping the club with their pancake breakfasts and other functions when he was 17.

I commend them on their outstanding service to the community. The members of the Lions Club are involved with assisting the blind and the young of the area. The time and energy that the Lions Club puts into working for the community is greatly appreciated by all. The Paxtang Lions Club has a lot to offer the community and if others would just follow their lead, imagine what this Nation could be like.

I am very proud of the Waltz family for their accomplishment and their leadership.

PROTECT DOMESTIC FOOTWEAR FROM TRADE BENEFITS TO CBI NATIONS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. SNOWE. Mr. Speaker, legislation is being introduced today which will correct a provision in the Customs and Trade Act of 1990 that severely damages the ability of our domestic footwear industry to compete. I am proud to be an original cosponsor of this legislation which will remove this serious threat to the American footwear industry.

Section 222 of the Customs and Trade Act of 1990 denies the same protection to the domestic footwear industry from Caribbean Basin Initiative [CBI] nation imports that have already been granted to textile, apparel, and petroleum products. The House-Senate conference committee on the Customs and Trade Act ignored the intent of both the House and Senate to include protections for domestic footwear. During debate on the Customs and Trade Act of 1990, both the House and the Senate defeated amendments which would have reduced duties on footwear from CBI nations by 50 percent. Despite this action, the conference committee chose to adopt the Kerry amendment which allows shoes made of U.S. materials to be treated as duty free regardless of where they were assembled.

The increase in imports from Caribbean basin initiative nations threatens to eliminate our domestic industry, what is left of it. Since 1980, the State of Maine has lost over 7,000 shoe related jobs. This amounts to a 43-percent decline in employment in Maine's shoe industry. We cannot afford to sit here and do nothing.

We must act to counteract unfair foreign imports which are damaging the ability of American companies to remain competitive and costing U.S. workers their jobs. The cost of plant closings, lost jobs, and an increased trade deficit exceed those of whatever consumer cost increases may occur from limited imports.

In the end, I can only ask my colleagues to take a close look at both this legislation and the state of our footwear industry. We have left the industry and workers at the mercy of foreign imports, and they have suffered. It is time for this Congress to demonstrate its concern for American workers and include the protection of domestic footwear in section 222.

TOW MISSILE STARS IN OPERATION DESERT STORM

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. KOLBE. Mr. Speaker, it is with great pride that I recommend the following article that recently appeared in National Defense magazine. The article describes the tremendous success of the TOW Missile Program. TOW missiles are manufactured at the Hughes Aircraft Missiles Systems Group in Tucson, AZ.

The TOW missile is designed to be a highly lethal yet mobile field weapon to counter enemy armor and other ground mobile threats. The weapon has distinguished itself for 20 years and has been upgraded several times to meet new challenges on the modern battlefield. Further, the TOW missile was a key component in the success of Operation Desert Storm. It is indeed the premier antitank missile in the world today and I would again recommend the following article to my colleagues.

[From the National Defense, Feb. 1991]

TOW: AN EXAMPLE OF CONTINUOUS UPGRADE

Weapon systems can serve for more than 40 years, if the basic design is sound and allows for improvement. In air-to-air missiles, the AIM-9 Sidewinder has served for almost 40 years, and the AIM-7 Sparrow has passed the 35-year mark. The TOW missile (BGM-71) seems destined to achieve similar longevity. Sidewinder, Sparrow, and TOW are all performing as designed in Operation Desert Storm, scoring kills daily.

In these times of tight budgets, defense planners worldwide are turning to upgrades to achieve additional capabilities. With that in mind, the TOW's example of continuous improvement can be instructive.

TOW'S FIRST COMBAT

The first TOW missile fired in ground combat was launched on May 22, 1972. Army Sgt. Bill F. Tillman, an advisor with the Vietnamese marines, got the chance to prove TOW (Tubelaunched, Optically-tracked, Wireguided missile) in action against an enemy attack force which included 200 troops and nine tanks. Tillman manned his ground launcher, fired, and directed the missile toward a tank 900 meters away. The missile hit and destroyed the T-54 tank. Two hours later all nine tanks lay in ruins amid 117 enemy dead. The engagement confirmed TOW's lethality and began a successful combat tour in the waning days of the Vietnam War.

In that same spring of 1972, the helicopter-mounted version of TOW also proved itself in fighting around the city of Hue. The TOW was fired 81 times from the UH-1B Huey gunship helicopter over several months, and was credited with 65 direct hits on targets including armored vehicles, howitzers, trucks, guns and 26 tanks. In one battle alone, 10 of 12 tanks and vehicles were destroyed, with the targets engaged at ranges up to 3,000 meters. Few of the missiles malfunctioned. In two decades of serivce since its first use, TOW has earned a reputation as the premier antitank missile in the free world.

BUILDING FOR LONGEVITY

TOW's longevity might not have been foreseen in 1963 when Hughes Aircraft Co. tackled the demands of meeting Army requirements. Challenges included raising the Army's required effective range from 2,000 meters to 3,750, while holding weight gain to two pounds. A system had to be developed for winding and unreeling the guidance wires at speeds up to 1,000 feet per second. The analog computer had to be built out of individual components, because microprocessors did not exist.

Prototype missile firings in 1962 yielded a circular error probable of 1.6 feet and reliability of 74 percent. The Army awarded a production contract to Hughes Aircraft in 1968, and early production versions achieved 91-percent reliability. The project was infused with greater urgency when intelligence estimates forecast the North Vietnamese forces introducing tanks into the conflict. The race came out about even; the TOW was ready for use when the T-54 and other tanks pushed into South Vietnam during the spring offensive of 1972.

The helicopter-mounted version of TOW did not move along as quickly or smoothly as the ground-mounted. But when the enemy tank threat in Vietnam became real, TOW was married with the XM-26 stabilized sight-and-sensor system. The combination was put together in a hurry, first on the UH-1 gunship, then on the AH-1 Cobra. Eventually the improved M-65 airborne system was fitted on Army and Marine Corps Corbas, as well as on other helicopter types.

EVOLUTIONARY IMPROVEMENT

Simplicity was a driving concept behind TOW from the start. Each missile is supplied in a sealed container that also serves as the launch tube. There is never a reason to open it, so TOW does not need the special handling of a sophisticated system. As a so-called "wooden round," a TOW missile can be kept in storage until needed, and a shelf life substantially longer than 20 years has been demonstrated, compared with the original requirement of five.

Since 1980, four TOW upgrades have appeared to counter advances in enemy armor. Improved TOW (ITOW) in 1981 updated the basic design by adding a telescoping probe for standoff detonation, and a more powerful warhead. TOW 2 entered service in 1983 with the probe, plus an even more powerful war-

head. When microprocessors became available, digital guidance replaced the original analog version. An accompanying improvement to the guidance unit incorporates a night sight and another guidance link. It also provides better operation through battlefield obscurants such as smoke and dust, and incorporates other countermeasures.

Much of TOW's success stems from the simple design. That provides an evolutionary path to incorporate new technology without radical changes. One result is that all versions of TOW are compatible and can be fired interchangeably from any of the approximately 20,000 launching systems located around the world.

To counteract reactive armor, TOW 2A in 1987 incorporated a small additional warhead in the missile probe. The additional warhead explodes first. This sets off reactive armor, clearing the way for the primary warhead to penetrate the base armor of the tank.

To improve targeting under all conditions, a thermal imaging system was added to helicopter installations in 1989. With it, gunners have better control of the missile through battlefield obscurants and countermeasures.

The next, or fifth, generation of the TOW family is the TOW 2B. It is a flyover weapon. That is, it does not hit the target directly, but instead fires its two warheads downward against the vulnerable top of the enemy tank.

From the basic ground tripod and AH-1 helicopter installation, a broad range of launchers 2,000 been developed. Ground vehicle installations include the Hummer vehicle, the Improved TOW Vehicle, and the Bradley Fighting Vehicle. Among airborne platforms, TOW has been mounted on more than 10 helicopter models besides the Cobra. Helicopters from 13 countries that carry TOW include the Agusta A129 Mangusta from Italy, MBB B0105 from Germany, and the United Kingdom's Westland Lynx.

TOW'S FUTURE

Hughes Aircraft's Missile Systems Group rolled out the 500,000th TOW missile from its Tucson, AZ, production plant in November 1989. Almost half the TOW production has been sold to allies. Under current production contracts, Hughes will build about 1,000 TOW missiles a month through February 1992.

Looking to the future beyond TOW 2B, Army officials see plenty of opportunity for further advances. Already being considered is the use of higher performance thermal-imaging techniques developed for other projects. These enhance the target image sharply and are integrated into the advanced electronics guidance hardware based on new digital processing chips now available.

But even the latest missile versions still require wire guidance. The mechanical limitation of paying out wire keeps missile velocity subsonic. This also exposes the launcher platform for up to 20 seconds as the missile traverses its maximum 3,750-meter range. The next step could be a wireless TOW missile that will attain supersonic speed and reduce the exposure time. A concept using radio-frequency guidance has been tested, and interest in developing it is expected to build further in this decade.

COMMON GROUND: A COMMUNITY RESPONSE TO THE PERSIAN GULF CRISIS

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. KOPETSKI. Mr. Speaker, the country stands united in gratitude to the men and women who serve in our Armed Forces and the work they have accomplished. As many have observed in this Chamber, this is not a time to allow disagreement over tactics to degenerate into partisan bickering.

Recently, I received a letter from a constituent and friend of mine, the Honorable Charles Vars, mayor of Corvallis, OR. On February 12, 1991, citizens representing 12 diverse groups with differing views and opinions on the gulf situation met and formulated an eloquent statement, titled, "Common Ground: A Community Response to the Persian Gulf Crisis." I am entering this statement, as well as Mayor Vars promulgating letter, into the RECORD, and I encourage my colleagues to read it and share it with their constituents:

OFFICE OF THE MAYOR,
Corvallis, OR, February 21, 1991.

Hon. MIKE KOPETSKI,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. KOPETSKI: On February 12, 1991, a remarkable event took place in Corvallis. Individuals from more than twelve groups that disagree about the Persian Gulf war reached an agreement that they hope will become the basis for a movement.

The twenty-two individuals who drafted the enclosed statement, "Common Ground: A Community Response to the Persian Gulf Crisis," are affiliated with the American Legion, the Oregon State University Coalition to Stop the War, Veterans of Foreign Wars, Alpine School District, First Presbyterian Church, Beyond War, Corvallis City Council, and many more. They are seeking support from the groups to which they belong and they have asked me to send you their statement and request that you help spread the message of reconciliation.

This group has no agenda other than the one stated in Common Ground. They want everyone to work to assure enmity, harassment, and violence do not occur in this nation within communities and families. They believe we all desire a world without war. Please help spread the message.

Sincerely,

R. CHARLES VARS, Jr.,
Mayor.

COMMON GROUND: A COMMUNITY RESPONSE TO THE PERSIAN GULF CRISIS

We are concerned that the nation, communities, friends, and sometimes families find themselves divided as the Persian Gulf crisis progresses. In some communities, this has led to enmity, harassment, and violence. We are determined to make an effort so that it not happen in our community.

We recognize that we disagree as to what our national policy should be. But we find that there are areas upon which we can agree and which can be stated succinctly and simply:

1. We see a possibility that the emotional trauma of the conflict may lead to over-generalization concerning differences of opinion, religion, or race and lead to suspicion, harassment, discrimination, or violence. We pledge ourselves to work to prevent that from occurring in our community.

2. We deeply respect the sanctity of all human life.

3. There is sometimes a tendency to stereotype and villainize those with whom we disagree. There are people of good will on all sides.

4. We disapprove of wars and aggression.

5. We have disagreements among ourselves about national policies, but we disapprove of the invasion of Kuwait by Iraq.

6. The death, abject misery, pain, and suffering of combatants and civilians alike, along with the destruction and damage to the economic systems, infrastructure, and environment caused by war, defy description. A quick end to fighting in the Middle East could limit the costs.

7. Support for people in the armed services and their families must be rendered by the community and the nation during and after the war.

8. All of us long for a world order under the leadership of a strong international peacekeeping body. We desire a world without war.

ST. JOSEPH FOUNDATION GOOD SAMARITAN AWARD WINNERS

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. BARNARD. Mr. Speaker, Augusta, GA's St. Joseph Foundation Center for Life recognizes annually very special citizens from our local community for their kindness and generosity in serving others.

Next week the foundation will present formal resolutions honoring Brother Luke Driscoll, FMS, Robert P. Stuntz and Rosemary and Peter M. Menk as recipients of this year's Good Samaritan Awards.

I am most proud of St. Joseph's and their program to salute its "Good Samaritans." The resolutions honoring them are as follows:

Whereas: Brother Luke Driscoll, F.M.S., has with, love and devotion, served God and his fellow man in many ways and for many years, it is resolved that he be declared the recipient of the 1991 St. Joseph Foundation Good Samaritan Life Achievement Award.

Whereas: Brother Luke, for more than 50 years, taught at all educational levels, including elementary, every level of high school and at the college level, and is described as "A learned man of English literature, knowledgeable and quite remarkable—an engaging and intellectual companion in the field of English", and is a graduate of Fordham University, with further study at Hunter College, St. John's University and the University of Georgia as well as Marist studies in Lyons, France, Rome and Canada and has taught in Marist novitiates in Massachusetts and Nigeria, and served as principal of Marist schools including Aquinas High School in Augusta, GA from 1965 to 1971, as well as having served as the religious superior for Marist communities in Laredo, Texas and Augusta, Georgia, and as Director of both the Marist International Second Novitiate—program in Fribourg, Switzerland and of the USA Marist novitiate, and as Spirituality Coordinator for the Office of Ministry Formation.

Whereas: In 1987 at the age of normal retirement, Brother Luke Driscoll embarked upon a second career in pastoral counseling at St. Joseph Hospital and has served the many segments of population of the Augusta, Georgia area with compassion and devotion and is loved by all, not only for his good works but his loving nature, for his commitment to Christ. Be it resolved on this the 12th day of March, 1991, and with the cooperation and assistance of Congressman Douglas Barnard, that this Resolution is entered into the Congressional Record of the Congress of the United States.

Whereas: The St. Joseph Foundation annually recognizes three individuals who have greatly contributed volunteer efforts in the categories of Time, Talent and Treasure at the Annual Good Samaritan Recognition Program, it is resolved that on March 19, 1991, that recognition and acclamation be given to the following:

Ruth B. Crawford, Good Samaritan Award for Time.

Whereas: Ruth B. Crawford, Founder and Volunteer Executive Director of the Shiloh Comprehensive Community Center is perhaps best described in an editorial from the Augusta Chronicle. In part, it is said, "In a world filled with examples of man's inhumanity to man, it is spiritually uplifting to witness honors being paid to individuals who give their time and efforts to advance the well-being of others.

Whereas: Ruth B. Crawford working more than 40 hours a week since 1977, is credited with the rejuvenation of a social agency which had been closed for ten years. The Shiloh Comprehensive Community Center, a multifunction agency, which operates in one of Augusta's most disadvantaged areas, serves senior citizens, youths, the handicapped and operates programs of neighborhood development and anti-crime.

Whereas: The Shiloh Comprehensive Community Center's special tutorial school, conducted on week-ends with a volunteer corp of accredited teachers, has received wide praise and Ruth B. Crawford demonstrates leadership in organizations devoted to improving the delivery of human services.

Whereas: Ruth B. Crawford was selected by the Administration on Aging in 1989 for national recognition of her volunteer work, her sensitivity towards people in need and her ability to articulate the concerns of the community are valued by many; be it, therefore,

Resolved, That Ruth B. Crawford, be recognized for her many outstanding accomplishments and endeavors and is named the Good Samaritan Award winner for Time.

Robert P. Stuntz, Good Samaritan Award for Talent.

Whereas: Robert P. Stuntz has unselfishly answered the call of numerous civic and religious organizations in the Augusta community for the past 31 years.

Whereas: It has been said, "Robert P. Stuntz has served in these positions quietly, never allowing attention to be drawn to him, but instead, ensuring that the focus was maintained on the organization and the mission at hand."

Whereas: Numerous organizations have benefitted from Robert P. Stuntz's unique talent of leadership, including: Chairman of the Board and Blood Services Chairman, Augusta Chapter, American Red Cross; President, Greater Augusta Chamber of Commerce; President, Junior Achievement; President, St. Joseph Hospital Development Council; Chairman of the Board, St. Joseph Foundation; organizer of St. Luke Anglican Church and Warden of the Vestry; Member of the Southeastern Diocese Council of Advice for the Anglican Church; United Way Board of Directors; Georgia-Carolina Boy Scouts Executive Board; Gertrude Herbert Art Institute Board of Trustees; and the Human Relations Commission.

Whereas: Robert P. Stuntz's position as an officer in a Fortune 500 Company and his memberships on national and international corporations' boards of directors bring a level of expertise not normally available in the volunteer community, and as a man of conviction who has the knowledge and confidence to make hard decisions, his exceptional service to his community serves as an inspiration and example to all who attempt to make our community a better place to live;

Resolved, That Robert P. Stuntz be recognized for his many outstanding accomplishments and endeavors and is named the Good Samaritan Award winner for Talent.

Rosemary and Peter M. Menk, Good Samaritan Award for Treasure.

Whereas: Rosemary and Peter M. Menk have spent their lives giving to others. Both individually and as a couple, their contributions of time, effort and resources have benefitted countless individuals and organizations. Hours, days and weeks of travel and many personal investments have been made in support of activities in which they believe.

Whereas: Rosemary and Peter M. Menk were among the first members of the St. Joseph Remembrance Society and they are recognized as Humanitarians on the St. Joseph Tree of Life for their most generous financial support of the St. Joseph Foundation.

Whereas: Rosemary Menk, one of the first Presidents of the St. Joseph Hospital Auxiliary, has also served as National President of the Teresians, a society formed to pray for increased vocations to the priesthood and religious life. She has also been an active supporter of Catholic Social Services and Birthright and instrumental in the formation of a Capitol Development Committee and National Resource Council to raise funds for retiring Sisters of St. Joseph of Carondelet.

Whereas: Peter M. Menk has generously supported St. Joseph Hospital for many years as he has served on several Boards, as treasurer of both the St. Joseph Center For Life and the St. Joseph Hospital Development Committee, as Chairman of the St. Joseph Hospital Board and is the current Chairman of St. Joseph Ventures, Inc.

Whereas: Rosemary and Peter M. Menk have shared their gifts of treasure most generously with the St. Joseph Foundation, St. Mary's and Aquinas Schools and the Sisters of St. Joseph of Carondelet; be it, therefore,

Resolved, That Rosemary and Peter M. Menk recognized for their generosity and are hereby named the Good Samaritan winners for Treasure; be it, therefore,

Resolved on this, the 12th day of March, 1991, and with the cooperation and assistance of Congressman D. Douglas Barnard, That this Resolution is entered into the Congressional Record of the Congress of the United States.

THE MILTON LITTMAN MEMORIAL FOUNDATION: IN SUPPORT OF OPPORTUNITY AND EXCELLENCE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. LEHMAN of Florida. Mr. Speaker, back in 1978, my good friend, North Miami Beach Councilman Jule Littman, asked me to join him in establishing a foundation to honor the memory of his brother, Milton.

Milton Littman was a sensitive and decent man who cared deeply about this community and did much to make it a better place in which to live.

Over the years, the Milton Littman Memorial Foundation has attracted to its board a long list of distinguished Dade County and statewide leaders who are committed to the success of this remarkable organization. The foundation has assisted dozens of bright and promising young people in achieving their full potential through higher education. Students can be nominated by their teachers, guidance counselors, or principals, or they can submit their own names for consideration. A key consideration in the approval process is the student's charitable and civic activities.

This week, the Milton Littman Memorial Foundation will hold its 13th annual scholarship breakfast at the Marco Polo Hotel. I look forward to this event and to my continued association with the foundation. It is a fine way to remember and foster the work of one of our outstanding citizens.

INTRODUCTION OF LEGISLATION IMPOSING CHARITY CARE STANDARDS FOR TAX-EXEMPT HOSPITALS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. DONNELLY. Mr. Speaker, I am introducing legislation to impose a series of charity care standards for hospitals to meet if they wish to be exempt from tax under the Internal Revenue Code. The need for this legislation is pressing and clear, and I urge hearings on it, and its enactment, in the 102d Congress.

Mr. Speaker, under current law, hospitals which are exempt from Federal income tax as charitable organizations are not required to provide charity care as a condition of that exemption. In my view, that policy is misguided, and my legislation would correct it.

Since 1969, the Internal Revenue Service has adopted a "community benefits" standard for tax exemption for hospitals. While the IRS policy may have made sense in 1969, it makes little sense today. Four years before the 1969 ruling, Congress had enacted the Medicare and Medicaid Programs, and the need for hospitals to provide charity care seemed to be diminishing. Now, 25 years after the enactment of those programs, the need for hospitals to provide charity care is increasing. Quite frankly, many hospitals which enjoy the

benefits of tax exemption have done nothing to fulfill that need.

Mr. Speaker, the fundamental basis under which Congress exempts organizations from taxation is the belief that those organizations will relieve a governmental burden. When a hospital refuses to care for an indigent patient—and the evidence suggests strongly that this happens frequently—the patient often goes to a public hospital. This increases the burden on government.

My legislation, consequently, imposes some realistic requirements on hospitals if they wish to enjoy the generous benefits which the Government provides. Aside from generous Medicare payments, tax-exempt hospitals receive numerous tax benefits. Under my bill, those tax benefits would be conditioned on three charity care standards.

I ask that a technical description of my legislation be printed at this point in the RECORD.

PRESENT LAW

In general

Hospitals may be exempt from tax under section 501 of the Internal Revenue Code as charitable organizations, one of the listed exempt purposes under section 501(c)(3) of the Code. Although no specific provision of section 501(c)(3) lists the provision of health care or hospitals as an exempt purpose or organization, common law and the Courts have long noted that such purposes or entities may be considered charitable in nature.

Prior to 1969, the Courts and the Internal Revenue Service had consistently taken the position that for a hospital to be exempt from tax as a charitable organization, it had to provide some level of charity care to those unable to pay (*see, e.g., Lorain Avenue Clinic* v. *Commissioner*, 31 T.C. 141 (1958); *Sonora Community Hospital* v. *Commissioner*, 46 T.C. 519 (1966); Rev. Rul. 56-185, 1956-1 CB 202). One requirement of Rev. Rul. 56-185 was that a hospital had to be operated, to the extent of its financial ability, for those not able to pay for care, and could not refuse to treat patients who could not pay for care.

In 1969, the IRS modified its position on this issue. In Rev. Rul. 69-545, 1969-2 CB 117, the IRS removed the "financial ability" standard of the 1956 ruling and substituted a "community benefit" standard. The 1969 ruling suggested that the operation of an open emergency room was a required community benefit necessary for a hospital to be exempt from tax as a charitable organization. The open emergency room requirement was modified in 1983 (Rev. Rul. 83-157, 1983-2 CB 94) by permitting a waiver of this requirement if a State had made an independent determination that an emergency room was unnecessary or duplicative.

The Courts have upheld Rev. Rul. 69-545 (*see, e.g., Eastern Kentucky Welfare Rights Organization* v. *Simon*, 370 F. Supp. 325 (D.D.C. 1973), *rev'd*. 506 F. 2d. 1278 (D.C. Cir., 1974), *vacated on other grounds*, 426 U.S. 26 (1976)). Thus, under present law, there is no explicit statutory, regulatory, or judicial requirement that hospitals provide any degree of charity care as a condition of exemption from tax as a charitable organization.[1]

Benefits corresponding to tax exemption

In general, three main benefits accrue to hospitals which are exempt from tax under section 501(c)(3) as charitable organizations. First, the hospital is not subject to the income tax. Second, contributions to the hospital by individuals are deductible as charitable contributions. Third, the hospital may have access to capital financing through tax-exempt bonds.

Relationship with Medicare Program

The Medicare program reimburses most hospitals on the basis of a prospective payment system. Basic PPS payments to these hospitals are subject to several adjustments.

One such adjustment is the disproportionate share adjustment, which is provided to hospitals which treat a large number of low-income individuals. A hospital's disproportionate share adjustment is determined by reference to its disproportionate patient percentage, which is the sum of two fractions. The first fraction compares patient days attributable to Medicare beneficiaries who are receiving a benefit under the Supplemental Security Income (SSI) program to total Medicare patient days. The second fraction compares patient days attributable to Medicaid beneficiaries to total patient days. A similar adjustment is provided under the Medicaid program.

Five classes of hospitals are exempt from reimbursement under the prospective payment system: psychiatric hospitals, pediatric hospitals, long-term hospitals, rehabilitation hospitals, and certain designated cancer hospitals.

Hospitals may be penalized under the Medicare program if they refuse to provide certain services to patients entering the hospital's emergency room. If an emergency medical condition exists, the hospital is prohibited from transferring the patient until the patient's condition has stabilized and unless the patient requests the transfer. Hospitals violating these "anti-dumping" provisions of section 1867 of the Social Security Act may be subject to civil and monetary penalties, as well as exclusion from the Medicare program.

Reporting requirements for exempt organizations

Generally, tax-exempt organizations are required to file information returns with the Secretary. These forms must state items of gross income, expenses, disbursements out of income, accumulation of income, disbursements out of principal, a balance sheet, and the total contributions and gifts received during the year (Treas. Regs. 1.6033-1(a)(4)(i)).

EXPLANATION OF PROPOSAL

In general—basic standards for tax exemption

Under the bill, an organization could be exempt from tax only if no substantial part of its activities consisted of operating a nonqualified hospital. A nonqualified hospital would be any hospital which did not meet any one of the following three requirements.

First, the hospital would be required to operate a full-time emergency room which provided medical services to all members of the community regardless of their ability to pay for those services. An exception to this requirement would be provided for PPS-excluded hospitals which did not operate an emergency room, and for hospitals where an appropriate State health planning agency had made an independent determination that operating an emergency room would be duplicative or unnecessary in the community (*i.e.*, codify Rev. Rul. 83-157). If a hospital's provider agreement is terminated for violation of section 1867 of the Social Security Act, or if the hospital is fined on more than one occasion for violation of those provisions, it would be a conclusive presumption that the hospital is not in compliance with this requirement.[2]

Second, the bill imposes nondiscrimination requirements with respect to Medicaid beneficiaries. The hospital would be required to have a Medicaid provider agreement and would not be considered in compliance with this provision if the hospital consistently engaged in the systematic practice of refusing to furnish covered services to individuals eligible for assistance under the Medicaid program. Under this standard, as under standard one, a hospital which violates section 1867 of the Social Security Act is conclusively presumed to have violated this requirement.

Third, the hospital would be required to meet at least one of the following standards: (1) be a sole community hospital; (2) be receiving the disproportionate share adjustment under either the Medicare or Medicaid programs; (3) have a disproportionate patient percentage within one standard deviation of the mean of the disproportionate patient percentages of all hospitals in the geographic area of the hospital (not including long-term, rehabilitation, or pediatric hospitals); (4) devote at least 5% of its gross revenues to the provision of charity care; or, (5) devote at last 10% of its gross revenues to the provision of other qualified service and benefits.[3]

For purposes of standard (4), charity care would not include bad debt and contractual allowances,[4] but would include contributions to a Statewide charity care pool (regardless of whether the hospital is reimbursed from such a pool). Whether or not care provided is charity care is primarily a question of first impression.[5] For example, if a hospital provides care to an individual and at the time of providing the services had no expectation of receiving payment, the cost of that care could be considered charity care for purposes of the standard. Consequently, the hospital's motives in providing the care are relevant under this standard. Factors which would have sufficient probative value to establish a charitable intent under such a "no expectation" standard would include the income of the patient, whether or not the patient was eligible for a public assistance program, whether or not the hospital billed the patient for the care provided, and how aggressively and over what period of time the hospital sought payment.

For purposes of standard (5), qualified services and benefits include operating health clinics in medically underserved areas of the nation, operating substance abuse clinics in such a medically underserved area, or pro-

[1] The requirement of Rev. Rul. 69-545 that a hospital operate an open emergency room implies, however, that if an indigent patient sought treatment in an emergency room without the means to pay for care, the hospital would be required to provide that treatment.

[2] No interference is intended that this requirement or presumption is a change from present law.

[3] Unlike Rev. Rul. 56-185, the bill does not contain "financial ability" standard. Before further legislative action on the bill, such a standard will be developed, taking into account the lack of uniform accounting principles for hospitals.

[4] Some hospitals have attempted to argue (without success) in State courts that "uncompensated" Medicare or Medicaid costs (or charges) constitute chairty care. Assuming that there is such a thing as "uncompensated" Medicare or Medicaid costs or charges, they are contractual allowances and are emphatically not "charity care" under the bill.

[5] *See, e.g., School District of the City of Erie* vs. *Hamot Medical Center*, No. 138-A-1989 (Pa. Ct. Cm. Pl., Erie County, May 18, 1990): "there is no such thing as *ex post facto* charity. . . . [c]harity should be determined before given, not when deemed uncollectible". At 112.

viding other services defined by the Secretary in regulations.

Effect of loss of tax exemption

If a hospital is treated as not exempt from tax under the legislation, the hospital would be subject to the corporate income tax, contributions to the hospital would be non-deductible to the donor, the basis of the hospital's assets would be reduced for depreciation which would have been claimed had the hospital been a taxable corporation,[6] and the hospital could not benefit from the use of new tax-exempt financing.[7] Finally, under the bill, contributions to a 403(b) plan maintained by the hospital would not be eligible for tax dererral.

Generally, under the bill, a hospital would lose tax exemption (and the corresponding benefits) for the longer of two years or the earliest date on which the hospital was again in compliance with the provisions of the legislation. If a hospital failed to meet the qualified expenditure and benefit test, the hospital could elect to pay a penalty equal to 10% of the excess of the hospital's gross revenues over the cost of charity care actually provided by the hospital in the first taxable year in which the hospital failed the requirements. The penalty would increase to 100% in subsequent years.

New reporting requirements

The bill imposes reporting requirements on hospitals, on the IRS, and on the Secretary of Health and Human Services. Under the bill, hospitals would be required to report to the IRS: (1) the nature and costs of charity care and community benefits provided by the hospital;[8] (2) whether it received the disproportionate share adjustment under the Medicare and Medicaid programs, its geographic area, and its disproportionate patient percentage; (3) its Medicaid utilization rate, and; (4) whether it is exempt from reimbursement under the prospective payment system.

If the Internal Revenue Service revokes the tax exemption of a hospital because of the application of this legislation, the IRS is required to notify the State, county, and local government in which the hospital is located of its actions. Finally, the Secretary of Health and Human Services is required to notify the Internal Revenue Service if it has fined a hospital for violation of section 1867 of the Social Security Act, or has terminated a hospital's provider agreement due to a violation of that section.

EFFECTIVE DATE

The tax exemption requirements of the legislation are generally effective on the earlier of January 1, 1993 or the date on which the hospital is in compliance with those requirements. The reporting requirements are effective for taxable years beginning after December 31, 1991.

[6] *See*, GCM 39813

[7] Under the bill, interest on outstanding bonds would not become taxable. No inference is intended that this result is consistent with present law.

[8] The General Accounting Office has identified community services most frequently provided by hospitals. *See*, "Nonprofit Hospitals: Better Standards Needed for Tax Exemption", GAO/HRD-90-84, May, 1990, at 51.

NAVY COMMENDATION TO LONG BEACH NAVAL SHIPYARD

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. DORNAN of California. Mr. Speaker, the Secretary of the Navy has awarded the Long Beach Naval Shipyard the Navy's Meritorious Unit Commendation Medal. The citation reads for excellence in the "performance of its missions from 1 May 1988 to 30 April 1990."

I have visited the shipyard on several occasions. Each and every time, I have been impressed by the dedication and commitment to excellence exhibited by the men and women who proudly maintain the world's finest blue water Navy. The shipyard has consistently met or exceeded schedules and has effectively competed with the more aggressive private yards in this era of down-sizing and reorganization of our naval forces.

There are those who suggest that the public yards should go the way of the dinosaurs. These nay-sayers are wrong. The public yards provide a unique service to the U.S. Navy and to the American people. I have found the public yards to be on the cutting edge of shipyard technology and innovative approaches to difficult problems. The Secretary of the Navy, in issuing this award, affirms that the Long Beach Naval Shipyard is a valuable asset and an important part of the U.S. national security team.

Mr. Speaker, I am proud to share the shipyard's citation with my colleagues. Be assured that the shipyard will continue its tradition of excellence as our Navy sails into the 21st century.

NAVY COMMENDATION TO LONG BEACH NAVAL SHIPYARD

The Secretary of the Navy takes pleasure in presenting the Meritorious Unit Commendation to "Long Beach Naval Shipyard" for service as set forth in the following:

CITATION

For meritorious service in the performance of its mission from 1 May 1988 to 30 April 1990. Long Beach Naval Shipyard distinguished itself by excelling in the areas of schedule adherence, financial performance, production management, safety, and customer and community service. The men and women of the Shipyard accomplished these significant achievements while in a unique and difficult environment of direct competition with the private sector ship repair industry and in the midst of a downsizing and reorganization effort that was blazing the trail for the Naval Shipyard Community. The Shipyard's personnel responded in a bold, innovative fashion to the demands of competition. By their superb professionalism, total determination, and impressive dedication to duty, the officers, enlisted personnel, and civilian employees of Long Beach Naval Shipyard reflected credit upon themselves and upheld the highest traditions of the United States Naval Service.

H. LAWRENCE GARRETT, III,
Secretary of the Navy.

THE ENVIRONMENTAL MARKETING CLAIMS ACT OF 1991

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SIKORSKI. Mr. Speaker, today I am introducing the Environmental Marketing Claims Act of 1991, a bill that will protect American consumers from misleading claims about the environmental or green attributes of products and packages. I am pleased to introduce this bill as a companion to a bill introduced today by Senator LAUTENBERG.

We have heard of green thumbs and green mail and Green Giant—and now we are hearing of green marketing. Green means good; good for the environment. And with a recent Gallup Poll revealing that 9 out of 10 of us are willing to pay more for products that do not harm the environment—a lot of companies are into green marketing in a big way. Lots of green puts account ledgers into the black.

A tour of any grocery store will show you terms like "environment friendly," "recyclable," "biodegradable," "ozone neutral," stamped on everything from diapers to dish soap, from cleaners to cosmetics. The words of Dr. Seuss were prophetic: Even eggs and ham are green. In fact, terms like these are being used pretty loosely, and in some cases, deceptively and confusingly. They need clear definition—and Senator LAUTENBERG and I believe that the Environmental Marketing Claims Act will provide that definition.

What we are proposing is not revolutionary. Our trade competitors in Germany, Japan, Canada, and elsewhere have had national environmental labeling programs for some time.

I will submit a summary of the bill into the RECORD, but I would like to emphasize four points.

First, this bill is good for environmentally conscious companies and environmentally conscious consumers. By setting standards and defining the terms used in "green marketing," this legislation enables consumers to make intelligent choices. But this is not a case of overzealous do-gooders versus big, bad corporate America. It protects companies that produce environmentally sound products from unfair competition on the part of scheisters who will make any claim to snag a buck.

Second, it encourages recycling, reusing, reducing—the three R's. All too often products are advertised as "recyclable," "reusable," or "compostable" in places where no program exists to accomplish those things. Clearly no one benefits from products that are good for the environment in theory, yet end up in the local landfill. This bill establishes the minimum rates at which a product or material must be managed in the manner advertised in order for a marketer to make an environmental claim.

Third, this bill prevents marketers from taking credit for things totally irrelevant. For example, in response to the growing demand for environmentally sound products, even manufacturers of electric razors have touted their products as ozone friendly. But such products as electric razors never contributed to ozone completion. Such claims are clearly misleading, and must be stopped.

Finally, the bill will end advertising that promotes one environmental attribute of a product—when the product harms the environment in another way. To use the ozone friendly example again, aerosol deodorants have been advertised as safe for the ozone layer. True, they no longer contain ozone-depleting chemicals—chlorofluorocarbons, or CFC's, have actually been banned in the United States for over a decade. But what the advertisements and slogans don't tell you is that these friendly deodorants replaced CFC's with volatile organic compounds—a major contributor to urban smog.

A cry has gone out—from the local grocery stores of small-town America to the board rooms of Fortune 500 companies. During the past year, industry, consumers, and government officials have looked to the Federal Government for uniform standards for green marketing claims. What they want—and what this bill provides—are measures that are proenvironment, proconsumer, and probusiness.

The Environmental Marketing Claims Act has the support of the Environmental Defense Fund, Environmental Action, the Natural Resources Defense Council, the Consumers Union, and the National Association of Attorneys General's Task Force on Green Marketing, which is led by Attorney General Humphrey III of my own State of Minnesota.

In conclusion, I would like to draw on the words of E.B. White:

People are beginning to suspect that the greatest freedom is not achieved by sheer irresponibility. The earth is common ground and we are its overloads, whether we hold the title or not. Gradually, the idea is taking form that the land must be held in safe keeping, that one generation is to some extent responsible to the next; and that it is contrary to the public good to allow an individual . . . to destroy almost beyond repair any part of the soil or the water or even the view.

American consumers and American businesses are taking steps to ensure that the world they leave for their children is not degraded beyond recognition. The Environmental Marketing Claims Act will assure that their efforts are not in vain.

ENVIRONMENTAL MARKETING CLAIMS ACT OF 1991 SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

"Environmental Marketing Claims Act of 1991"

SECTION 2. FINDINGS AND PURPOSES

A. Findings: (1) Surveys have shown that over 90 percent of Americans would pay more for environmentally preferable products. (2) Environmental marketing claims are now largely unregulated and can be deceptive.

B. Purposes: (1) Prevent fraudulent or misleading claims. (2) Establish uniform standards for environmental claims about products and packaging. (3) Encourage environmental responsibility by consumers and industry.

SECTION 3. DEFINITIONS

This act defines the following terms: product, package, life cycle, environmental marketing claim, label, Administrator, end product, post-consumer material, pre-consumer material, secondary material.

SECTION 4. ENVIRONMENTAL LABELING REGULATORY PROGRAM

Requires the EPA Administrator to issue regulations, establishing an environmental marketing claims regulatory program.

SECTION 5. INDEPENDENT ADVISORY BOARD

A. Within 180 days of enactment, EPA must establish an independent Advisory Board to make recommendations to the Administrator.

B. The Board must have 15 members (including 4 ex officio members): 3 consumer advocates, 5 industry representatives, 3 environmentalists, 2 state government officials (ex officio), 1 local government official (ex officio), 1 representative of the National Institute of Standards and Technology (ex officio).

C. Meetings of the Board must be open to the public.

D. The Board must issue an annual report on its activities and recommendations.

SECTION 6. REGULATION OF ENVIRONMENTAL MARKETING CLAIMS

A. The Board's recommendations to the Administrator must include definitions and standards used in regulating environmental marketing claims.

B. Within 18 months of enactment, the Administrator must issue final regulations governing the use of environmental claims. The regulation shall include claims that a product is: source reduced, refillable, reusable, recyclable, has a recycled content, compostable, ozone neutral, nontoxic, photodegradable, biodegradable, decomposable, or otherwise related to an environmental impact.

C. This act does not prohibit the use of environmental seals of approval, if the Administrator approves the use of such seals.

D. In regulating claims, EPA must distinguish between the product and the accompanying package unless the claim applies to both.

E. The act establishes requirements for the use of the following terms:

(1) Recycled content: All products and packages must be composed of at least 25 percent (by weight) post-consumer material prior to the year 2000, and 50 percent post-consumer material from 2000 on. Products and packages that do not meet these standards may list the amount of pre-consumer and post-consumer material used, if this claim is included in a sentence in which the term "recycled content" is no more prominent than any other word in the sentence.

(2) Recyclable: The product or package must be recycled at a rate of 25 percent per annum prior to the year 2000 and 50 percent thereafter.

(3) Reusable or refillable: Must be reused for the original purpose an average of five or more times.

(4) Compostable, photodegradable, biodegradable, degradable, or decomposable: The product or package must be safely managed in a composting or other waste maangement system at a minimum rate of 25 percent per annum prior to the year 2000, and 50 percent thereafter.

Retailers may use shelf labels if the above standards are met by the local community, even if they are not met nationwide.

F. The regulations must be reviewed by EPA every 3 years.

G. Anyone may petition the Administrator to issue additional regulations.

H. Limitations:

1. Claims may only be made about environmental attributes defined by EPA regulations.

2. A claim may not be made about the absence of an environmental attribute unless that attribute is a usual characteristic of the product or packaging or EPA has determined that such a claim would assist consumers. For example, a product may not be labeled "ozone friendly" if it never contained ozone-depleting chemicals.

3. An environmental claim may not be made if it is misleading in light of another environmental characteristic of the product or package.

SECTION 7. CERTIFICATION

A. Anyone who intends to make an environmental marketing claim for which a regulation has been issued must certify with EPA that the claim meets the regulatory requirements.

B. Recertification is required whenever changes are made in the product or package that affect the claim, or new regulations are issued.

SECTION 8. PROHIBITION

SECTION 9. PENALTIES

A. Civil: penalties will not exceed $25,000 for each violation.

B. Criminal: violations are punishable by fines specified in title 18 of the U.S. Code, or imprisonment for up to one year, or both.

SECTION 10. STATE ENFORCEMENT

States may enforce provisions of this act, if they notify EPA at least 30 days before initiating any proceeding.

SECTION 11. CITIZENS SUITS

The act allows for citizen suits against any violators or against the EPA Administrator for failure to carry out the duties assigned under the act.

SECTION 12. PUBLIC INFORMATION CAMPAIGN

EPA must carry out a public service advertising campaign to alert/educate consumers.

SECTION 13. STATUTORY CONSTRUCTION

Nothing in this act bars states from enacting or enforcing stricter standards.

SECTION 14. CONFORMING AMENDMENT

SECTION 15. AUTHORIZATION OF APPROPRIATIONS

Authorizes $10 million for FY 1992, 1993, and 1994.

PEACE IN THE MIDDLE EAST IS NOT POSSIBLE IF THE ARMS BAZAAR REOPENS FOR BUSINESS AS USUAL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. MAZZOLI. Mr. Speaker, I call to the attention of my colleagues the following article from the March 4, 1991, Wall Street Journal.

This article describes United States arms makers as almost salivating over the prospects of selling to Middle East nations the selfsame high technology military and electronic equipment which our troops utilized to such devastating advantage in the prosecution of Operation Desert Storm.

This is not only dismaying and disturbing, but it also serves to undercut the efforts of President Bush and Secretary of State Baker who want to mount a major nonproliferation effort in this region of the world.

Mr. Speaker, peace in the Middle East is impossible if arms sales to the region are resumed as if something called Operation Desert Storm never occurred.

Peace in the Middle East is impossible if the arms bazaar reopens for business as usual even before the dust of Desert Storm has settled.

I think my colleagues will find this article interesting—if disquieting—reading.

MIDEAST ARMS OUTLAYS SEEM UNLIKELY TO FACE ANY TOUGH NEW CURBS

(By Walter S. Mossberg and Rick Wartzman)

WASHINGTON.—It could happen again.

The U.S. and its allies smashed Iraq's huge military machine with alacrity. But far more exclusive will be success in preventing the warlike states of the Mideast, including Iraq itself, from building deadlier new arsenals in the future.

The renewed urge to control the spread of arms is running headlong into two powerful forces. One is strong demand: Mideast nations are eager to purchase some of the powerful high-tech gadgetry that won the Persian Gulf war. The other is ample supply: The profit motive remains undiminished by the recent bloodshed.

"People who are talking about limiting arms sales to the Middle East are living in a dream world," says Gregory Fetter, senior defense analyst at Forecast International/DMS, a consulting concern that compiles data on the global weapons business. "It's a shame to have to say it, but it's true. Everybody wants to sell there, and it would take a world-wide, airtight effort to stop that."

AN ISSUE FOR BAKER

Nevertheless, the Bush administration says it is determined to build on its battlefield victory by curbing the proliferation of modern arms, not only to Iraq but to the entire Mideast. Shutting down the arms bazaar will rank among the top issues on the agenda when Secretary of State James Baker flies to the region this week. During the crisis, Mr. Baker promised Congress he would "mount a major nonproliferation effort for this area of the world," calling for "very, very intrusive measures of inspection and verification."

But experts and government officials agree that the most that Mr. Baker can hope for might be a continued arms-sales embargo against Iraq alone for a while, coupled with the start of a vague, drawnout diplomatic quest for a regional arms-control system.

The problem starts with the U.S. itself. The administration is hinting that its approach will be selective: While talking nonproliferation, it will pour arms into the region to help its allies and weapons makers. At a news conference Friday, President Bush declared: "Let's hope that out of all this, there will be less proliferation of all kinds of weapons, not just unconventional weapons." But he added: "I don't think there will be any arms embargo" by the U.S.

A CRUCIAL MARKET

American defense contractors, pinched by Pentagon budget cuts at home and convinced that the war has given them great advertising abroad, are salivating over the prospect of big Mideast sales. The Mideast is a crucial market because, along with the Pacific Rim, it is about the only place where defense budgets are expanding.

In addition, Mideast countries tend to buy weapons off the shelf rather than demanding a role in producing them, as many Asian countries do; as a result, the companies can keep their employment and supplier bases intact.

"American equipment performed so doggone well compared with that of the French and Soviets, there ought to be some very hot prospects" for sales throughout the Mideast, says D. Kenneth Richardson, the president of Hughes Aircraft Co. For his Los Angeles company, a subsidiary of General Motors Corp., Mr. Richardson foresees an opportunity to peddle battlefield navigation systems, radar for F-15 and F/A-18 jet fighters, air-launched Maverick missiles, and night-vision devices and laser range-finders for the M-1 tank.

PATRIOT MISSILE MAKER

Martin Marietta Corp., which produces part of the Patriot missile plus night fighting gear for Apache helicopters and fighter planes, expects its overseas sales to double, with much of that volume going to the Mideast. "If there is a need to step up the defense of countries in the Middle East, Martin Marietta is one of those contractors that would want to be very much involved," a company spokesman says.

But for the moment, many weapons companies are lying low. Most depend on the government to sell their deadliest products in government-to-government deals. They also think that this isn't the time to get too pushy. "If the government decides for us to stay out of the area for a while nobody is going to fight it very hard," says Peter Oram, president of Grumman Corp.'s aircraft division.

However, the companies are vowing to fight any U.S. sales curbs that aren't matched by competing arms-making countries. If the U.S. acts alone, "the Europeans will look at us and say, 'By gosh, you guys are moral. But we're going to see what our Middle Eastern comrades-in-arms need. We're open for business,'" says Joel Johnson, vice president of international activities for the Aerospace Industries Association, a trade group.

A White House aide acknowledges: "The problems are very, very large, and it's not obvious how to solve" them.

Defense Secretary Dick Cheney recently warned Congress that, by the end of this decade, at least 15 developing countries will probably be able to build and deploy ballistic missiles. Even scarier, eight of those countries, he added, "either have or are near to acquiring nuclear capabilities." He also estimated that by then, 30 countries will have chemical weapons, and 10 will have germ weapons.

Right now, Soviet-designed Scud missiles remain in the arsenals of Syria, Egypt, Iran, Libya and Yemen. Even Iraq is believed to have retained scores of Scuds and home-built mobile launchers. The Central Intelligence Agency predicts that by the year 2000 at least six countries will have missiles able to fly nearly 2,000 miles, with three additional nations able to reach targets almost 3,500 miles away. That could put U.S. territory within reach of some Latin American countries, and the Soviet Union in the sights of many Muslim nations.

However, administration officials do expect some incremental progress in controlling proliferation in the Mideast. There's a good chance Iraq can be quarantined, at least for a while. And throughout the region, nuclear-weapons development can be slowed because the technology is so complex and expensive—and thus somewhat controllable.

But further progress will be minimal to nonexistent, many experts say—and the U.S. itself won't be blameless.

Last November, even with the huge U.S. military buildup under way in the Gulf, the White House vetoed a bipartisan bill that would have imposed sanctions on companies exporting chemical-weapons components. The administration contended that the bill lacked a "national security" waiver enabling the President to allow such sales in rare cases.

ADMINISTRATION PROPOSAL

After the veto, the administration drafted its own tough controls on a wide variety of products and technical data that could be used to fabricate these terror weapons, as well as the missiles for delivering them. The program would increase to 50 from 11 the number of "precursor" chemicals subject to export controls. New controls would be imposed on exports of certain equipment and even benign supplies—potentially down to pencils and paper clips—being shipped to suspicious manufacturing plants. U.S. exporters could be subject to criminal penalties.

But business groups have so sharply criticized this program—called the Enhanced Proliferation Control Initiative—that its release has been delayed for more than two weeks. Until other countries adopt similar rules, business groups say, target countries will remain free to buy from other sources.

"Draconian measures without a multilateral approach have never worked out," argues Peter McCloskey, president of the Electronic Industries Association of Manufacturers trade expert, wonders whether such controls could "unilaterally take the U.S. out of markets in Brazil and India."

The Mideast business opportunity, and the political pressure it generates, will severely limit Mr. Baker's effectiveness in putting together a multilateral plan to curb Mideast armaments. In fact, the U.S. will be preaching restraint to other supplier nations just when it is preparing to make some huge arms sales of its own. Kuwait's rulers have already quietly notified the U.S. that they intend to acquire far more military punch than they had when Iraq invaded last August, though details haven't yet been determined.

MANY WISH-LISTS

In addition, according to the administration, Egypt wants Raytheon Co.'s Hawk missiles and General Dynamics Corp. M-60 tank upgrades and F-16 fighter jets. Israel is said to be looking for hand-held battlefield navigation systems, plus upgrades to its McDonnell Douglas Corp. F-15 fighters and its Harsco Corp. M-109 artillery pieces. The United Arab Emirates is interested in General Dynamics' M-1 tanks and Raytheon's Patriot missiles. Bahrain and Turkey are said to be interested in the Patriot.

But the biggest arms-control buster is a pending arms-buying spree by Saudi Arabia. The Arab kingdom is in line for a package of $15 billion worth of the U.S. weapons that won the war. Included are F-15 fighters and McDonnell Douglas Apache helicopters, M-1 tanks, LTV Corp. Multiple Launch Rocket Systems, Patriot missiles and Boeing Co. AWACS radar planes. Also being eyed by Riyadh: United Technologies Corp. Seahawk helicopters, FMC Corp. Bradley Fighting Vehicles, and Maverick infrared missiles.

For some U.S. contractors, Mideast sales may be crucial to even continuing their product lines because the Pentagon is planning to phase out buying numerous systems that starred in the Gulf war. McDonnell Douglas says that, without foreign buyers, it will have to halt F-15 production in May 1993.

Even under the best circumstances, Nathan Higginbotham, director of government program development for McDonnell Douglas's jet-fighter division, doesn't envision a clear administration policy emerging on

weapons transfers to the Mideast until later in the year. "The challenge is going to be to bridge the gap," he adds. He notes that the company has already stopped ordering certain long-lead-time items from its F-15 suppliers, some of which could go out of business.

BOEING'S PROBLEMS

Boeing is in a similar bind. C.G. King, executive vice president of its military aircraft division, says that although Saudi Arabia has indicated it wants more AWACS planes, the Seattle company must find more AWACS buyers by the end of the month or it will have to shut down the 707 airframe line that serves as the backbone of the program. "We're getting very close to where it doesn't make economic sense to keep it going." Mr. King says.

Some contractors argue that selling defensive weapons won't spur the Mideast arms race. "That area is too ancient and too tribal not to give countries the ability to defend themselves," asserts Lawrence Skantze, a retired Air Force general and now a board member at Loral Corp., which makes electronic gadgetry.

But others say the visible success of defensive systems such as the Patriot speeds up proliferation. As more nations buy the anti-missile system, their enemies will be spurred to seek even more sophisticated offensive weapons that can break through the knock-down systems.

Administration officials insist that Mr. Baker isn't going to the Mideast with any grand arms-control plan in his pocket. But several ideas are floating around Washington and other Western capitals.

There is talk of forming a "suppliers' committee" to cut off or cut back sales to Mideastern states of nuclear, chemical, biological and conventional weapons and weapon components, especially missiles. Officials also are studying a plan to begin gradually by introducing "confidence-building measures" between Israel and its Arab enemies—announcements in advance of military maneuvers, swaps of military data, or an easing of the Arab boycott of the Jewish state.

Italy is proposing that the Mideast nations emulate Europe by forming a "conference on security and cooperation" that might, over the years, bring about arms control. But Europe, unhampered by any states of war, still took 15 years to produce last year's conventional arms treaty.

For Mr. Baker, Israel is also a big arms-control problem. The country is not only one of America's strongest allies in the Mideast but also the best-armed nation in the region, now that Iraq's military machine has been dismantled. It is the region's only nuclear power, with an estimated 100 atomic warheads. And Israel's Jericho II missile is no clumsy, short-range Scud: it can fly 900 miles and is accurate. Israel also has an awesome conventional arsenal and is said to possess chemical weapons.

Thus, to win Arab support, any broad U.S. arms-control plan must somehow scale back Israel's might. Jerusalem has recently hinted that it would favor regional arms control, State Department officials say. But, if controls cut too deeply, tiny Israel, surrounded by 21 Arab lands, isn't likely to want to go along—and neither are Israel's vocal friends in Congress.

FINDING A WAY TO GIVE YOUNG, AS WELL AS OLD, SOCIAL SECURITY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. LAFALCE. Mr. Speaker, the state of America's children is a national tragedy. The figures are devastating: One in five American children is living in poverty; 16 million children lack health insurance, and the United States ranks lower than nearly all other industrialized nations in standard measures of children's health such as infant mortality and child immunization.

In the past several decades, we have done a fine job of improving the care of the elderly population, but we have sorely neglected our children. As cited in a recent Washington Post story, from 1978 to 1987, Federal expenditures on older Americans increased by 52 percent, while spending on children fell by 4 percent. The poverty rate among the elderly has fallen from 24.6 percent in 1970 to 12 percent in 1988, while the rate among children has increased from 14.9 to 19.2 percent during the same period.

Clearly, if we are to remain a superpower in the 21st century, we must focus our energies on children, who truly represent America's future. Improvements in access to health care, child immunization, prenatal and infant care, child nutrition, Head Start, and the quality of public education are critical, and numerous strategies remain to be explored. I respectfully submit the following article, "Finding a Way to Give Young, as Well as Old, Social Security," which I hope can serve as a springboard for action. At stake is nothing less than the fate of this country for generations to come.

[From the Washington Post, Feb. 22, 1991]

FINDING A WAY TO GIVE YOUNG, AS WELL AS OLD, SOCIAL SECURITY

(By Paul Taylor)

Children's advocates celebrated a rare victory last fall when the Bush administration and Congress agreed to a multi-year expansion of the Head Start program for poor preschoolers. But when the administration's budget came out earlier this month, funds to keep the expansion on track weren't in it.

There were no such surprises for Social Security, which needed $18.6 billion in new funds, mainly to pay for cost-of-living adjustments. That increase hadn't been the subject of any budget battle nor the occasion for any celebrating. It was automatic.

The fates of Head Start and Social Security tell a story in microcosm of a nation that treats its two most vulnerable populations—the young and the old—in wildly divergent ways.

A child in the United States is nearly twice as likely to be poor as a senior citizen—in large part because the federal government spends more than four dollars on the elderly for every one it spends on children, studies show. This is novel in the nation's history and unique in the world; no other country has so large an age bias to its poverty rates nor so wide an age tilt in its allocation of resources.

AGE TILT IN ALLOCATING FUNDS

What we've done in this country in the past few decades is socialize the cost of growing old and privatize the cost of childhood," said Sylvia Hewlett, an economist and author of a forthcoming book on the subject. "From an economic perspective, it makes no sense; children are an investment in our future. From the standpoint of compassion, we might have been able to get away with treating children this way in Norman Rockwell times, but not today, when so many families are fragile, brittle and dysfunctional."

The chief source of economic insecurity in America used to be growing old; now it's being born into or raised in a single-parent family," said David Ellwood, a Harvard professor who is an authority on poverty. "If Social Security were being designed today, I suspect it would have taken this new reality into account."

"We should be proud of what we have done for the elderly," said Rep. Thomas J. Downey (D-N.Y.), "and horrified at what we're doing to our children."

Congress made some headway last year, passing a bill that authorized new funds for child-care programs, increased the federal wage supplement for low-income working parents and provided for an expansion of Medicaid benefits to children.

But children's advocates say the response has been no match for the need. "There is a great consensus among experts in the field that we have never seen the plight of America's children as bad as it is today," Dr. Edward F. Zigler, director of the Bush Child Development Center at Yale University, told a congressional subcommittee Wednesday.

Given the growing concern about the social cost of shortchanging children, new ideas are beginning to surface that would address their economic well-being.

A CHILDREN'S TRUST FUND

One proposal, to be introduced next month by Sen. Christopher J. Dodd (D-Conn.), would create a Children's Trust Fund—an earmarked source of public money designed to spare children's programs from having to scramble every year for what Rep. George Miller (D-Calif.) derisively calls the "chump change" in the federal purse.

Another approach, which has support in liberal and conservative think tanks and is being spearheaded by Sen. Dan Coats (R-Ind.), is to double or triple the value of the personal income tax exemption for children, and perhaps make it refundable for those who have incomes so low that they do not pay taxes. This proposal would put money in the pockets of parents, while the Trust Fund would funnel money toward government programs.

Still a third idea is to beef up the child-support enforcement system to force payments from all non-custodial parents, and to guarantee that the federal government would make the payments when parents cannot meet their obligations.

Because these approaches vary, and because the constraints imposed by federal budget deficits are so daunting, no one expects overnight success. "This is not something we're likely to get through in one Congress," said Dodd. "But there's a growing recognition that children are the one constituency we've left behind in the past few decades, and that we have some catching up to do."

DECLINING PUBLIC INVESTMENT

Here are some ways to measure the declining public investment in children:

Eighty-two percent of the elderly who would be poor if there were no such thing as a federal government are lifted out of poverty through government tax and transfer

programs, including Social Security and all other cash and non-cash benefits, according to the Census Bureau. Only 32 percent of children who would be poor without the government's help are lifted out of poverty because of its, according to a Census analysis.

From 1978 to 1987, federal expenditures (adjusted for inflation) targeted on the elderly grew by 52 percent while expenditures targeted on children fell by 4 percent, according to an analysis by the Republican staff of the House Budget Committee. In 1987, the federal government spent $259 billion on the elderly and $55 billion on children.

From 1965 to 1986, the share of all social welfare spending (including primary and secondary education, welfare, health programs, food stamps, Social Security, Medicare and Medicaid) by all levels of government—federal, state and local—targeted specifically at children declined from 37 percent to 24 percent, while the share allocated specifically to the elderly rose from 21 to 33 percent, according to recently completed research by University of California at San Francisco professors A.E. Benjamin, Paul W. Newacheck and Hannah Wolfe.

In addition to falling behind relative to the elderly, American children long have been public policy losers in comparison to children in other advanced societies.

U.S. LAGS BEHIND OTHERS

Sixty-seven countries, including every industrialized society in the world except the United States, have some form of universal children's allowances, according to a survey by Sheila B. Kamerman and Alfred J. Kahn of Columbia University. These allowances are generally tax-free and not means-tested; that is, they are awarded to parents without regard to family income.

More than 100 countries also provide additional cash benefits to parents at the time of childbirth, with some nations providing a portion of the income lost from a parent's displacement from the labor force for six months or more following childbirth. A French married mother of three, for example, can stay at home until her youngest is 3 years old and receive the equivalent of the minimum wage. (President Bush last year vetoed a family-leave bill that would have assured 12 weeks of unpaid leave at the time of child bearing.)

In addition, most European countries provide free, full-day public pre-school programs. Ninety-seven percent of all French children age 3 to 6 attend such a program, as do 75 percent of German pre-schoolers and 70 percent of all Italian pre-schoolers.

These programs have their origins in the 19th century social democratic notion that the government should supplement the wages of factory workers with large families. They also reflect a pro-natalist streak among European policymakers, who long have worried that declining birthrates would sap national strength and identity.

The United States, a magnet for immigrants, has never worried about low birthrates, nor has it ever warmed to a social philosophy that treats children as a collective social responsibility. Its political culture is fiercely individualistic and its religious heritage makes most Americans ambivalent about state interference in family life. Moreover, Americans always have been suspicious of welfare programs—and except for public education, the major children's programs in this country are aimed at the poor.

The most successful anti-poverty program in the nation's history isn't a children's program, however—it's Social Security. The political genius of that program has been that, even though it redistributes income from rich to poor and from workers to retirees, it also contains elements of a contribution/earned benefits plan. Thus, it avoids the stigma of welfare.

"We tend to see the elderly as deserving and children—or at least the parents of children—as undeserving," said Hewlett, the economist and author. "And it doesn't help that more children than adults are black and brown."

TAX ADJUSTMENT PROPOSED

Children's advocates say they don't want to get into a war with seniors or take away their benefits. They would just like to initiate some of their successes.

For example, the Dodd proposal for a children's trust—first advanced by Jule Sugarman, one of the founders of Head Start—seeks to create an earmarked source of funding and establish a collective responsibility for children, just as Social Security does for elderly. Dodd has not decided how the funds should be raised.

The proposal to raise the value of the personal exemption in the tax code is crafted to avoid the stigma of welfare, much in the way Social Security does. The exemption is the closest thing this country has to a child allowance, but inflation has eroded about three-quarters of its value in the past four decades.

The plan to step up enforcement and guarantee payments of child support in the case of divorce or out-of-wedlock birth borrows from the social insurance aspect of Social Security. "In many ways this is an analog to Social Security," said David Ellwood, the Harvard professor. "A lot of the beneficiaries would be middle-class people who aren't getting the money owed them by non-custodial parents. But when the non-custodial parents don't have any money, the government serves as the insurer of last resort."

In addition to exploring these new ideas, Congress this year will ake on an old and recurring children's problem—a foster-care system that has nearly doubled in the past five years and is widely acknowledged to be broken.

No one is sure which proposals will fly. "All I know is that there are a lot more people interested in children's issues than there used to be," said Dodd.

PROSPECTS AND PROPER TREATMENT OF CREDIT UNIONS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. PETRI. Mr. Speaker, recently I had the privilege of speaking to a group of credit union members in my district. My remarks dealt with the prospects and proper treatment of credit unions as we consider financial institutions reform measures. In case they may be of interest to a wider audience, I insert these remarks in the RECORD at this point.

REMARKS OF HON. THOMAS E. PETRI

You, as members of Wisconsin Axle Credit Union, have much to be thankful for. A quick glance at your annual report tells me this meeting promises to be a happy occasion, because you've had a very good year.

I congratulate Wisconsin Axle and I wish you continued success.

Since I myself am a member of a credit union, I know full well the benefits of belonging, and I am a strong supporter of credit unions.

During my first days in Congress twelve years ago, I supported allowing credit unions to offer checking account services, which was an important advance at that time.

I have been a supporter of credit unions for a number of reasons.

Credit unions add to the diversity and the strength of our country's financial services overall.

Our economic system works best when there are a variety of competitors in any given marketplace.

In a diversified market, some entities become generally competitive, and some become extremely successful in various niches of the market.

Some entities just struggle along, and some fall by the wayside.

But we are all better off, because the competition gives us a chance to keep on discovering better ways of doing things.

It's particularly valuable to have Wisconsin Axle and other credit unions competing in the financial services markets because your basic organizing principle, the cooperative principle, is so different from that of your competitors.

This unique organizational feature adds to the diversity from which comes strength.

The cooperative idea is, in and of itself, a most appealing one. It is rooted in the democratic concept of people with like interests and objectives freely coming together to form an enterprise whose benefits accrue to all its members.

That, of course, is the basis of this whole cooperative movement, of which you are just one part, and which has a long and honorable history in Wisconsin.

The cooperative principle is only threatening if people try to cooperate to gain a monopoly in some area, because then it can be used to deny opportunity to others.

But that has never been a goal, or even a remote possibility, for credit unions.

In fact, Wisconsin Axle and other credit unions continue to be one of the best examples of the cooperative principle at work.

While you operate in only a small corner of the whole financial services industry, you have been vastly successful in that corner.

Among all the types of cooperatives, taken as a group, credit unions have an excellent record of achievement.

And, at a time when American financial institutions are undergoing intense scrutiny, credit unions as a whole are emerging from this thorough examination with a clean bill of health.

Wisconsin Axle's experience here in Oshkosh is, fortunately, not unique. Credit unions have been doing well all over.

Reserves and capital are very high, loan portfolios are strong, and your insurance fund, the National Credit Union Share Insurance Fund, is in excellent shape.

It faces none of the problems of the savings and loan insurance fund or the Bank's insurance fund, the Federal Deposit Insurance Corporation.

These other depository institutions and their insurance funds are experiencing major problems. But credit unions are not.

It's fair to say that credit unions have not been part of the problem, and they should not be forced to be part of the solution.

Any attempt to merge your insurance fund with the FDIC would amount to a raid on your money to benefit someone else.

Even worse, it's a raid on the small to benefit the more powerful. I don't think it's justified.

The democratic chairman of the House Banking Committee, Henry Gonzalez of Texas, has in fact introduced a banking reform bill that would merge your deposit insurance with the FDIC.

His bill would also create a single regulatory agency for depository institutions. When the chairman of the committee puts in a bill like that, one has to be at least a little concerned.

I wouldn't be too concerned, however * * * for several reasons.

For one thing, the Bush Administration's banking reform plan does not contain either a merging of insurance funds or a single regulatory agency.

The Administration will have substantial power to block anything it does not want in this area.

Moreover, two days ago the FDIC came out with a plan for bolstering the bank insurance fund that made no mention of credit unions.

Meanwhile, credit union members themselves are making their views well known to members of congress.

Through thousands of letters—even a few valentines—petitions, rallies and office visits you are sending a very loud no thanks to capitol hill.

In fact, the mail campaign on this issue is one of the biggest I've seen in my twelve years in Congress.

Believe me, members of Congress will hear the message.

And when all is said and done, my best judgment is that you have little to fear.

The case on its merits is weak * * * either for merging insurance funds or for creating a single regulatory agency.

And * * * with little support and much opposition, I don't think either is going to happen.

There are two proposals affecting credit unions in the administration's banking reform plan. One is to put a Treasury official on the board of your regulatory agency, and the other is to phase in over 15 years an accounting change that would stop counting your insurance fund deposits as capital on your books. I think it's fair to say that even though credit unions might oppose these two proposals they are far less threatening to credit unions than a merging of deposit insurance funds. At the same time, I really can't predict what will happen to them.

In any event, while you must remain vigilant, I believe credit unions have little to fear from the current discussion over deposit insurance reform.

You meet real needs and you have done a good job satisfying those needs.

As a result, today, strong credit unions like Wisconsin Axle face more opportunities than every before.

Congratulations on another successful year!

Thank you very much.

WORDS OF INSPIRATION CONTRIBUTED BY LORI ANN SCHWANDT OF COEUR D'ALENE, ID.

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. LaROCCO. Mr. Speaker, as we are welcoming our troops home from the Middle East, I want to call the attention of all Americans to words of inspiration contributed by Lori Ann Schwandt, a young woman from Coeur d'Alene, ID. Her speech, "Democracy, the Vanguard of Freedom," won first place in the Idaho VFW Voice of Democracy contest this year. I was inspired by her words and I hope that all my colleagues in the House and all our Nation's citizens will find the same inspiration when they consider her words. Mr. Speaker, I ask that Lori's speech be printed in the RECORD and I ask permission to revise and extend my remarks.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Lori Schwandt Idaho VFW, First Place, 1990–91)

A 19th century philosopher, Immanuel Kant, once said, "Freedom . . . is the one sole original, inborn right belonging to every man by virtue of his humanity." Although, without any sort of leadership or written laws for society, criminals would pillage the countryside, and mothers would live in fear for their children's lives. Before history was ever recorded, men realized this and organized himself into societies with laws, in time, these societies become nations and man pondered the question "What is the best way to organize and govern a large body of people?" Over the course of history that question has been answered; let the people govern themselves. By giving the power to the people, they can guarantee their rights and freedoms. We have given this type of government a name, democracy, and it is truly the vanguard of freedom.

Since the ancient Greeks, feudal times and before, man has desired to be free. This desire is impossible to suppress even under severe oppression. In the past many people felt prompted to speak out for their freedoms like Socrates, John Adams, Ghandi and Dr. Martin Luther King Jr. Patrick Henry's famous line "Give me liberty or give me death" epitomizes the strong feelings people have for their freedoms and has been a vanguard for many people's actions. Millions of people have given their lives in the name of democracy and freedom. People in the French Revolution and American Revolution and World War II. James Otis, an advocate for American independence once said, "And some of us will die-so other men can stand up on their feet like men. A great many are going to die for that reason. They have in the past. They will a hundred years from now—two hundred. God grant that there will always be men good enough." People have been struggling for their freedom all the way back to Moses who told Pharaoh "Let my people go."

Unfortunately, sometimes false democracies have been set up to quiet the people. China, the People's Republic, and Russia both have false democracies and so does East Germany who called itself the People's Democratic Republic. In these countries the people are allowed to vote, but they are given little or no choice. Because they can't vote for someone who will really represent them, they can't guarantee their freedoms. Abraham Lincoln once said that the government should be, "of the people by the people and for the people." Only when the people are allowed to govern themselves are they assured of their freedoms. That is why the people in East Germany spoke out and demonstrated until their voices were finally heard last November. The world rejoiced when the wall came down and are encouraging the representative democracy that is being established. Once their democracy is founded and working, the people will be able to ensure their freedoms as they vote for people who have similar ideas and who will work for them.

During the American Revolution, Americans fought for freedom. They were tired of "taxation without representation." And so after their independence was won, they wrote a document called the Constitution which set up a democracy so the people could govern themselves. Included in the Constitution is the Bill of Rights which guarantees Americans their basic freedoms. But the cry for freedom didn't end with the American Revolution. John F. Kennedy once said, ". . . the rights of all men are diminished when the rights of one man are threatened." During the last century blacks, women and other minorities took this message to heart and spoke out and demonstrated for their freedoms. Because America is a democracy where the people have a voice, these freedoms have been granted and ensured, by amendments to the Constitution, for future generations.

As people continue to fight for democracy and freedom in the world, many use the United States of America as an inspiration and example. The Chinese students demonstrating in Tiananmen Square even built a small replica of the Statue of Liberty to symbolize their views. The French patterned their document the Declaration of the Rights of Man after our Declaration of Independence. So, not only is democracy the vanguard of freedom, but so is the United States of America.

In answer to the question "What is the best way to govern?" people for hundreds of years have been crying out democracy. We are lucky to live in a time when the world is moving towards democracy. Thousands of people are rising up and demanding their freedoms. And we are able to witness those cries for democracy being heard and dreams of freedom being realized.

SNOWE SALUTES MAINE'S VOICE OF DEMOCRACY WINNER

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. SNOWE. Mr. Speaker, I rise today to offer my congratulations to Kurt Stiffel of Millinocket, ME, on placing seventh in the national VFW Voice of Democracy broadcast scriptwriting contest with his outstanding essay.

Kurt, a senior at Stearns High School, was the State winner and went on to place seventh in the national competition. He had some stiff competition as over 138,000 students participated in the 44th Voice of Democracy contest. The VFW has awarded Kurt the Daniel Sean Wallace Memorial Scholarship Award which will help him pursue his interest in engineering at the University of Maine at Orono next year.

The theme for this year's contest was "Democracy—The Vanguard of Freedom." The topic and Kurt's winning speech are particularly relevant in light of the events in the Persian Gulf. Therefore, I would like to share Kurt's speech with my colleagues.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Kurt Stiffel, Maine winner of the 1990–91 VFW Voice of Democracy Scholarship Program)

When the original thirteen colonies were finally declared a separate nation from England, a new form of government was con-

ceived. It was known as a democracy and was ruled by the people. This type of government was a conception that far exceeded that of anyone else, and many did not have faith in it. However, democracy has withstood the test of time and thanks to the incredible insight of our forefathers, it still exists today.

In 1871, my great-great-grandfather boarded a ship and came to America. He came to America along with many others in search of a better life for himself and his family. He knew that the democratic society in the states would not only permit him much personal and social freedom but would also help him in his trade. By 1872, he had made a place for himself and had enough funds to send for his wife and seven children. He, like so many other immigrants, thought coming to America was important enough to break up the family for a time.

Our ancestors and others who came before us gave us the privileges that we now enjoy. We cannot become complacent and take these joys for granted. We only have to watch the evening news to see how quickly one's daily routine can undergo unbelievable changes. We see the Soviet mother with tears of joy as she bows to pray in church for the very first time. While at the same time we see the tears of anguish in the eyes of the Kuwaiti mother as she waits in line for water to give to her dehydrated infant. Neither of these women could believe that their lives could be changed so dramatically and in such a short time.

Today, people all over the world are starting to fight for their freedom, and are winning. However, their freedom will never be won until they win the most important freedom of all. The freedom of expression. The freedom of expression is truly the vanguard of democracy. For the basic foundation of democracy is the guarantee of this freedom. Battles for personal freedoms continue to be fought throughout the world. The lives of the individuals in Africa, China, Kuwait, and Vietnam, to name a few, are in turmoil as they attempt to win their freedom from oppression and become free living citizens. These individuals look toward the United States as an example in democracy since it has succeeded so well.

We are unique in our birthright of freedom. We Americans are all created equal. We cannot be taxed without our consent and may delegate power of self government to represent ourselves. We have been given privileges and responsibilities as well. Our largest responsibility is to express our ideals and vote for the candidates whom we feel will best preserve our gifts of the past. For this we have our founding fathers to thank, for they are the ones who created democracy. Let us hope that all Americans, new and old will stand together to protect this unique gift and ensure that future generations of Americans will enjoy the gift of our ancestors.

INTRODUCTION OF THE FAMILY EDUCATION LEAVE ACT, AND THE FEDERAL FAMILY EDUCATION LEAVE ACT

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SIKORSKI. Mr. Speaker, it is not easy being a kid today. Too many of America's children are victims of neglect or malnutrition or drugs. Kids need parental encouragement, advice, and support. But its getting harder for parents to fulfill that role.

Happy Day's Richie Cunningham is probably married with kids by now. And there's both a 50–50 chance that he's divorced and a 50–50 chance if he's not that his wife works outside the home. Richie Cunningham's kids probably don't have mom waiting at home for them after school to push cookies, milk, and home work. Dad may only get the kdis on the weekends, and may never participate in an after school activity.

It's not Happy Days—it's the nineties, where over 81 percent of single mothers work full time to support their children, women make up almost half of the labor force, and a majority of them are mothers. Between 1950 and 1988 the number of divorces increased by at least 150 percent. Richie Cunningham's two-parent household with one parent home fulltime to take care of the children is now the exception. Only 25 percent of American families have one parent at home full time.

Most American parents work to financially support their kids—and they're working harder just to keep above water. Nonfinancial parental support and involvement do, however, make a big difference in a child's life—at the school play, or watching baseball practice, and most of all when they're working with teachers. Kids try harder when they know their parents care.

Today I am introducing two bills to help just a little to make it easier to be a parent, or a kid, or an American business that understands its future is tied to an educated work force and strong American families. The Family Education Leave Act refocuses the nineties American family on education by providing parents with 8 hours of paid leave per school year to participate in school activities of their children. Only employees with a minimum of 1 year's employment would be eligible for the leave, and they would be required to give employers 2 weeks notice of their intent to take a parent day leave. Employers will receive a 10-percent tax credit to help defer the very small cost. The Federal Family Education Leave Act provides the same leave to Federal employees who have served for at least 1 year.

I understand that businesses don't take mandates lightly. In fact, they don't like to take them at all. However, the ultimate result of this proposal is a better educated work force and stronger families, which benefit employers and America directly. The short-term inconvenience will result in long-term benefits for everyone. The Committee for Economic Development, a group of 225 corporate executive officers and university presidents, has stated the need for investing in children in its report, "Children in Need: Investment Strategies for the Economically Disadvantaged":

> This nation cannot continue to compete and prosper in the global arena when more than one-fifth of our children live in poverty and a third grow up in ignorance. And if the nation cannot compete, it cannot lead. If we continue to squander the talents of millions of our children America will become a nation of limited human potential. It would be tragic if we allow this to happen. America must become a land of opportunity—for every child.

Failure to adjust to today's realities and prepare for future challenges jeopardizes the development of America's children, the integrity of our families, and the productivity of our work force. The longer America waits to help develop our children's minds and bodies and souls, the greater the risk America takes at failing a generation of young Richie and Joanie Cunninghams. Enough studies have been completed, more than enough statistics have been compiled—it's time to bring back real happy days for America's kids.

POSITION ON VOTE ON HOUSE RESOLUTION 95

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SERRANO. Mr. Speaker, I would like the Record to reflect that had I been present on March 5, 1991, I would have voted "yes" on House Resolution 95.

I would like to qualify this by saying that, frankly, I have serious reservations about some of the language contained in this resolution. I have a feeling that these reservations were shared by some of my esteemed colleagues who voted against the resolution. So I would like to make my position on this clear.

There is no question in my mind or in my heart, that the American men and women who have served in Desert Shield and Desert Storm have "demonstrated exceptional bravery, dedication and professionalism," as stated in section 2 of the resolution. They have served their country well, and have made us proud. The pride I feel for the courage and performance of our troops is one reason I would have voted for the resolution.

My community lost two marines in Operation Desert Storm. Their families and friends were devastated by this loss, and the community drew together in sympathy, prayer, and again, in pride for these two young men who gave their lives in the service of our country. Had every congressional district lost two people, the death toll would have been considerably higher than it was. And so I feel I must add my voice to the resolution of this body, as we convey our deepest sympathy and condolences to the families and friends of those we have lost in the Operation.

The President has undoubtedly shown himself to be an effective and decisive leader of military operations. Had I written this resolution, I might have acclaimed him for his precise and effective execution of military operations in Operation Desert Storm. My reservations about this resolution stem from the praise for the President's "unerring judgment, and sound decisions with respect to the crisis in the Persian Gulf." The crisis included the November decision to double the troops in the region, the setting of the January 15 deadline, and the decision to commence offensive operations on January 16. I cannot say that I agree with these decisions.

My position throughout the gulf crisis has been that the President must have congressional authorization to take the country to war, and that sanctions should have been given

more time to work. The majority of Congress expressed the will of the American people, and the President was authorized to take us to war. I still believe that we could have spared many lives, much devastation, and billions of dollars by allowing enough time for sanctions to achieve the desired results.

I feel very deeply the sentiments expressed in this resolution, in praise of the members of the U.S. Armed Forces, and in sympathy with those who lost loved ones. And so I will not allow my reservations about the scope and language of section 1 of the resolution to keep me from showing my solidarity with the men and women sent to the gulf from the South Bronx, for whom I feel so much pride and admiration, and with those in my community who are grieving for Marine Capt. Manuel Rivera and Marine Cpl. Ismael Cotto.

Thank you, Mr. Speaker, for this opportunity to restate my position.

RECOGNIZING THE 70TH ANNIVERSARY OF NARFE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. WOLF. Mr. Speaker, I rise today to pay tribute to the National Association of Retired Federal Employees [NARFE] on the occasion of its 70th anniversary.

Less than a year after President Woodrow Wilson signed the Civil Service Retirement Act of 1920, 14 newly retired Federal workers met in Washington, DC, and founded NARFE. Today, some 70 years later, the Government's original retirement program has evolved into a complex system of rules and regulations which provide comprehensive retirement and disability income protection for more than 2 million former civil service employees and their survivors. And today, NARFE has grown into a major national organization of approximately half a million members.

The purpose of NARFE at the time of its founding was to insure proper and adequate remuneration for Federal civilian retirees after long and faithful service. After 70 years of change and growth in our society and the workplace, NARFE's mission remains the promotion and preservation of the vested retirement interests of its membership and of the entire Federal community of workers and retirees.

Mr. Speaker, it is a pleasure for me to mark the anniversary of an organization dedicated to making the Federal retirement and benefit laws responsive to the changing social and management needs of the Government, and to the evolving personnel and personal needs of its employees.

I know that all of my colleagues join me in honoring the millions of men and women who have devoted their working lives to serving this great Government. Today I also invite you to join me in congratulating NARFE as it celebrates its 70th birthday and in wishing the organization continued success in the years ahead.

TRIBUTE TO ANDREW AND ANN MORSE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. BONIOR. Mr. Speaker, today I have the distinct privilege of honoring a remarkable couple. Ann and Andy Morse will retire this month after deeply touching the lives of many individuals who ventured to the shores of Lake Huron to stay with them at the Lake Huron Methodist Camp.

Ann and Andy Morse will always be remembered for the quiet dedication, compassion, and above all, decency they brought with them into their relationships with other people.

For example, in 1980, after Andy sold his interest in a thriving construction business, he traveled to Haiti and built a much-needed church which continues to serve the local community to this day. And Ann, through her close involvement with the Muscular Dystrophy Society, has built strong bridges of her own to help people in our community afflicted with this terrible disease.

I personally know of their wonderful spirit because I have worked with them for years with my Congressional Student Leadership Summit. Their gracious hospitality and unceasing cooperation have been deeply appreciated by all of us involved in this annual program.

Mr. Speaker, over the years Ann and Andy Morse have viewed their work as a lifestyle and an extension of their faith. We in the 12th Congressional District in Michigan are, indeed, fortunate to be the beneficiaries of their good graces. I ask that my colleagues join me in saluting Ann and Andy Morse and offer them best wishes and good luck in their future endeavors.

INTRODUCTION OF THE ADMINISTRATION'S EMERGING TELECOMMUNICATIONS TECHNOLOGY ACT

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. RITTER. Mr. Speaker, today, my colleague, MIKE OXLEY, and I introduced the administration's version of the Emerging Telecommunications Technology Act of 1991. Our proposal is similar to H.R. 531, of which I am an original cosponsor, with one major exception.

Under the Ritter-Oxley proposal, the FCC will have the authority to assign licenses through a competitive bidding process.

I know that all this talk of spectrum and competitive bidding seems a little bit arcane. However, we are talking about the licensing of a natural resource, not unlike oil and gas. The Government has been successful in using competitive bidding for oil and gas licenses, an idea that seemed unworkable when first proposed. Spectrum is the telecommunications fuel of the 21st century, and the Government has to stop giving the licenses away for free.

My colleagues that are not familiar with current FCC licensing schemes may be shocked to find out the realities of licensing by lottery. The FCC was authorized by Congress to assign licenses for certain telecommunications services, such as cellular telephone, paging, and MMDS—wireless cable—by lottery. The abuses of the lottery system have made many people rich, while the public and the U.S. Treasury got nothing.

In one example, in 1989, a company was 1 of over 900 applicants for a cellular license in Cape Cod, MA. There was a lottery held, and this company held the winning number. The company had no money to build the cellular system, and worse than that, they had no intention of building the system; 79 days later, the company sold the license for more than $30 million and the public got nothing. This scenario has been repeated many times.

Our bill would cut out the middle man. The profits reaped by the lottery winners would instead be reaped by the U.S. Treasury and the American people. The bill does not change any of the other FCC licensing requirements. The same restrictions and qualifications apply to licensees. This just changes the private auction and private sale to the highest bidder into a public competitive bidding process.

It is important to note that the language of our proposal is sufficiently broad to take care of the public interest concerns inherent in communications licensing policy, such as making spectrum available for pioneering technologies and small businesses that would otherwise not have the resources to compete with larger organizations.

I urge my colleagues to join us and not let the FCC lottery fiasco continue. With a public good being licensed, is it better public policy to increase the coffers of the public, the U.S. Treasury, or the coffers of a person holding the matching number to a lucky ping-pong ball? We think the former makes for better public policy and the latter makes for more, perhaps undeserving, millionaires.

V-22 OSPREY IS AWARDED COLLIER TROPHY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. OBERSTAR. Mr. Speaker, this year the National Aeronautics Association awarded the 1990 Collier Trophy to the V-22 Osprey tiltrotor team. The Collier Trophy is among the most significant and coveted awards in the field of aviation. It is awarded annually "* * * for the greatest achievement in aeronautics or astronautics in America."

Our colleagues have become quite familiar with the V-22 Osprey. It is a tiltrotor aircraft which takes off, hovers and lands like a conventional helicopter, but when it tilts its engines forward into a converted propeller position, it flies like a turboprop aircraft, with the speed and efficiency of a turboprop. It is a remarkable machine.

The V-22 aircraft are presently undergoing flight testing. Decisions will soon be made by the Congress on the future of tiltrotor aircraft

in carrying out a number of crucial military missions.

My interest in the V–22 Osprey has focused on the potential civilian applications and the promise this technology holds for our Nation's transportation infrastructure. Because of its unique and demonstrated capabilities, tiltrotor aircraft will be able to relieve airport and airway congestion in some of our Nation's busiest air transportation markets. Since tiltrotor aircraft will be able to operate outside of the traditional aviation infrastructure, short range flights of under 300 miles could be off-loaded from congested airports, thereby making room for the growth of air services better suited to longer range markets.

In conclusion, Mr. Speaker, I also bring to our colleagues attention a recently released study sponsored by the Federal Aviation Administration and the National Aeronautics and Space Administration entitled "Civil Tiltrotor Missions and Applications—The Commercial Passenger Market." This excellent report describes in detail the civilian potential of this technology and makes recommendations to government and industry to bring this technology to fruition in the civil sector. Government and industry would do well to follow through on the recommendations in this report.

Again, congratulations to the V–22 Osprey tiltrotor team for being awarded the Collier Trophy and working so hard to earn this well-deserved recognition and honor.

ALEXANDER ADAIRE SCHOOL CELEBRATES 100 YEARS OF SERVICE

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. FOGLIETTA. Mr. Speaker, it gives me great pleasure today to honor one of Philadelphia's most outstanding educational institutions. The Alexander Adaire School was founded 100 years ago to serve the children and the Fishtown neighborhood in my district.

The school was named for the father of Alexander Adaire who was born in Kensington on May 7, 1834. Educated in the Philadelphia public schools, he served in the Pennsylvania Legislature for many years and was appointed to the Philadelphia Board of Education in 1874. After founding the school in 1891, he established night sewing classes in the mill district 2 years later, which was a seminal event in the development of a night school system in Philadelphia.

The Adaire School has been and continues to be a neighborhood school where parents and community are an integral part of the school's service to children. Adaire stresses strong fundamental skills in all areas of the curriculum as well as social skills and the democratic process.

I congratulate the many students, teachers, and parents on this occasion and pay tribute to the distinguished principals who have served the school and the community: Sarah Gilbert, 1892–1920; William McLaughlin, 1921–35; Florence Henry, 1935–39; Morris B. Ginsberg, 1939–46; John J. Welsh, 1946–52; Marion Thorpe Price, 1952–69; Edwin H. Gideon, 1969–75; Marvin Goldenberg, 1975–89; and Christopher McGinley, 1989 to present.

Mr. Speaker, I urge my colleagues to join me in paying tribute to the Alexander Adaire School. I wish the school well in its next century of serving the community of Fishtown.

THE FEDERAL EMPLOYEES ADOPTION REIMBURSEMENT ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mrs. SCHROEDER. Mr. Speaker, today I rise to reintroduce the Federal Employees Adoption Reimbursement Act, which is identical to H.R. 2764 which I introduced in the last Congress. The bill is also very similar to a military adoption program former Senator Gordon Humphrey and I initiated in the 100th Congress.

The bill would allow Federal employees to be reimbursed up to $2,000 for the adoption of a child. Reimbursable expenses include legal, agency, and counseling fees, transportation expenses, foster care charges, and medical expenses related to the biological mother, the child, and the adoptive parents.

To many childless couples adoption is the only hope for building a family. The demand for adoption is large—estimated to be as high as one of every six couples of childbearing age. The supply of children who need adoptive homes, however, is relatively small and is not responsive to the demand factors.

In 1988, the National Committee for Adoption [NCFA] estimates that there were 60,000 adoptions of all kinds by U.S. citizens, at home and abroad.

Federal employees constitute less than 2 percent of the total national work force. A generous estimate of the number of total adoptions by Federal employees would be 2 percent of 60,000 or 1,200. We say "generous" because adoption is related to race and ethnicity and persons who are not white are less likely to adopt, for many reasons, than whites. Since the percentage of nonwhites is disproportionately larger among Federal employees than the total work force, using a straight percentage is probably overestimating the potential numbers.

Adoption is very expensive, averaging about $10,000 per child, which may have deterred the less affluent nonwhite workers from adopting children. Yet, over 40 percent of adoptable children are blacks.

Some of the greatest expenses related to adoption, especially special needs adoption, are medical: The health care costs of the birth mother, the child, and the adoptive parents.

For many years the Federal Government has encouraged private employers to provide adoption benefits, yet has provided none to its own work force. This legislation would serve as a model to the private sector.

By enacting this bill, adoption will become less a privilege of the affluent. It will be available to employees of different economic classes. It will encourage minority would-be parents, who have been deterred by the high costs of adoption, to provide homes for black children who constitute over 40 percent of all adoptable children.

I urge you to join me in promoting adoption among Federal employees by supporting this legislation.

A TRIBUTE TO SGT. STANLEY BARTUSIAK

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SANGMEISTER. Mr. Speaker, it is with a heavy heart that I rise today to honor one of the Americans who made the ultimate sacrifice for their Nation last week during the Persian Gulf war.

Army Sgt. Stanley Walter Bartusiak and 27 of his comrades were killed February 25, 1991, when a Scud missile demolished the barracks they shared in Dhahran, Saudi Arabia.

Sergeant Bartusiak who lived in Romulus, MI, was a longtime resident of Calumet City, IL, which is located in my district. His sister, Phyllis Brizic, still lives there and his two sons, Matthew and Edwin, live in nearby Lansing, IL.

As with all the men and women who have died in service to our country in this war and others, Stanley Bartusiak deserves the full gratitude of this Congress and all Americans. While our Nation celebrates the liberation of Kuwait, let us not forget the sacrifices of Sergeant Bartusiak and his comrades in freeing that country. We should also keep in our thoughts and prayers Stanley Bartusiak's loved ones: His sister; his sons; his wife, Diane; his mother, Irene; his father, Walter; his two other sisters and a brother; and the rest of his family.

Mr. Speaker, let us hope that the pain of Sergeant Bartusiak's family and that of all the families of soldiers killed in this conflict is eased by the knowledge that these brave Americans gave their lives so their fellow men and women could live free from tyranny.

EMERGING TELECOMMUNICATIONS TECHNOLOGY ACT OF 1991

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. OXLEY. Mr. Speaker, today, my colleague, Mr. RITTER, and I introduced our version of the Emerging Telecommunications Technology Act of 1991. This is the same as Mr. DINGELL's H.R. 531, with one important difference—it allows the FCC to conduct a competitive bidding procedure in order to award the licenses, as opposed to the present lottery method.

I don't understand why the Federal Government must subsidize private individuals with no apparent disabilities. The Government does this when they hold private lotteries to allocate the spectrum. This bill changes the method to

a public auction, the proceeds of which go to the U.S. Treasury. After all, in a free market system, if the consumer wants a product and it belongs to someone else, he must first pay the owner for it. These spectrums now belong to the United States. So let's sell them.

These new spectrums represent billions of dollars that do not come from taxes or other programs. The emancipation of these under utilized airwaves promotes the growth of our telecommunications industries in the 21st century, while simultaneously allowing the Treasury to receive the necessary compensation.

HUMAN RIGHTS ABUSES AGAINST SYRIAN JEWS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SWETT. Mr. Speaker, recently I had the opportunity to attend the screening of "Shadows," a film depicting the extreme human rights violations toward Jews that are presently occurring in Syria. After viewing this film, my heart went out to those 4,500 Jews who are continuously persecuted by Syrian authorities. The Syrian secret police—Mukhabarat—monitor Syrian Jews by reading their mail and tapping their telephones. Jews are denied Government employment, the right to seek adequate religious education, and they are required to report to the Mukhabarat about virtually every transaction that occurs. Their synagogues have been burned, random acts of violence are common, torture is frequent, arbitrary detention and incarceration are routine, and executions are all too common. When a Jew is fortunate enough to escape from Syria, his property is turned over to the Palestinian refugee agency.

These serious injustices have continued unabated for decades. In 1948, Syria became a prison for the Jewish people because Jews were denied the right to emigrate. In 1956, Jewish homes were marked so that every Jew could be killed, and in 1967, Jews were forced to stay in their homes for 6 months so as to be easily monitored by the Syrian Government. Syrian Jews today are described by the film as "lifelong hostages and convenient scapegoats."

Mr. Speaker, I urge my colleagues to take note of the horrible plight of the Syrian Jews and condemn the Syrian Government for its gross violations of human rights against its Jewish minority.

TRIBUTE TO ARMY INFANTRY SPEC. ANDY ALANIZ KILLED IN DEFENSE OF FREEDOM

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. ORTIZ. Mr. Speaker, I rise to pay tribute to a valiant young man from Corpus Christi, TX, who made the ultimate sacrifice for freedom by fighting to liberate Kuwait after Saddam Hussein waged an evil war.

Army Infantry Spec. Andy Alaniz, a graduate of Moody High School in Corpus Christi, TX, has joined the number of brave Americans who have died in defense of freedom around the world.

In a cruel twist of irony, Specialist Alaniz was killed in the final hours of battle, right around the time President Bush declared a cessation of American offensive actions. Alaniz, a freckle-faced, left-handed baseball player is survived by his parents, his new wife, Cathy, and his yet unborn child.,

In a November letter to his own father, Andy wrote of becoming a father and expressing thanks to his father for the outstanding job the senior Alaniz had done. I read from the letter:

> The news from Cathy about the baby has made me sick to even be here. You did everything possible for us and we never even said thank you * * *. All those times you brought us candies in your lunch box and all we did we grab it and run. All those times you came to my ball games and it always made me play better. Thank you for everything you've done for me. I'm maintaining all right so don't worry about me—worry about the others. I love you, Pop, take care.

The family received a second letter from Andy the day before his funeral, dated just a few days prior to his death. He had enclosed photographs of himself, his companions, and the tank in which they operated—probably the same tank in which Andy died. He told them that he had received his sister's Valentine card and anxiously looked forward to coming home.

This young man's message to his family touches my soul. We will miss Andy, and we will always remember him. His gallant spirit will live on in the precious memories of his family and friends.

I ask my colleagues to join me in a commemoration of this brave young man who died on the battlefield, engaging the enemy in a noble cause. Help me to assure his family that they will always have the appreciation of a grateful nation. We love you, Andy.

HOUSE BIDS FAREWELL TO PASQUALE BONANNI, EXECUTIVE CHEF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. HOYER. Mr. Speaker, I want today to ask my colleagues in the House of Representatives to join me in paying tribute to Pasquale Bonanni, who retired on February 15, after 24 years as our own executive chef of the House.

Mr. Bonanni became executive chef of the U.S. House of Representatives in 1966. He has set a standard of excellence and quality service for the Members and staff of the House which will be hard to match.

Born on February 6, 1927, in Ovindali, Italy, Mr. Bonanni left his native land in 1947 to seek his fortune in America. In 1952, he returned to Italy to marry his childhood sweetheart, Anna. They returned to the United States together and took up residence in Washington, DC. For the last 19 years, Pasquale has lived in my congressional district, in Kettering, MD.

Before joining the House as executive chef in 1966, Pasquale was for 14 years the banquet chef at the Statler Hilton.

Over the many years, Pasquale has received numerous awards, including Chef of the Year in 1985.

Pasquale and Anna have two children, Mary and Robert, and have six grandchildren.

Mr. Speaker, I am proud to be able to bring to the attention of the House the accomplishments of our retired executive chef, Pasquale Bonanni. I am sure that all of my colleagues join with me in wishing Pasquale and Anna all the best that retirement has to offer, and to be assured that the U.S. House of Representatives will truly miss him.

THE 16TH ANNUAL BROOKLYN IRISH-AMERICAN PARADE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SCHUMER. Mr. Speaker, it is with great pleasure that I commemorate the 16th annual Brooklyn Irish-American Parade, taking place on March 24, 1991. This fine occasion, begun on the year of America's bicentennial celebration, continues as a reminder of the role the Irish freedom fighters played in America's battle for independence.

The parade will highlight the cultural, historical, and educational accomplishments of Brooklyn's Irish-American community and will encourage the appreciation of ancient Irish traditions. Yet the day is more than a tribute to the Irish-Americans of Brooklyn; it is a celebration of Brooklyn's cultural diversity and richness. The parade will take place in the neighborhood of Propsect Park, the historic site of the Battle of Brooklyn, the battle in which Irish freedom fighters gave their lives to secure American independence. The people of Ireland and America have always shared a common heritage in the struggle of free men and women to govern their own affairs and determine their own destiny. It is in this spirit that the Brooklyn Irish-American Parade is held every year. I am very pleased to announce that Bill Burke, senior vice-president at the Bank of Ireland, will be the grand marshal of the 1991 parade.

This year's parade will remember and commemorate the 75th anniversary of the Easter Rising of 1916. From Wolfe Tone, the father of Irish Republicism to Padraic Pearse, the President of the Provisional Government of the Irish Republic which was proclaimed on April 24, 1916, the journey continues for a free and united Irish nation. The stirring opening words of the 1916 proclamation, "Irishmen and Irishwomen, in the name of God and the dead generations from which She receives her old tradition of nationhood, Ireland, through us, summons her children to her flag and strikes for her freedom", capture the spirit of the Irish struggle for freedom. This year the parade will gratefully remember the signers of that Declaration of Irish Independence: Thomas J. Clarke, Sean MacDiarmada, Padraic H.

Pearse, James Connolly, Thomas MacDonagh, Eamonn Ceannt, and Joseph Plunkett.

We can draw important parallels between the Easter Rising of 1916 and Ireland's battle for independence commemorated in this year's Brooklyn Irish-American Parade, and the same struggle America underwent to secure its own freedom over 200 years ago. The role the Irish played in the successful American endeavor for freedom should not be forgotten, even as the Irish struggle carries on.

Mr. Speaker, I urge my colleagues to remember the spirit that the annual Brooklyn Irish-American Parade tries to recapture and the critical role that spirit has played in our own history.

CONDOLENCES TO THE FAMILY OF CPL. BRIAN SIMPSON

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. BURTON of Indiana. Mr. Speaker, I would like to call your attention to Cpl. Brian Simpson, one of the 181 U.S. soldiers who died in Operation Desert Storm. Tragically, Brian was one of those soldiers who died in an Iraqi Scud missile attack on a United States barracks in Saudi Arabia.

Brian enlisted in the U.S. Army in 1986. He was released from active duty early in January. However, he was recalled on January 31, as a refueling specialist for Apache helicopters. Brian had been in Saudi Arabia a mere 5 days before his death.

Last week, I had the opportunity to attend the funeral services for Cpl. Brian Simpson. The death of a soldier takes on a whole different meaning when you meet and see the expressions on the faces of the soldier's loved ones.

Mr. Speaker, I would like to express my heartfelt condolences to Brian's parents, Harold Simpson and Christine Jensen, Brian's wife, Hope Simpson, Brian's brother, Michael Simpson, and Brian's stepfather, James Jensen. The heart of the Nation goes out to you.

THE VETERANS ENTREPRENEURSHIP PROMOTION ACT OF 1991

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. McDADE. Mr. Speaker, today as we celebrate the restoration of freedom and peace in Kuwait, today as East-West relations move away from confrontation toward cooperation, today as we see more nations march toward democracy under the banner of newfound freedom, let us not forget for a moment those who have secured peace and our way of life for this and preceding generations. We should heed the words of Calvin Coolidge who wisely observed: "A nation which forgets its defenders will itself be forgotten." Isn't it ironic, Mr. Speaker, that when we talk about helping Americans, we seldom consider the Americans who have helped us—the men and women who have sacrificed, suffered, and bled for us. Mr. Speaker, these are the people I am here to help. Today, I am reintroducing, along with our colleagues, Mr. MONTGOMERY, chairman of the Committee on Veterans' Affairs, and Mr. PENNY, chairman of the Subcommittee on Education, Training and Employment, legislation to help American veterans become more competitive in the world of business.

The United States has benefited immeasurably from the service of the over 27 million veterans who have made great sacrifices in the defense of freedom, the preservation of democracy, and the protection of our free enterprise system. Our country also has been enriched by nearly 3.5 million veteran-owned businesses which are contributing to the vitality and prosperity of the American economy by providing goods and services, revenues, and job opportunities. Despite this progress and a seemingly high number of veteran-owned firms, research shows that veterans, particularly Vietnam-era veterans, have a low rate of business ownership in comparison to other groups. Ventures owned by veterans tend to be newer, smaller, and less secure financially than nonveteran-owned concerns. Although disabled veterans are nearly twice as likely to be self-employed as veterans who are not disabled, their inability to obtain capital results in low income levels and higher rates of business failure.

The conclusion of the Persian Gulf war will create a new generation of war-time veterans. Some of these veterans will confront the daunting task of reestablishing themselves in the civilian workplace during a recession. For many of these veterans, self-employment will provide an avenue of financial security for themselves and their families. Others will see opportunities in the marketplace and pursue careers as independent owners of small businesses. For these veterans, entrepreneurship offers the challenge of owning and operating their own firms and the rewards of developing and marketing innovative products and services. The United States has responsibility to provide the veterans of the Persian Gulf war, as well as other men and women who choose to serve their country through participation in the all-volunteer force, with the tools necessary to succeed as owners of small business concerns.

During this decade and beyond, hundreds of thousands of other veterans are expected to start small businesses. Many of these new business owners will come from among the over 8 million Vietnam-era veterans who are in that age group which generally produces the majority of new business starts. The veteran population is also expected to grow during this period as a result of global developments which will precipitate a reduction in U.S. military personnel around the world. These actions will also necessitate the closing of many domestic and overseas bases and, ultimately, result in the discharge of hundreds of military personnel. It is expected that, as these new veterans make the transition back to civilian life, many will choose the path of entrepreneurship and start small businesses.

It is in the national interest to remove all obstacles to the development and growth of veteran-owned small businesses. The elimination of such obstacles would enhance the economic vitality of the Nation and expand the number of suppliers of goods and services to the Federal Government.

Veterans have and always will merit the appreciation and special consideration of Americans. Our national policies express this. In May 1983, Supreme Court Justice William H. Rehnquist, in a decision reaffirming the special rights of veterans, said this: "Veterans have been obligated to drop their own affairs and take up the burdens of the Nation, subjecting themselves to the mental and physical hazards as well as the economic and family detriments which are peculiar to military service and which do not exist in normal civil life. Our country has a longstanding policy of compensating veterans for their past contributions by providing them with numerous advantages. This policy has always been deemed to be legitimate." The majority of Federal programs to compensate and assist veterans have been focused primarily in the areas of health care, educational benefits, and housing aid. While the Congress has acted to establish programs to assist veterans in many important areas, it has yet to provide them with something even more fundamental—economic opportunity.

Indeed, the role of government is to provide justice, preserve liberty, safeguard individual freedoms, and defend its citizens against tyranny of any kind. Yet, its duties must be viewed in a larger context. For, where possible, it should provide, not guarantee, opportunities to its citizens. Forrest P. Sherman once said this of opportunity: "No man can make his opportunity. He can only make use of such opportunities as occur." The bill I am reintroducing today provides an opportunity that has eluded veterans until now. Specifically, this legislation would create opportunities for veteran-owned small businesses to become suppliers of needed goods and services to the Federal Government through access to contract award opportunities in the $180 billion Federal market. The purpose of this legislation is to promote and assist the creation, development, and growth of small businesses owned by veterans, including those who are women and minorities.

Mr. Speaker, I have appended to this statement the bill and a section-by-section analysis. However, I believe it important to briefly summarize the main provisions of this legislation for my colleagues. First, it would create the Veterans Business Opportunity and Development Assistance Program, governmentwide procurement program to assist eligible veteran-owned small businesses to receive Federal Government contracts. The bill would establish an annual governmentwide procurement goal for veteran-owned small businesses of 5 percent of the total dollar value of all prime and subcontract awards. Veterans who have served for a specified period of duty and have been honorably discharged and who own and control on a daily basis at least 51 percent of a small business that is at least 1 year old would be eligible to participate in the procurement program. The legislation would empower the U.S. Small Business Administration to enter into contracts with other Federal

agencies to perform construction work or to furnish articles or services needed by the Government. In the capacity of prime contractor, the SBA would subcontract the work to be performed to a veteran-owned small business eligible to participate in the program. A firm would participate in the program for up to 5 years, spending not more than three of these in a developmental stage and not more than two in a transitional stage. During each stage, a firm would receive various types of assistance—financial, technical, managerial, and marketing—to help it achieve its business goals and develop competitive skills. A program participant would be required to submit an annual business report detailing his firm's contract performance capabilities. This profile would be distributed to the various purchasing agencies of the Federal Government to assist in identifying contract opportunities for veteran-owned businesses. A veterans business counselor would be assigned to each program participant to aid in meeting business plan targets and goals.

Second, the legislation recognizes that the availability of adequate capital for business start-up and expansion remains an obstacle to the development and growth of veteran-owned small businesses. It addresses this problem by establishing within the SBA a guaranteed loan program for these concerns. The SBA would also be directed to study methods to reduce costs incurred by veteran-owned small businesses in applying for and securing loans and report its findings and recommendations to the President and the Congress.

Third, veteran-owned small concerns would be eligible to participate in all SBA programs which provide entrepreneurial training, counseling, and management assistance. Funds would be authorized for the SBA to make grants to educational institutions, private businesses, nonprofit organizations, and Federal, State, and local agencies to develop and implement outreach programs for veterans. In addition, an interagency working group would be formed to develop a comprehensive outreach program to assist veterans of the Persian Gulf war and current military personnel affected by manpower reductions. This program would offer business training and management assistance, employment and relocation counseling, and provide information on veterans benefits and entitlements and the new procurement program.

Fourth, the measure requires the Department of Veterans Affairs, the Department of Labor, and the U.S. Small Business Administration to collect and report information on the number of veteran-owned sole proprietorships, partnerships, and corporations, and those that are first-time recipients of Federal contracts. Improving data collection on veterans will help establish a reliable statistical picture of veteran-owned businesses in America. It will also help policymakers and lawmakers pinpoint special needs of veterans and identify areas where policy changes and program improvements are needed.

Fifth, the legislation would create a nine-member National Veterans Business Council made up of high-level Federal officials and private sector representatives appointed by the President. The council would review the role of Federal, State, and local government in assisting veteran-owned small businesses as well as compile data relating to all veteran-owned businesses. The council, based upon its review, would develop detailed multiyear plans, with specific goals and timetables, for both public and private sector actions to promote increased business development and ownership by veterans.

Our Government has a responsibility to help the veterans of this Nation because of the sacrifices they have made in the service of their country. Acknowledging the Nation's special debt to these individuals, Theodore Roosevelt said in 1903: "A man who is good enough to shed his blood for the country is good enough to be given a square deal afterwards. More than that no man is entitled to, and less than that no man shall have." We need to recognize the contributions and remember the sacrifices of our men and women in uniform with more than speeches of gratitude and praise. Let us show our gratitude by giving them something they have never had before—an economic opportunity. Mr. Speaker, this bill provides that opportunity, the square deal that they deserve. I strongly urge my colleagues to join me in guaranteeing this opportunity to all veterans by supporting this bill.

A section-by-section summary of the bill follows:

SECTION-BY-SECTION SUMMARY OF THE VETERANS ENTREPRENEURSHIP PROMOTION ACT OF 1991

SECTION 1. SHORT TITLE

This Act may be cited as the "Veterans Entrepreneurship Promotion Act of 1991."

SECTION 2. FINDINGS, PURPOSES, AND DEFINITIONS

Findings

The Congress finds that the United States has benefitted immeasurably from the service of over 27,000,000 veterans who have made great sacrifices in the defense of freedom, the preservation of democracy, and the protection of our free enterprise system. Nearly 3,500,000 veteran-owned businesses contribute to the vitality, strength, and prosperity of the American economy by providing goods and services, revenues, and job opportunities.

Despite this progress, veterans, particularly Vietnam-era veterans, have a low rate of business ownership in comparison to non-veterans. Businesses owned by veterans are newer, smaller, and less secure financially than businesses owned by non-veterans. Although disabled veterans are nearly twice as likely to be self-employed as veterans who are not disabled, their inability to obtain capital results in low income levels and higher rates of business failure.

The conclusion of the Persian Gulf War will create a new generation of war-time veterans. Some of these veterans will confront the daunting task of reestablishing themselves in the civilian workplace during a recession. For many of these veterans, self-employment will provide an avenue of financial security for themselves and their families. Others will see opportunities in the marketplace and pursue careers as independent owners of small businesses. For these veterans, entrepreneurship offers the challenge of owning and operating their own firms and the reward of developing and marketing innovative products and services. The United States has a responsibility to provide the veterans of the Persian Gulf War, as well as other men and women who choose to serve their country through participation in the all-volunteer force, with the tools necessary to succeed as owners of small business concerns.

During the 1990's, hundreds of thousands of other veterans are expected to start small businesses. Many of these new business owners will come from among the other 8,000,000 Vietnam-era veterans, who are generally in the 35–45 age category, the age group producing the majority of new business starts.

In all likelihood, global developments during this decade will precipitate a reduction in U.S. military forces and the closing of bases, causing thousands of men and women to join the existing veteran population. It is expected that many of these veterans will pursue the path of entrepreneurship and start small businesses.

It is in the national interest to remove all obstacles to the development and growth of businesses owned and controlled by veterans. The elimination of such obstacles would enhance the economic vitality of the nation and expand the number of suppliers of goods and services to the federal government.

Purposes

The purposes of this Act are: to foster enhanced entrepreneurship among veterans by providing increased opportunities; vigorously promote the legitimate interests of business concerns owned and controlled by veterans; and ensure that those concerns receive a fair share of purchases made by the federal government.

Definitions

The term "Administration" means the Small Business Administration and the term "Administrator" refers to the Administrator of the SBA. The terms "veteran" and "small business concern owned and controlled by veterans" have the meaning such terms have within the Small Business Act.

SECTION 3. SMALL BUSINESS ACT DEFINITIONS

The term "small business concern owned and controlled by veterans" is defined as a concern that is at least 51 percent owned by one or more veterans, or in the case of a publicly owned business, at least 51 pecent of the stock of which is owned by one or more veterans, and whose management and daily business operations are controlled by such veterans.

The term "veteran" means an individual who received an honorable discharge and was discharged or released (1) for a service-connected disability; (2) from active duty after having served on duty for a period of not less than 2 years; (3) from active duty for the convenience of the federal government; or (4) following either 180 days of continuous active duty or the period of call-up as an activated member of the Selected Reserve during the Persian Gulf War. The term "Persian Gulf War" means the period beginning on August 2, 1990 and ending on the date prescribed by Presidential proclamation or by law.

SECTION 4. PROCUREMENT ASSISTANCE

The Act requires the President to establish annually a government-wide goal that not less than five percent of the total dollar value of all federal prime and subcontract procurement be awarded to veteran-owned small businesses. The annual government-wide goal for participation by small business concerns is increased from not less than 20 percent to not less than 25 percent. The Act also requires the head of each federal agency, after consultation with the Small Business Administration (SBA), to establish annually

a goal for procurement from veteran-owned small businesses and to attempt annually to increase participation by such businesses in each industry category in procurement contracts of the agency. The goals should realistically reflect the potential of veteran-owned businesses to perform federal procurement contracts and subcontracts. [Note: The Small Business Act already requires such government-wide and agency goal-setting procedures for small businesses and for small businesses owned and controlled by social and economically disadvantaged individuals.]

SECTION 5. REPORTING.

The bill requires the head of each federal agency to submit to the SBA annual reports on the extent of participation in procurement contracts by veteran-owned businesses and to justify failures to meet the goals. The SBA will analyze these submissions and annually prepare a report to the President detailing the extent of participation in federal procurement contracts by veteran-owned businesses. The President will include this information in each annual report to the Congress on the State of Small Business. [Note: The Small Business Act already requires the President's annual report on the State of Small Business to include data on federal procurement contracts performed by small businesses and by small businesses owned and controlled by socially and economically disadvantaged individuals.]

SECTION 6. SUBCONTRACTING.

The Act makes it the policy of the United States that veteran-owned small businesses shall have the maximum practicable opportunity to participate in the performance of contracts and subcontracts let by any federal agency and that prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with veteran-owned small businesses. To this end, all contracts let by any federal agency, with certain exceptions, will contain a clause requiring prime contractors to agree to carry out this policy in the awarding of subcontracts, to the fullest extent consistent with the efficient performance of the contract. Any procurement contract that exceeds $500,000 (or $1,000,000 in the case of construction contracts) must contain a subcontracting plan that provides the maximum practicable opportunity for veteran-owned businesses to participate in the performance of the contract. Each subcontracting plan must include percentage goals for the utilization of veteran-owned businesses as subcontractors and a description of the efforts the bidder will take to assure that veteran-owned businesses will have an equitable opportunity to compete for subcontracts. If a successful bidder fails to submit an acceptable subcontracting plan within the time limit prescribed in the agency regulations, the bidder will become ineligible to be awarded the contract. [Note: The Small Business Act already contains the same subcontracting requirements for small businesses and for small disadvantaged businesses.]

SECTION 7. INFORMATION COLLECTION.

It will be the responsibility of the SBA during each fiscal year to obtain information concerning the procurement practices and procedures of federal agencies and to disseminate upon request such information to veteran-owned small businesses.

The legislation requires the Secretary of Veterans Affairs, in consultation with the Assistant Secretary of Labor for Veterans' Employment and Training and the Administrator of the SBA, to undertake efforts each fiscal year aimed at identifying veteran-owned small businesses. The Secretary will advise these businesses that information concerning federal procurement is availble from the SBA.

The Secretary of Veterans Affairs is directed to collect procurement data from federal agencies on small business owned and controlled by veterans that, beginning with fiscal year 1991, are first-time recipients of contracts.

This legislation requires the Assistant Secretary of Labor for Veterans' Employment and Training to annually collect and make available information on firms owned and controlled by veterans.

SECTION 8. STATE OF SMALL BUSINESS REPORT.

The Act amends the Small Business and Economic Policy Act of 1980 to require that information on small businesses owned and controlled by veterans—including those owned by disabled veterans—be included in the annual State of Small Business Report.

SECTION 9. LOANS TO VETERANS.

This section of the proposed legislation amends the Small Business Act by adding a new section that authorizes the SBA to enter into agreements with banks or other financial institutions to make loans to small business concerns owned and controlled by veterans—including loans to veterans under the Veterans Business Opportunity and Development Program—with SBA guaranteeing to pay part of any loss sustained by the lender.

To be eligible for program participation, the SBA must determine that the type and amount of assistance requested by the veteran-owned businesses are not otherwise available on reasonable terms from other sources. The SBA must also determine that other general eligibility requirements are satisfied.

The proposed bill increases certain loan-guarantee percentages in connection with SBA guaranteed loans to veteran-owned small businesses. Specifically, the guarantee may not be less than 95 percent for loans of $155,000 or less. For loans that exceed $155,000, the guarantee may not be less than 80 percent nor more than 90 percent. Under 7(a) general business loan program, the current guarantees for loan amounts are as follows: the guarantee may not be less than 90 percent for loans of $155,000 or less. For loans that exceed $155,000, the guarantee may not be less than 70 percent nor more than 85 percent. The federal government exposure may not exceed $750,000.

The Act permits participating lenders to retain one-half of the fee collected on loans to veterans under this section, including loans in excess of $50,000.

The legislation requires that within 90 days of the Act's enactment the Administrator of the SBA issue regulations to ensure that loans made under the Veterans Business Opportunity and Development Program are favorable to veterans in terms of maturity and assessing the borrower's collateral. More specifically, the length of the loans is to be the longest feasible commensurate with ability to repay. Subject to certain exceptions, loan maturities may not exceed 12 years.

The Administrator of the SBA will study ways to reduce the costs to veterans of participating in the program, and will within one year submit to the President and the Congress a report of findings together with legislative and administrative recommendations.

SECTION 10. ENTREPRENEURIAL TRAINING, COUNSELING, AND MANAGEMENT ASSISTANCE.

The Administrator of the SBA will facilitate access of business concerns owned and controlled by veterans to SBA's business development and assistance programs, including the Small Business Development Center, Small Business Institute, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE) programs.

SECTION 11. GRANTS FOR VETERANS OUTREACH PROGRAMS.

The Act would permit the SBA to make grants to and enter into contracts and cooperative agreements with various governmental and private organizations in order to establish outreach programs for veterans.

SECTION 12. OUTREACH PROGRAM FOR VETERANS OF THE PERSIAN GULF WAR AND VETERANS AFFECTED BY REDUCTIONS IN ARMED FORCES PERSONNEL.

The Act directs the SBA Administrator, the Secretary of Veterans Affairs, and the Assistant Secretary of Labor for Veterans' Employment and Training to establish an interagency working group to develop a comprehensive outreach program to assist veterans of the Persian Gulf War and veterans affected by military manpower cuts. The program would offer business training and management assistance, employment and relocation counseling, and provide information on veterans benefits, entitlements, and the new procurement program.

SECTION 13. ASSOCIATE ADMINISTRATOR FOR VETERANS PROGRAMS.

The bill creates within the SBA the positions of Associate Administrator for Veterans Programs and Deputy Associate Administrator for Veterans Programs to formulate and execute policies and programs established by this bill, including the Veterans Business Opportunity and Development Program.

SECTION 14. ESTABLISHMENT OF VETERANS BUSINESS OPPORTUNITY AND DEVELOPMENT PROGRAM.

This section of the proposed legislation amends the Small Business Act by adding a new section that establishes within the SBA a government-wide program—the Veterans Business Opportunity and Development Program—to assist certified veteran-owned small businesses to receive federal procurement contracts.

The Act empowers the SBA to enter into contracts with other federal agencies to perform construction work for the Government or to provide articles, equipment, supplies, services or materials. (The bill sets forth procedures by which the SBA can appeal decisions by agency procurement officers not to make available to the program contracts that the SBA certifies itself competent and responsible to perform.) Acting in the capacity of prime contractor, the SBA will subcontract work to be performed to veteran-owned small businesses that have been certified for participation in the Veterans Business Opportunity and Development Program.

Certified firms will be eligible to receive specific contracts if they have been deemed capable of performing the work and if contract awards would not result in costs to the awarding agency that exceed a fair market price. Contracts will be awarded on the basis of competition restricted to certified firms if there is a reasonable expectation that at least two eligible firms will submit offers at a fair market price. The bill specifies procedures for the determination of fair market prices.

To be eligible for program participation, veteran-owned businesses must meet certification requirements contained in regulations to be issued by the SBA. Such regulations will require that firms certify annually that they are owned and controlled by veterans (a business must be at least 51 percent veteran-owned) and that firms have been in business for a period of not less than one year before the date of application. The Administrator may waive the one-year business operation requirement in appropriate cases. Firms must certify that they have not received and will not assert eligibility to receive procurement contracts under the section 8(a) program of the SBA or the section 1207 program of the Department of Defense.

The SBA will issue regulations establishing a limitation on the personal net worth of program participants. Each program participant will annually submit to the SBA a personal financial statement for each owner upon whom eligibility was based. Whenever the SBA finds that owners have withdrawn excessive amounts of funds or other assets from their firms, to the detriment of the business plans of the firms, the SBA can initiate proceedings to terminate the firms from program participation or require the reinvestment of funds or other assets. The computation of personal net worth of owners will exclude the value of investments that veteran owners have in their firms and the equity they have in their primary personal residences.

Program participants must be able, with contract, financial, technical and management support, to perform contracts that they may be awarded. The SBA cannot apply its regulations and procedures in ways that would inhibit the logical business progression of firms into areas of industrial endeavor not included in their business plans but where they have potential for success.

Program participants have the right to a hearing on the record before the SBA can take certain actions such as denial of program admission or termination of program participation. The bill contains guidelines for the conduct of such hearings.

The SBA is required to develop and implement an outreach program to encourage veteran-owned small businesses to apply for program participation.

To the maximum extent practicable, construction subcontracts are to be awarded within the county or state where the work is to be performed.

The Act requires program participants annually to submit capability statements to the SBA. These statements will be used by the SBA to disseminate information about program participants to appropriate federal procurement officers, who will, in turn, notify relevant veterans business counselors of their contracting opportunities over the succeeding 12-month period.

In the case of contracts for services, program firms must expend at least 50 percent of the cost of contract performance incurred for personnel on their own employees. In the case of contracts for supplies, program firms must perform at least 50 percent of the cost of manufacturing the supplies. Exceptions may be granted under certain circumstances. The SBA will establish similar requirements for construction contracts and contracts for other industry categories not otherwise covered.

Program participants that are primarily engaged in wholesale or retail trade, that are regular dealers of the product to be offered the government, and that agree to supply products domestically produced by small businesses, will not be denied the opportunity to submit bids for procurement contracts solely because they are not the actual manufacturer or processor of the product to be supplied.

The Act prohibits designated SBA employees from engaging in certain activities or transactions with respect to program firms. These prohibitions continue for two years after SBA employment is terminated. Penalties for violations are specified.

SBA employees involved in the program are prohibited from acting on the basis of the political activity or affiliation of any party. Disciplinary actions are spelled out for infractions of this prohibition.

Program participants must report semiannually to their assigned veterans business counselors the names of persons other than employees who have received compensation for assistance in obtaining federal contracts, the amount of compensation received, and a description of the services they provided. Reports that raise suspicions of improper activity will be reported by the Associate Administrator for Veterans Programs to the SBA Inspector General. Failure to submit these reports will be cause for termination from the program.

Contracts awarded to program firms must be performed by the firms that were initially awarded the contracts. This requirement can be waived by the SBA under certain specified circumstances, such as if it is necessary for the owners temporarily to surrender partial control in order to obtain equity financing. Firms performing contracts must notify the SBA immediately upon entering agreements to transfer all or part of ownership interests to other parties.

The Associate Administrator for Veterans Programs will manage the veterans business opportunity and development assistance program. The program will assist certified firms to develop and maintain comprehensive business plans; provide other services such as loan packaging, financial counseling, marketing assistance and management assistance; assist firms to obtain equity and debt financing; regularly monitor firms' compliance with their business plans; analyze and report the causes of success and failure of program firms; and assist firms to obtain surety bonds.

The term of participation in the program is set at five years from date of certification, unless terminated or graduated earlier.

Promptly after certification, program participants will submit business plans for review by their assigned veterans business counselors. The business plans must be approved by the counselors before firms can be awarded contracts. The business plans will analyze firms' prospects for profitable operations during the term of program participation and thereafter, and analyze firms' strengths and weaknesses with particular attention to conditions that might impede firms from being awarded contracts from non-program sources. The business plans must also contain specific targets, objectives and goals for business development during the next and succeeding years, specific management steps to be taken to assure profitable operations after graduation, and estimates of contract awards from the program and other sources that will be required to meet the targets, objectives and goals of the plan.

Program firms will annually review their business plans with their veterans business counselors and modify their plans as necessary. Modified plans must be approved by the counselors. Firms will annually forecast their needs for contract awards under the program for the next year and the succeeding year to establish their "section 28(a) contract support levels," which will be included in the business plans. These forecasts will include the aggregate dollar value of contract support to be sought under the program, the types of contract opportunities being sought, and any other relevant information requested by the counselors.

Certified firms will be denied all program assistance if they voluntarily elect not to continue participation, if their participation exceeds the prescribed time limits, if they are terminated from the program, or if they are graduated from the program. The act specifies actions by firms that would provide good cause for termination, and outlines steps that must be taken to terminate firms.

The terms "graduated" or graduation" mean that firms have successfully completed the program by substantially achieving the targets, objectives and goals contained in their business plans.

The five-year period of program participation is divided into two stages: the developmental stage, which will last no more than three years, and the transitional stage, which will last no more than two years. During the developmental stage, firms will take all reasonable efforts to attain the targets contained in their business plans for the awarding of non-program contracts, referred to in the Act as their "business activity targets."

During the transitional stage, firms will be subject to SBA regulations regarding business activity targets. The Act requires that these regulations establish business activity targets expressed as a percentage of total sales for the award of non-program contracts. Program firms will be required to attain their business activity targets and to certify that they have complied with the regulations regarding business activity targets during the transitional state of program participation. The regulations will require the SBA periodically to review each firm's performance regarding attainment of business activity targets and will authorize the SBA to take appropriate remedial measures in cases where firms have failed to attain their required business activity targets.

Any veteran who is eligible for program participation can assert eligibility for only one firm. Previous program participants cannot be readmitted to the program. Firms that undergo a transfer of ownership and control to other veterans can remain in the program for the duration of the prescribed period of five years.

A Division of Program Certification and Eligibility will be established within SBA's Office of Veterans Programs and will be responsible for receiving, reviewing and evaluating applications for certification; advising each applicant within 15 days after receipt of an application as to the completeness of the application; making recommendations on applications to the Associate Administrator for Veterans Programs; reviewing and evaluating financial statements and other submissions to ascertain continued eligibility of firms to receive subcontracts; making requests for termination or graduation proceedings; deciding protests from firms denied certification; deciding protests regarding whether a firm is owned and controlled by veterans; and implementing policy directives of the Associate Administrator for Veterans Programs.

Applicants cannot be denied admission to the program solely because contract opportunities are unavailable unless the govern-

ment has never bought and is unlikely to buy the types of products or services offered by the concern, or unless the purchases of such products or services by the federal government will not support all of the program applicants and participants providing the same or similar items or services.

The Director of the Division of Program Certification and Eligibility is required to conduct annual reviews of the firms admitted during the previous year to ascertain the number of entrants, their geographic distribution and industrial classifications. These annual reviews will include estimates of the expected growth of the program during the next fiscal year and the number of additional veterans business counselors required to meet this growth. Based on these reviews, the Associate Administrator will annually issue policy and program directives to solicit applications from underrepresented regions and industry categories, and to allocate program resources to meet program needs. A goal of these annual reviews will be to achieve an equitable geographic distribution of firms and a distribution of concerns across all industry categories, emphasizing areas where federal purchases have been substantial but participation by veteran-owned concerns has been limited.

Subcontracts can be awarded only by small business concerns. If the SBA receives credible information that a program participant is no longer eligible, an eligibility evaluation will be conducted. If the information is found to be true, the SBA will initiate termination proceedings.

The program is divided into two stages: a developmental stage and a transitional stage. The developmental stage is designed to assist firms to access their markets and strengthen their financial and managerial skills. The transitional stage is designed to prepare them for graduation from the program.

Firms in the developmental stage are qualified to receive the following assistance: contract support; financial assistance under the SBA's section 7(a) loan program; and training assistance to help program participants develop principles and strategies to enhance their ability to compete successfully for contracts in the marketplace.

Firms in the transitional stage of program participation are qualified to recieve the following assistance: contract support; financial assistance under the SBA's section 7(a) loan program; joint ventures, leader-follow arrangements and teaming agreements between program participants or with outside firms with respect to contracting opportunities for the research, development, full-scale engineering or production of major systems; and transitional management business planning training and technical assistance.

Program firms will spend not more than three years in the developmental stage and not more than two years in the transitional stage.

The SBA will develop and implement a process for the systematic collection of data on the program. The SBA will submit an annual report to the Congress that will include, among other items specified in the legislation, a breakdown of the personal net worth of program participants, a listing by region, race or ethnicity of such participants, the costs and benefits to the economy from the program, an evaluation of firms that have exited the program during the immediately preceding three years, and a description of resources needed to operate the program over the succeeding two years.

The legislation authorizes the SBA to utilize the services and facilities of federal agencies, States and localities without reimbursement, to accept gifts and bequests for the benefit of the program, to accept voluntary services, and to hire experts and consultants in accordance with the requirements of law.

SECTION 15. NATIONAL VETERANS BUSINESS COUNCIL.

This section creates the National Veterans Business Council. The Council will review the role of federal, state and local governments in assisting veterans-owned small businesses. It will also gather and compile data relating to veteran-owned businesses, veteran-owned small businesses, small businesses owned by disabled veterans, and veteran-owned small disadvantaged businesses. In addition, the Council will provide information on other government initiatives relating to veteran-owned businesses, including those relating to federal procurement. The Council, based upon its reviews, will recommend to the President and the Congress new private sector initiatives to provide management and technical assistance to veteran-owned small businesses, ways to promote greater access to public and private sector financing and procurement opportunities for such businesses, and detailed multiyear plans, with specific goals and timetables, for both public and private sector actions to promote increased business development and ownership by veterans. Such recommendations shall be provided annually.

The Council is composed of nine members, appointed by the President after consultation with the chairman and ranking minority member of each of the Committees on Veterans' Affairs and Small Business of the House of Representatives and the Senate. The Council will have the following ex-officio members: the Administrator of the Small Business Administration, the Secretary of Veterans Affairs, the Secretary of Labor, the Secretary of Commerce, the Secretary of Defense, and the Administrator of the General Services Administration.

Appointments from the private sector will be made from among individuals who are specially qualified by virtue of their education, training and experience, who are recognized authorities in the field of business and small business and who are not officers or employees of the federal government or Congress. At least two members appointed by the President must be veterans and at least two members must be small business owners. Appointees will be selected to achieve a balanced geographical representation and will serve for the life of the Council except for those that become officers or employees of the federal government or of the Congress. A vacancy on the Council will be filled in the manner in which the original appointment was made.

Members of the Council will serve without pay, except that they will be entitled to reimbursement for travel, subsistence and other necessary expenses incurred in carrying out the functions of the Council.

Two members of the Council will constitute a quorum for the receipt of testimony and other evidence, and a majority of the Council will constitute a quorum for the approval of recommendations or reports submitted to the President and the Congress. The Chairman and Vice Chairman of the Council and their terms of office will be designated by the President. The Council will meet not less than two times a year at the call of the Chairman.

The Council will have a Director and not more than four additional personnel appointed by the Chairman. The Director and staff of the Council can be appointed outside of the competitive service at rates of pay not to exceed the basic annual rate for GS-18 of the General Schedule. The Council can procure temporary and intermittent services at rates not to exceed the daily equivalent of the maximum annual rate payable for GS-18. The head of any federal department or agency can detail, on a reimbursable basis, personnel to assist the Council upon request of the Chairman.

The Council can meet, hold hearings, take testimony, receive evidence and consider information such as it considers appropriate. The Council can authorize its employees to act on its behalf. The Council is authorized to obtain information from any federal department or agency, except as otherwise prohibited by law, including technical and advisory assistance from the SBA. The Council can use the U.S. mails in the same ways as other federal departments and agencies. The General Services Administration will provide to the Council, on a reimbursable basis, administrative support services.

The Council will transmit to the President and to each House of Congress an annual report on its activities during the preceding fiscal year, its findings and conclusions, and its recommendations for legislative and administrative actions.

The Council will terminate not later than three years after its first meeting.

SECTION 16. AUTHORIZATION OF APPROPRIATIONS.

The legislation authorizes $4,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the Veterans Business Opportunity and Development Program. In addition to this amount, up to $350,000 is authorized for fiscal year 1992; up to $200,000 for fiscal year 1993; and up to $175,000 for fiscal year 1994 for training and education of personnel in the Office of Veterans Programs and its divisions. For each of fiscal years 1992, 1993, and 1994, up to $1,250,000 per fiscal year would be available for the SBA to carry out veterans outreach activities.

The legislation makes clear the intent of Congress that appropriations authorized by this Act to carry out various programs and activities within various departments and agencies should not raise from current amounts the aggregate appropriations to such department or agency.

JUDGE JAY W. MYERS HONORED FOR 20 YEARS ON THE BENCH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a fine jurist, Judge Jay Myers, who is retiring from the Court of Common Pleas of the Commonwealth of Pennsylvania after 20 years.

Judge Myers was born in Nescopeck, PA, and graduated from Berwick High School. After serving with the U.S. Marines during World II, Judge Myers graduated from Penn State in 1949 and then completed his J.D. from Duke University Law School in 1952.

Soon thereafter, he entered private practice. Involved in the local community, Judge Myers acted as solicitor for the Bloomsburg Area Industrial Development Corp. from 1963 to 1971. He also served as Columbia County

Public Defender from 1969 to 1971, president of the Columbia-Montour Bar Association and solicitor of the Columbia County Planning Commission from 1965 to 1971.

In 1971, he was elected presiding judge of the Court of Common Pleas of Columbia and Montour Counties, where he has served in that capacity until his retirement.

A devoted husband and father of three, Judge Myers is the past president and honorary member of the Bloomsburg Rotary Club, past president of the Bloomsburg Area Chamber of Commerce, a member of the Pennsylvania Trial Judges Association and was recently inducted into the Berwick High School Academic Hall of Fame.

I would like to take this opportunity to thank Judge Myers for his dedicated service to the people of northeastern Pennsylvania. I know my colleagues join me in wishing him well in his retirement.

MIAMI'S COMMITTEE ON BEAUTIFICATION AND THE ENVIRONMENT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the city of Miami has designated the month of April as "Fight Litter Month." Fighting the problem of solid waste in our cities is an ongoing offensive, but this month is set aside to bring special emphasis to the problem. In addition to shedding light on the problem, "Fight Litter Month" in Miami will show that we can make a difference, that we can reclaim our cities from creeping pollution and decay.

The leadership of E. Albert Pallot, chairman of the city of Miami's Committee on Beautification and the Environment, helped bring about "Fight Litter Month." Also responsible were: First vice chairman, Roger Barreto, and vice chairpersons, Chief Perry Anderson, Hon. Philip Bloom, Margaret Burton, Chief C.H. Duke, Elaine Rheney-Fischer, Kathy Gaubatz, Thelma Gibson, E.R. Gomez, Joseph Ingraham, Alfred Browning Parker, Ralph Renick, Richard Schulman, Betty Waldor, Charles A. Whitcomb, Edna Downey, and Administrator, Morty Freedman.

Much valuable counsel and support for this litter fighting initiative also came from the board of directors, made up of: Marie L. Balban, Pablo Canton, David R. Couch, Peggo Cromer, Clarence Dickson, W. Trent German, Lewis T. Harms, Beverly Harris, Milton Harry, Nancy B. Hogan, Nevin Isenberg, Adan Jimeno, Ruth Kassewitz, Joy Finston-Landy, Joseph C. Lorenzo, Carmen Lunetta, Francis Mayville, Milton Mizell, Delia Muckinhaupt, Van Myers, Rev. John Paul Nagy, Ruth Neinken, Ivan Osorio, Suzanne Pallot, Stephen Pearson, Jorge Pupo, Suzanne Salichs, Guy Sanchez, Marjorie Serrales.

Together, these citizens of Miami have determined to fight the problem of litter head on. Only by taking on the problems of society as our own and solving them courageously will we grow as a society. Mr. Speaker, I commend the city of Miami and in particular the committee on beautification and the environment for their efforts at home to make our Nation a better place to live in with "Fight Litter Month."

On April 19, the committee will be holding an important meeting where the members will discuss the results of their efforts in "assisting Miami to maintain its position as one of the clean cities of America." I commend Chairman Pallot for his valuable leadership on this cleanup effort.

A SALUTE TO CLARENCE E. DEPPE, JR.

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. VOLKMER. Mr. Speaker, I rise today to recognize an individual who has carried on a family tradition by demonstrating true allegiance to his employer. Clarence E. Deppe, Jr., began working at the Harbison-Walker Refractories in Vandalia, MO, on December 17, 1940, following his father, the late Clarence Deppe, Sr., and his brother, Ed Deppe. Together the Deppes have accumulated some 138 years in service at Harbison-Walker.

Just recently, Mr. Speaker, Mr. Deppe was recognized by the company on his 50th anniversary. And equally as important to note here, sir, Mr. Deppe is not retiring. He plans to continue his work in the plant's machine shop section.

I do not know of any other person who can boast of such an accomplishment in my district. In fact, having a company that has continued operations that long is a milestone in Missouri's Ninth District.

Mr. Speaker, I know you join me in congratulating Mr. Deppe for his 50 years of service and Harbison-Walker which just celebrated its anniversary also. It has been in business 125 years.

INTRODUCTION OF THE ALLARD-SCHAEFER COLORADO WILDERNESS BILL

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SCHAEFER. Mr. Speaker, I rise today to make some comments about the bill introduced today by my colleague from Colorado, WAYNE ALLARD, and myself, which would designate over 850,000 acres of public lands as wilderness in the State of Colorado.

Wilderness areas, and the unique recreational opportunities available in them, have been a focal point of attention and controversy in our outdoors-minded State for a number of years. This legislation would designate over 30 new areas as wilderness, but would do it in a careful and responsible manner.

This proposal is a comprehensive approach to the question of wilderness. We have taken the recommendations of land managers with the Bureau of Land Management and the Forest Service, along with the recommendations of thousands of Colorado residents, in crafting a bill which contains carefully scrutinized areas and boundaries. We have combined both the Forest Service and the BLM wilderness recommendations into a single package, taking a holistic approach to wilderness designation.

Close attention was paid to the rights of individual property holders—private lands, water rights, and mineral claims. We have seen in the past how our actions in this body have trampled the rights of individuals for the common good: This bill attempts to minimize these impacts.

The bill also includes language to protect the rights of water owners in our State. Water is the lifeblood of the Western United States, and as our western drought continues, the importance of protecting individual water users becomes even more imperative. This legislation attempts to do that. It protects Colorado water users while still allowing a framework for the Government to obtain water for wilderness areas, hopefully settling the decades-long debate on federally reserved water rights.

In short, this is a responsible bill with manageable boundaries that protects private rights. I look forward to its consideration by the House of Representatives and the people of Colorado.

NEW HAMPSHIRE SALUTES THE EMPLOYEES OF TEST SYSTEMS, INC.

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SWETT. Mr. Speaker, I am extremely proud to call the attention of my distinguished colleagues to the herculean effort made by a small New Hampshire company, Test Systems, Inc., of Hudson, in developing its antifratricide identification system, or friendly fire device, for use in Operation Desert Storm.

The problem of friendly fire—casualties incurred when forces from the same army mistakenly open fire on their own soldiers—has long haunted military campaigns. Several servicemen were killed in the early days of Operation Desert Storm when a coalition helicopter pilot fired into a group of Allied ground forces that he had mistakenly identified as the enemy.

Seeing that there was a desperate need to prevent such casualties, Test Systems, Inc., began working on a practical solution to prevent them.

In a matter of only 21 days, the technicians, researchers, manager, and production people at Test Systems, Inc., took an idea for a device to prevent friendly fire casualties and turned it into reality.

On February 4, 1991, Robert Walleston, an engineering technician at Test Systems, Inc., came up with the idea of mounting infrared beacons on armored vehicles to provide allied aircraft with a means of clearly identifying the equipment as friendly.

Twenty-one days later on February 25, a day after the ground war portion of Operation Desert Storm had begun, the first anti-fratricide devices [AFID] were being delivered to Saudi Arabia for installation on tanks and armored vehicles involved in front-line conflict.

By March 3, Test Systems, Inc., had produced and delivered 196 units to the Persian Gulf. Four days later, a total of 2,000 more units had been produced and were awaiting Department of Defense instructions concerning shipment.

I am very pleased that my office was able to play a role in making the production of the AFID units a reality by helping to put the people at Test Systems, Inc., in touch with the proper officials at the Department of Defense.

Fortunately our forces are no longer fighting in the gulf. However, if we find ourselves in the position of going to war again, our servicemen can feel safer now that these AFID units are being installed on our tanks and armored vehicles.

Mr. Speaker, the fact that this small New Hampshire company was able to move from creation to production of a lifesaving military device in only 21 days is almost unbelievable. And it would be unbelievable, were it not for the tremendous combination of hard work, technological know-how, and gritty determination displayed by the workers of Test Systems, Inc., over an incredibly hectic 21-day period.

Their ability to make this project happen is a shining example of the American spirit at work. In the middle of the Persian Gulf conflict, the employees of Test Systems, Inc., were able to rise to the occasion and deliver these devices to the front-line troops in Operation Desert Storm.

I am proud that Test Systems, Inc., is located in the district that I represent. I like to think that the determiantion and can-do mentality displayed by the employees of Test Systems, Inc., is indicative of the people of New Hampshire.

Mr. Speaker, the Department of Defense was so impressed by the quality of workmanship and speed of the delivery by Test Systems, Inc., that earlier this month it negotiated a new contract with the company for 3,000 more units at a cost of $3.2 million.

In addition, a representative from the Joint Chiefs of Staff recently presented Test Systems, Inc., with a plaque inscribed with the words "Great Effort."

I would like to echo that sentiment and ask that my colleagues join me in paying tribute to this outstanding company, Test Systems, Inc.

NOTCH REFORM

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. BALLENGER. Mr. Speaker, since my election to Congress, the Social Security notch issue has been a point of contention between my senior constituents and me. Time and again I have stated that I would like to have this issue settled once and for all by having an up or down vote on notch reform legislation. In fact, in the 100th and 101st Congress, I signed a discharge petition so that the House would have the opportunity to vote on this issue. As you know, these efforts have been to no avail.

Again in the 102d Congress, notch reform legislation has been introduced, and again, I have been contacted by seniors asking for my support of the bill. This year, Congressman EDWARD ROYBAL (D–NJ) introduced so-called consensus legislation (H.R. 917) that combines the efforts of several Members of Congress in reforming the notch. The proposal attempts to balance several proposals introduced last year by combining provisions.

H.R. 917 would include as its centerpiece a new 10-year transitional formula for persons born between 1917 and 1926. The new formula would add to current benefits a declining percentage of the difference between what would be benefits under the old flawed 1971 formula and the 1977 law's permanent formula.

I maintain the current system is fair, and the most fiscally sound. Proponents of the change argue that this new proposal to fix the notch would only cost $5 billion a year for the first 4 years of enactment; however, with our current budget deficit of $280 billion, spending $5 billion is impossible.

In my view, it would be unwise to place an added burden on the budget in order to initiate a change that does not need to be made—especially when other entitlements are being cut. For example, the Medicare budget has been cut by some $3.7 billion in fiscal year 1991, and the administration is calling for an additional cut of about that much for fiscal year 1992. Doctors, hospitals, and beneficiaries are being adversely affected by these cuts. I cannot support spending $5 billion a year on this legislation when other valuable programs, such as Medicare, continue to be slashed.

While I plan to continue my opposition to proposal to reform the notch, I would like to take this opportunity to urge you Mr. Speaker, and the leadership, to seriously consider bringing this matter to the full House for consideration—once and for all.

DIABETIC RESEARCH INSTITUTE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, diabetes is the leading cause of blindness and a major cause of heart disease, kidney failure, and stroke. In the face of this serious disease, the Diabetes Research Institute of the University of Miami/Jackson Memorial Medical Center remains undaunted in its efforts to provide better care for diabetes patients, to educate the public and the medical community about the disease and ultimately, to find a cure. In January, 1992, the Diabetes Research Institute will open a new building. This important new facility will move the Diabetes Research Institute a great step forward toward its goal of defeating this disease.

When completed, the University of Miami/Jackson Memorial Medical Center will be home to the world's largest and most comprehensive diabetes research, treatment and education facility. While this facility will be located in South Florida, it will have far-reaching impact, not only for the 1 million Floridians with diabetes, but also on the estimated 20 to 30 million diabetics throughout our country. Daniel Mintz, M.D., scientific director of the Diabetes Research Institute and Nobel Prize candidate for his work with diabetes, Ronald B. Goldberg, M.D., chief associate director at the institute, Myron A. Berezin, executive director and Gary Kleinman, director of public affairs should be noted for their efforts to make this research facility a reality.

The successful completion of the new Diabetes Research Institute facility will also be credited to many community and state-wide leaders and a great number of dedicated volunteers, especially with their efforts to support the institute financially. One example is the Dennis Gallagher Memorial Dinner established by Doug, Kevin, Dean and Tom Gallagher in honor of their brother who died from the complications of diabetes. Each year, this event honors individuals who have made outstanding contributions to the Diabetes Research Institute. Also, the DAD's —Dollars Against Diabetes—Program is one of America's top 10 single-day fund raisers. For the past 4 years, thousands of fathers in all 50 States have joined together in a unprecedented grassroots effort to help those afflicted with diabetes. An event which President Bush has called "a shining example of voluntarism in action."

Mr. Speaker, I commend all of those dedicated people involved with the Diabetes Research Institute and its continuing efforts to bring about a cure to the third most deadly disease facing our Nation. We all hope that the new Diabetes Research Institute facility proceeds on schedule to its very promising opening in January 1992.

MINORITY BUSINESS INVOLVEMENT IN THE RECONSTRUCTION OF THE CIVIL INFRASTRUCTURE OF KUWAIT

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. FORD of Tennessee. Mr. Speaker, the struggle for the liberation of Kuwait has come to an end. Kuwait awaits recovery and reconstruction efforts and, once again, has requested American assistance. Companies are lining up to aid in reconstructive efforts in the gulf.

African-Americans are disproportionately represented in the Armed Forces; they made up 23 percent of the troops in the gulf. We are, however, underrepresented in the business force. Opportunities for us are more limited than the opportunities available to traditional companies and traditional constituencies.

The rebuilding of Kuwait is a perfect opportunity to grant greater opportunity to African-Americans. Unfortunately, the Kuwait emergency and recovery program does not want to deal with minority-owned companies.

American soldiers were asked—no, begged—by the Government of Kuwait to

save their country and to save their freedom. African-American soldiers did not refuse to fight, to die, our soldiers went willingly and readily for the people of Kuwait. They died for the people of Kuwait.

Now, the Kuwaiti Government is saying, "We'll let you die for free on our soil, but you can't have a bit of our oil." The Kuwaiti Government is closing the door to minority participation in the rebuilding of Kuwait, and President Bush is standing idly by.

If this continues, our worst fears will have been realized: That the Persian Gulf war was not a war fought by free men and women to free a friendly nation, but it was just another war fought by poor people to free the oil of rich people.

THOUGHTS FROM THE PERSIAN GULF

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. RAVENEL. Mr. Speaker, these comments were given to me by my constituent, Mr. Wilbur Brown on behalf of his son, Captain Shawn Brown of the South Carolina National Guard 24th field artillery unit. I submit to you this excerpt taken from a letter home:

"* * * Right now, my unit is north near the Iraqi border. That's all I can tell you * * * I am ready to fight. There is no more fear. I think my faith took away all that, faith along with some strong family support. This crisis has made me a better man, I believe. I'm beginning to see something I've never seen before. I've also developed a consciousness for human life. In quoting Martin Luther King, Jr., 'A man who won't die for something is not fit to live.' I don't want y'all to grieve. Mom and Dad, y'all brought me up well, and I couldn't ask for better parents. God is guiding my path in this ordeal. I always pray and talk to him. He eases my anger with love and takes away my sorrow with joy. I have no regrets on how I've lived my life. I did not live for perfection because I'm not perfect. But I do live a happy life. If I am to die, then I can say that I died for what I believe it—duty and commitment. Love, Shawn."

THE MICKEY LELAND ADOLESCENT PREGNANCY PREVENTION AND PARENTHOOD ACT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am pleased to introduce today, along with Congressman ED TOWNS and 18 of our colleagues, the Mickey Leland Adolescent Pregnancy Prevention and Parenthood Act.

The author of this visionary legislation, our late colleague Mickey Leland, considered the eradication of teen pregnancy to be as important to our collective future as a drug free, crime-free, educated America. It is easy to see why. The scope of the problem is enormous. The United States leads all Western countries in teenage pregnancy rates, teen abortions and teen childbearing rates. American girls under 15 years of age are five times more likely to give birth than girls in any other developed country and are at 2½ times greater risk of dying from childbirth complications.

But health risks are not the only troubling aspect of early childbearing. Teen mothers comprise 61 percent of all women receiving AFDC. Of women under age 30 receiving AFDC, 71 percent had their first child as a teenager. And what of the children of these children? The overwhelming majority of them are raised in poverty, unlikely to finish school, likely to be abused and likely to become parents before they reach adulthood.

The Nation desperately needs a comprehensive approach to enable those cities and towns that face this problem to deal with it effectively. We need a national program that discourages the formation of these often problem-plagued families and helps those that develop to become strong emotional and economic units. This is what the Leland Act does. Along with family planning services, counseling, and comprehensive maternal and child health care, the Leland Act plan includes parenting education and other services for teen fathers as well as teen mothers. Both teen girls and boys would be eligible for counseling and referral services for employment, employment training, nutrition, and substance abuse treatment. In addition, the legisiative language clearly states that no funds are available for abortion.

Moreover, while this bill is a comprehensive, national policy to deal with teen pregnancy, it does not force communities to create family planning services for teens. It does, however, provide resources for cities that face this problem and want to address it, and allows wide local discretion in tailoring programs to problems.

Helping teenagers avoid pregnancy or develop strong families will significantly affect the approximately $21 billion we spent in 1989 in AFDC payments, food stamps, and Medicaid benefits to assist families begun with a birth to a teenager. Early childbearing bankrupts young lives as well as drains the Treasury. It is time that we said to at-risk teenagers that we care enough to give them the tools to take charge of their lives and replace despair with hope.

Indeed, it is the least we can do for our children who are becoming parents at a rate that boggles the mind and breaks the heart.

HAPPY BIRTHDAY JENNINGS RANDOLPH

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. WISE. Mr. Speaker, I rise today to wish a belated Happy Birthday to a distinguished former Member of this institution, Senator Jennings Randolph. Senator Randolph turned 89 on Friday, March 8.

Significant improvements in our country do not just happen. Change requires the dedication of individuals who are creative enough to see the needs of the country and the needs of its people, individuals with the stamina to pursue their goals and make them a reality. One of these individuals is Senator Jennings Randolph.

The next time you ride down an interstate highway, think of Jennings Randolph, the man who led the fight to develop this modern system of transportation.

The next time you see a handicapped child, think of Jennings Randolph, a man who cared so much for others that he led the way in providing educational and rehabilitation services for these individuals.

The next time you go to the polls, remember that the right to vote is one of the most cherished rights and privileges that goes with living in our great democratic Nation. No one knew this better than Jennings Randolph, who authored the 26th amendment to the Constitution to extend this precious right to our 18-year olds.

Today, in 1991, we hear again and again that it's time to stop America's dependence on foreign oil. Jennings Randolph was already working toward this goal in 1942. He introduced legislation that paved the way for turning coal and its products into energy, and made a flight from Washington DC, to Morgantown, WV, that same year with fuel made from coal.

Jennings Randolph cared about labor standards. He championed the enactment of the first black lung compensation act, helping coal miners dying from this respiratory disease.

Jennings Randolph has left his mark in education, health, energy, labor, the environment, and in so many other ways, both on the Senate floor and off. Throughout his career in government he was a man of integrity, and such a man he continues to be. Above all, Jennings Randolph cares about the individual. He never hesitates to stoop and help another human being in need. We need more citizens in this country with the character, integrity, and vision of Jennings Randolph. We need more citizens who are willing, as Jennings Randolph always has been, to stand up and fight for change.

I wish only the best for Jennings Randolph on his birthday. I thank him for his example and for a life dedicated to public service.

THE CITY OF HIALEAH SUPPORTS THE UNITED STATES PERSIAN GULF POLICY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is unprecedented that so many countries could come together in global unity to speak out against Iraq's brutal aggression. As the President has stated, we have come together with our allies to ensure "peace and security, freedom, and the rule of law" in the Middle East. It truly makes me proud to see the communities of my district voicing their unified support for the United States' political and military position in the Persian Gulf.

The President's praise of the American people in his address last week to a joint session

of Congress most surely applies to the city of Hialeah, FL. In January 1991, the city passed resolution 91–05 supporting the decision of President George Bush and Congress to implement Operation Desert Storm:

RESOLUTION

Whereas, the nation of Kuwait, an ally of the United States, was invaded 5 months ago by Iraq under the leadership of Saddam Hussein; and

Whereas, the United Nations, supported by our allies, imposed a January 15th deadline for Iraqi withdrawal from Kuwait; and

Whereas, even after intense negotiations between representatives of the United States and the United Nations with representatives of the Iraqi government, Iraq refused to withdraw its forces from Kuwait; and

Whereas, President Bush, backed by the United States House of Representatives, and Senate, implemented Operation Desert Storm after the January 15th United Nation-imposed deadline for Iraqi withdrawal; now, therefore, be it

Resolved by the Mayor and City Counsel of the City of Hialeah, Florida, That:

Section 1: The Mayor and the City Council of the City of Hialeah, Florida, strongly support the decision of President Bush and Congress to implement Operation Desert Storm.

Section 2: The Mayor and the City Council of the City of Hialeah, Florida, express their support for the brave men and women of the United States and the coalition forces who are running the operation.

Passed and adopted this 22nd day of January, 1991.

The City also expressed its support for the United States political and military position regarding the Persian Gulf crisis, and its solidarity with our members of the United States armed services, the allied troops and the State of Israel by passing resolution 91–08:

RESOLUTION

Whereas, despite months of efforts by the United States to negotiate the amicable withdrawal of Iraqi troops from the Country of Kuwait, the military dictatorship of Iraq, led by Saddam Hussein, defiantly ignored all attempts to end the illegal occupation of the nation he invaded; and

Whereas, in response to the savage and brutal occupation of Kuwait, the United States and the Allied Coalition have refused to allow the dictator of Iraq to continue on a destructive course of global dimensions; and

Whereas, we, as a community, express our heartfelt support and solidarity for our brothers and sisters in Israel and we stand firmly behind the State of Israel and the Allied Coalition; and

Whereas, as a loyal ally of the United States, and the only country in the Middle East who represents the democratic principles of liberty and self-government, Israel has demonstrated tremendous restraint, in spite of the fact that they have the right to retaliate, by not staging a preemptive strike against Iraq; and

Whereas, we are grateful for the further restraint which has been demonstrated by the Israeli government after the attacks by Iraq against Israeli civilians, and we commend the citizens of Israel for their brave and composed respect of the requests made by the United States Administration; and

Whereas, the City of Hialeah, Florida commends President Bush and the men and women of the Armed Forces and the Allied Forces for their courage and the sacrifices they are making for world peace; and

Whereas, the City of Hialeah, Florida extends complete support to the policies of the American Administration and to the brave Allied Forces who are fighting in the Persian Gulf as we pray for peace and the prompt resolution of this crisis; now, therefore, be it

Resolved by the Mayor and the City Council of the City of Hialeah, Florida, That:

Section 1: The City of Hialeah, Florida expresses its complete support for the United States political and military position regarding the Persian Gulf Crisis, condemns the Iraqi government, Saddam Hussein and Iraq's malicious attacks on Israel, and we affirm our solidarity with the State of Israel and the members of the United States Armed Forces who are fighting valiantly to free the nation of Kuwait.

Section 2: That a true copy of this resolution be sent to all members of the Florida Congressional Delegation and the President of the United States.

Passed and adopted this 22nd day of January, 1991.

These resolutions were adopted with the approval of Mayor Julio J. Martinez, and a unanimous vote of the councilmembers: Herman Echevarria, council president, Natacha S. Millan, council vice-president, Salvatore D'Angelo, Evelio Medina, Alex Morales, Paulino A. Nunez, and Roberto "Bob" Ruiz.

In such hard times, we should view Hialeah as an example of strength through unity. The international community has acted in a similar and unprecedented fashion, and in doing so has been able to turn back Iraq's unprovoked and brutal aggression against Kuwait.

INTRODUCTION OF THE FAMILY PLANNING PARENTAL NOTIFICATION ACT OF 1991

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. DANNEMEYER. Mr. Speaker, today I am introducing the Family Planning Parental Notification Act of 1991. This legislation would require the Secretary of Health and Human Services to review all of the services offered by title X grantees and determine whether, with respect to each service offered, a parental notification would:

First, be in the minor's best interests;

Second, strengthen the stability of families;

Third, strengthen the authority and rights of parents in the education, nature, and supervision of their children; or

Fourth, enhance the relationship between adolescent behavior, personal responsibility, and societal norms.

Where a notification is appropriate, one or both parents would have to receive notice from the title X grantee at least 48 hours in advance of the receipt of the service in question. A waiver would be available where the minor faces a life-threatening medical emergency or where a State court determines that such a notification would be inappropriate, that is, where there is a history of parental abuse of the child.

That legislation attempts to address the fundamental question of whether parents should be involved in decisions concerning the sexual development of their children. What happens to a 14-year-old-girl when we allow her to bypass her parents completely and obtain prescription contraceptives or an abortion referral from a federally-funded intermediary?

Data from States with laws requiring parental involvement before a minor can obtain an abortion indicate that these laws have actually reduced the overall level of teenage births and abortions. As the authors of one recent, peer-reviewed study noted:

Data presented in this study are compatible with the hypothesis that . . . parental notification facilitated pregnancy avoidance in 15–17 year-old Minnesota women. Abortion rates fell markedly in this age group relative to older women . . . One possibility is that when minor women are restricted from abortion without notifying parents or seeking court approval * * * they are more likely to take measure to avoid pregnancy.

Indeed, researchers have concluded that making these services readily available to teenagers with no parental involvement does nothing to reduce the overall teen pregnancy rate and, tragically, results in higher teen abortion rates.

Other researchers have shown a strong correlation between free access to contraceptives and higher rates of teenage pregnancies, out-of-wedlock births, and abortions. As Asta M. Kenney of the Guttmacher Institute acknowledged, "The evidence that sex education leads to a reduction in teen pregnancies is not compelling."

I urge my colleagues to cosponsor this timely and necessary legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Planning Parental Notification Act".

SEC. 2 ESTABLISHMENT OF REQUIREMENT OF PARENTAL NOTIFICATION REGARDING PROGRAM OF VOLUNTARY FAMILY PLANNING SERVICES UNDER TITLE X OF PUBLIC HEALTH SERVICE ACT.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Subject to paragraph (3), in the case of a method or service under subsection (a) that is included on the list established by the Secretary under paragraph (2), an entity receiving a grant or contract under such subsection may not provide the method or service to an unemancipated minor unless—

"(A) the entity notifies 1 or both parents of the minor that the entity has been requested to provide the method or service to the minor;

"(B) the notification specifies the type of method or service involved; and

"(C) not less than 48 hours elapses after making the notification.

"(2)(A) The Secretary shall—

"(i) review the methods and services authorized to be provided with grants and contracts under subsection (a); and

"(ii) on the basis of the extent of applicability of the criteria specified in subparagraph (B), establish a list of the methods and services with respect to which a parental notification is required to be made for purposes of paragraph (1).

"(B) The criteria referred to in subparagraph (A) are that providing parental notifications for purposes of paragraph (1) with respect to a method or service under subsection (a)—

"(i) is in the best interests of unemancipated minors;

"(ii) strengthens the stability of families;

"(iii) strengthens the authority and rights of parents in the education, nurture, and supervision of their children; or

"(iv) enhances the relationship between adolescent behavior, personal responsibility, and societal norms.

"(3)(A) The requirement established in paragraph (1) regarding parental notifications shall not apply if a medical emergency exists in which the life of an unemancipated minor would be endangered by the failure to provide the minor with the method or service involved under subsection (a), and a parental notification for purposes of paragraph (1) is not practicable as a result of the medical emergency.

"(B) The requirement established in paragraph (1) regarding parental notifications shall not apply with respect to an unemancipated minor if a State court of competent jurisdiction certifies to the Secretary that—

"(i) the court has conducted a hearing at which the minor appeared; and

"(ii) the court has determined through the hearing that the criteria specified in paragraph (2)(B) do not sufficiently apply to the circumstances of the minor.

"(4)(A) For purposes of this subsection:

"(i) The term 'minor' means an individual who has not attained the age of majority.

"(ii) The term 'unemancipated' means, with respect to a minor, that the minor is not emancipated.

"(iii) The term 'emancipated', with respect to the legal relationship between a minor and the parents of the minor, means that the rights and duties arising solely as a result of such relationship have in the case of the minor and each parent been terminated.

"(iv) Except in the case of clause (iii), the term 'parent', with respect to a minor, means an individual who has a legal duty to provide support to the minor.

"(B) With respect to making legal determinations that are necessary for applying the definitions provided in each of clauses (i) through (iv) of subparagraph (A), the legal determinations shall be made under the law of the State in which the entity involved under subsection (a) makes available methods or services under such subsection to the individual involved.

"(5) The Secretary shall issue regulations for carrying out this subsection.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

MEDICAID INITIATIVES FOR THE 102D CONGRESS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. WAXMAN. Mr. Speaker, today I am joining colleagues on both sides of the aisle in introducing four initiatives to make modest but essential improvements in Medicaid.

The first of these is the Medicaid Infant Mortality Amendments of 1991, which would implement President Bush's 1988 campaign promise to extend Medicaid coverage to all pregnant women and infants with incomes below 185 percent of the Federal poverty level. I am joining Mr. HYDE and 22 other Members in sponsoring this legislation, which would raise the mandatory eligibility standard for pregnant women and infants from the current 133 percent of poverty to 185 percent of poverty, effective July 1, 1992.

As the National Commission to Prevent Infant Mortality, chaired by Governor Lawton Chiles, concluded several years ago, extending Medicaid coverage for prenatal and maternity care to high-risk pregnant women is among the most cost-effective investments that the Federal Government can make. I am aware that a number of the States feel that they do not have the resources to cover this population at this time. However, we as a nation cannot afford to allow a debate about which level of Government should finance prenatal care to deny access by low-income pregnant women to proven preventive services and technologies that minimize the likelihood of a poor birth outcome. The cost in terms of low birthweight births is simply too high.

To accommodate State fiscal concerns without compromising access to prenatal care, the bill would provide 100 percent Federal financing of the costs of services to pregnant women and infants with incomes between 133 and 185 percent of poverty. This will ease the financial pressure on those States that do not now cover this population as well as those which do.

The second of today's initiatives is the Medicaid Child Health Amendments of 1991, on which I am joining Mr. SLATTERY and 23 other colleagues. The bill would give States the option, at regular Federal matching rates, to extend Medicaid coverage to all children under age 19 with family incomes at or below 185 percent of the Federal poverty level. For the hundreds of thousands of poor and near-poor children with no private health insurance, this option could result in coverage for preventive and acute care services that will improve their health status and their ability to succeed in school.

The third initiative is the Medicaid Breast and Cervical Cancer Amendments of 1991, which I am cosponsoring with Mrs. COLLINS and 42 other Members. It would extend coverage now available to women eligible for Medicare to low-income women eligible for Medicaid. Specifically, it would require the States to offer Medicaid coverage for screening mammography and screening pap smear services, proven technologies that will permit the early detection and treatment of breast and cervical cancer. To ease the financial burden on the States, the bill would provide for Federal assumption of 100 percent of the cost of providing these services, even in those States which now cover them.

The final initiative is the Medicaid AIDS and HIV Amendments of 1991. Sponsored by Mr. SCHEUER, myself, and 16 of our colleagues, this bill would, among other things, give States the option of offering Medicaid coverage for early intervention services to low-income individuals who are infected with the HIV virus and who are at imminent risk of contracting opportunistic infections like pneumonia or developing life-threatening lymphomas or other conditions. Under current law, HIV-infected people generally can't qualify for Medicaid until they have developed AIDS, no matter how poor they are. Of course, by that point, early intervention services to forestall AIDS and its complications are of little use. This bill would end this Catch-22 by allowing States to give immune-compromised people access to the prescription drugs and other services that will delay or prevent altogether the onset of AIDS and its complications. We have spent millions of dollars on research to develop these drugs; surely we can find the resources to make them available to the poor who need them.

Some will ask why, given the fiscal problems which many States are facing, should the Congress continue to expand Medicaid? I would be the first to concede that Medicaid is not the perfect solution to the infant mortality crisis, the HIV epidemic, or the unacceptably high breast and cervical cancer rates among women. Indeed, next month I plan to introduce a broad health care reform bill along the lines of the Pepper Commission recommendations that would respond to the needs of the more than 31 million uninsured Americans by building upon our existing employment-based system. Among other things, this reform initiative would federalize the acute care portion of the Medicaid Program, separating basic health care coverage from the welfare system, upgrading reimbursement, and replacing a strained Federal-State financing arrangement with a purely Federal one. In the long run, I am convinced, this will enable our country to make the necessary investment in material and child health, cancer prevention, and early intervention services.

However, we do not live in the long run. While we debate health care reform, babies will continue to be born, children will continue to grow, people will continue to become infected with the HIV virus, and low-income women will continue to be at high risk of breast and cervical cancer. We simply cannot ignore these problems while we restructure the system. We have to do what we can with the tools we have at hand. The fact is that Medicaid is the only program now in place which can finance these compelling needs when they need to be met: today.

The four bills I am introducing today propose investments targeted to the country's most urgent health care needs. Although they represent only a small fraction of the investment needed to address this Nation's access crisis, it is clear that each of them will increase Federal Medicaid outlays over the next 5 years. I am requesting cost estimates from both the Congressional Budget Office and the Office of Management and Budget. I recognize that under the new "pay-as-you-go" rules, these bills would have to be accompanied by offsetting savings or revenue increases in order to avoid a sequester of non-exempt entitlements. I intend to work with Chairman PANETTA and others to find a solution that will allow enactment of these critical initiatives.

A TRIBUTE TO THE NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL'S 1991 PLENARY SESSION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to pay tribute to the National Jewish Community Relations Advisory Council [NJCRAC]. As the events of the day unfold, Israel needs our support more and more. There are many groups across the country dedicated to the support of Israel. However, they do need a guiding force to coordinate their efforts toward large-scale goals. NJCRAC complements these constituent organizations through program planning.

On February 17–20, NJCRAC held their 1991 plenary session at the Omni International Hotel, in Miami, FL. There were many dedicated and serious professionals involved in the planning of this event, and their commitment to keep Israel strong and secure helped make the discussions informative and enlightening for the attendees.

The hospitality committee, credited with a job well done, also included Hon. Amy Dean, chair; Charlotte Held and Gertrude Kartzmer, cochairs; Rachel Neuman, Ellen Mandler, and Miriam Zatinsky.

Recognition also must go to Vice President DAN QUAYLE, the Honorable DANTE FASCELL, chair, Foreign Affairs Committee, the Honorable Zalman Shoval, Ambassador of Israel to the United States, and the Honorable Miles Lerman, Chairman, International Relations Committee, United States Holocaust Memorial Council, for their wonderful presentations and speeches.

The community relations committee of the Greater Miami Jewish Federation was involved in various activities of the plenary session. The members were strong advocates of the United States helping Israel, our true democratic ally in the Middle East.

The Jewish community should be proud to be served by such an organization. Many important and timely topics were discussed at the sessions, including international concerns, such as the resettlement of Soviet Jews, the new Germany's obligation to Holocaust survivors, and arms control. The topic of the Middle East peace process was a timely issue, as well as democracy and pluralism in Israel. The church-state relationship in the United States was discussed, and social concerns, such as poverty and health care were key topics of interest.

I congratulate the south Floridians involved in making this event a successful one, especially Donald E. Lefton, NJCRAC southern regional vice chair; Bernice Balter, executive director, Women's League for Conservative Judaism; Alan S. Smith, executive director, Jewish Community Federation of Louisville; and Myra Farr, past chair, CRC, Greater Miami Jewish Federation, and hospitality committee member. Also, Gene Greenzweig, executive director, Central Agency for Jewish Education; Samuel J. Dubbin, chair, CRC, Greater Miami Jewish Federation, and hospitality committee member; Nan Rich, National Council of Jewish Women and cochair, NJCRAC Plenum Program Committee; Abe Resnick, commissioner, city of Miami Beach; and Judy M. Gilbert, NJCRAC Plenum Program Committee and hospitality committee member.

INTERNATIONAL INVESTMENT POLICY MUST BE BASED ON RECIPROCITY

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. CAMPBELL of California. Mr. Speaker, unfair treatment by our trading partners toward our efforts to invest abroad must stop. I am thus reintroducing a bill, the Reciprocity in Foreign Investment Act with 40 of my colleagues. I am also pleased to announce that Senator HARRY REID is reintroducing a companion bill in the Senate. These bills would amend section 301(c) of the Trade Act of 1974 (19 U.S.C. 2411(c)) to authorize reciprocal responses to foreign acts, policies, and practices that deny national treatment to U.S. investment.

Owing to the support that this bill received during the last session of Congress, we are hopeful that it will once again influence the debate on foreign investment. Last session, over 100 of our colleagues cosponsored this bill even though it had been introduced during the waning days of the first session of that Congress. We are particularly encouraged by the fact that the House passed a sense of the Congress resolution, attached to the Export Administration Act, that requests the President to insist on reciprocity in questions of foreign investment during international trade negotiations. Given the support that this bill has received in the past, we think that additional hearings should be held on this measure and that swift action should be taken to sign it into law.

Our legislation would help make the United States more competitive. While our markets have remained open to foreign investment, many countries that freely invest in our country do not give our investors the benefit of similar treatment. For example, in South Korea, where the United States trade deficit is currently $9.9 billion, the Government can use a discretionary case-by-case investment approval process that can delay or place trade-distorting conditions on individual investment projects for periods of 2 months to 3 years. During this investment approval process, unfair trade-related investment measures may be used as an informal condition of approval to accomplish Korea's industrial policy objectives. South Korea prohibits foreign investment in 28 of its industries among which are farming, publishing, and radio and television broadcasting. In addition, foreign investment is restricted in a number of other industries, including engines, optical fibers, autos, and motorcycles, where foreigners can participate only through joint ventures with Korean firms. Foreign investment is also severly restricted in service industries such as banking, insurance, and advertising.

In France, America, and other non-European Community [E.C.] investors receive neither most-favored nation nor national treatment in their investment endeavors. The French Government requires that non-EC investors obtain approval from the French Finance Ministry to acquire firms with at least 10 million French francs in assets. Approval to invest in France is sometimes linked to specific requirements such as maintaining a positive balance of trade. Recent cases have demonstrated that U.S. firms have had difficulty in obtaining such approval.

In Japan, cultural and Government-imposed barriers are major obstacles to our investment efforts. Representatives from Motorola assert that the most frequently encountered cultural barriers to our attempts to buy Japanese firms stem from the requirement that aquisitions must receive 100 percent approval by the targeted firm's board of directors and from the widespread practice of interlocking directorships between many Japanese firms. In addition, the Japanese Government has the authority "to block any investment which might adversely affect Japanese businesses engaged in similar efforts, or which might otherwise disrupt the smooth performance of the Japanese economy". A recent Booz-Allen survey for the American and European chambers of commerce in Japan shows that more than one in four foreign businesses operating in Japan cite Government-imposed discriminatory investment practices as a major concern.

The Commerce Department estimates that total foreign investments in the United States now exceed $1.5 trillion, reflecting a U.S. net debtor international investment position of approximately—$368.2 billion. Inflows of foreign direct investment—ownership or control of 10 percent or more of a U.S. company—to the United States have risen from $19 billion a year in 1985 to $41 billion a year in 1987. Foreign direct holdings in the United States now total over $262 billion. Since 1977, foreign ownership of U.S. factories, banks, businesses, and buildings has more than quadrupled.

Opinion polls show that our citizens fear the increasing level of foreign investment; they believe that it represents one of the greatest threats to our standard of living. According to leading academics, these fears are well-founded. Dr. Pat Choate, a well-known trade expert, has correctly pointed out that foreign ownership comes with a price tag attached—the price of control, something that can only be mitigated by an investment policy that is based on reciprocity.

The opportunity for Americans to invest abroad must be expanded. Foreign investment helps U.S. companies gain market access, expand their market shares, and develop more flexibility to respond to changing international economic conditions. An investment policy that is based on reciprocity would thus help preserve our ability to compete globally by putting our firms on an even playing field with their competitors.

Our bill would direct the U.S. Trade Representative to open our markets in real estate, stocks, manufacturing, banking, agriculture, and so forth, precisely to the degree that our trading partners open their investment markets to us. In effect, access to U.S. markets would

be used as a bargaining chip to open foreign markets for U.S. businesses. Our marketplace is one of the few areas of leverage that we have to encourage other nations to end discriminatory practices against U.S. firms.

Our bill would not impose broad, protectionist restrictions on foreign investment. We would continue to provide an open door to countries that, in turn, grant us reciprocal investment opportunities. It is because we support free and fair investment opportunities for all countries that we are introducing this bill.

The one-way street of foreign investment must end. An insistence on reciprocity for direct foreign investments will only enhance our ability to obtain further concessions in our effort to establish truly free and fair trade for all nations. I hope that my colleagues will support this bill and help us create an international investment environment that will enable the world economy to grow at a prodigious rate—a goal that will help all nations, whether rich to poor maximize their economic and social potential.

THE ONE-YEAR ANNIVERSARY OF THE LITHUANIAN REAFFIRMATION OF INDEPENDENCE

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. COX of California. Mr. Speaker, yesterday—Monday, March 11—marked 1 year since the Supreme Council of the Republic of Lithuania declared the resumption of an independent Lithuania. Last month—almost a year after the Parliament's vote—90.5 percent of Lithuanian voters cast a resounding vote reaffirming their independence and in favor of an end to Soviet occupation.

These people are more determined today than ever before to reclaim the God-given freedom that is rightfully theirs. Make no mistake: Lithuania will be free. The United States must continue to stand shoulder to shoulder with the free people of Lithuania. And this anniversary of Lithuania's reaffirmation of independence will be a lesson to America and the world about the struggle for human freedom. When this historic chapter of the world's history is ended, it will be written that the people of Lithuania and the Soviet republics led the world out of darkness by proving that Marxism didn't work, but that freedom does.

The American Society for the Defense of Tradition, Family, and Property—TFP—has conducted a petition drive in support of Lithuania's independence. On December 4, 1990, a TFP delegation presented Lithuania's president Vytautas Landsbergis petitions bearing 5.2 million signatures worldwide. I ask that a copy of TFP's report on the petition drive be printed in the RECORD, and I ask my colleagues to join me in remembering the brave Lithuanian patriots who have died for the restoration of a free nation.

THE FREE WORLD SUPPORTS LITHUANIA—A REPORT OF THE AMERICAN TFP ON HISTORY'S LARGEST PETITION DRIVE

5.2 MILLION SIGNATURES WORLDWIDE IN SUPPORT OF LITHUANIA'S INDEPENDENCE

History's Largest Petition Drive

On December 4, 1990, a delegation from the 15 Societies for the Defense of Tradition, Family and Property (TFP) from Europe, Africa, Oceania and the Americas met with President Vytautas Landsbergis and distinguished members of the Lithuanian parliament in the President's office in Vilnius, they presented Pres. Landsbergis with petitions in support of Lithuanian independence bearing more than 5.2 million signatures (a figure exceeding the population of Lithuania itself). The TFPs collected the largest number of signatories to a single petition in history.[1]

The following United States Senators and Congressmen joined 833,575 of their fellow Americans, from all walks of life, from Main Street to Manhattan, conservatives and liberals alike, in lending their names to this public declaration of solidarity with freedom-loving Lithuanians and of opposition to the barbaric repression of the Soviet regime:

Senator Bill Armstrong (CO), Senator Dan Coats (IN), Senator Alfonse D'Amato (NY), Senator Connie Mack (FL), Senator Steve Symms (ID), and Senator Malcolm Wallop (WY), Rep. Richard Armey (TX), Rep. Thomas Bliley (VA), Rep. Dan Burton (IN), Rep. Tom Campbell (CA), Rep. Jim Courter (NJ), Rep. Christopher Cox (CA), Rep. Larry Craig (ID), Rep. Philip Crane (IL), Rep. William Dannemeyer (CA), Rep. Michael De Wine (OH), Rep. Robert K. Dornan (CA), Rep. John Duncan (TN), Rep. Benjamin Gilman (NY), Rep. Newt Gingrich (GA), Rep. Bill Grant (FL), Rep. Mel Hancock (MO), Rep. Joel Hefley (CO), Rep. Wally Herger (CA), Rep. John Hiler (PA), Rep. Clyde Holloway (LA), Rep. Henry Hyde (IL), Rep. James Inhofe (OK), Rep. Jon Kyl (AZ), Rep. Robert Lagomarsino (CA), Rep. Bob Livingston (LA), Rep. Bill McCollum (FL), Rep. Bob McEwen (OH), Rep. Frank Pallone (NJ), Rep. Don Ritter (PA), Rep. Dana Robrabacher (CA), Rep. Ilena Ros-Lehtinen (FL), Rep. Toby Roth (WI), Rep. Gerald Solomon (NY), Rep. Cliff Stearns (FL), Rep. Guy Vander Jagt (MI), and Rep. Barbara Vucanovich (NV).

The outpouring of gratitude of the Lithuanian people for this visible manifestation of support by the people of the Free World was of the same exceptional caliber as was their courage in the face of communist intimidation.

Expressions of appreciation came from representatives of the Lithuania's independent government and of her patriotic movements, as the following letters received during the TFP campaign reveal:

JUNE 19, 1990.

In was with gratitude that we received your letter of support in name of the TFP organizations. Please convey special thanks to Prof. Plinio Correa de Oliveira, president of the National Council of the Brazilian TFP, on behalf of Mr. V. Landsbergis and myself for his support in our struggle for the independence of Lithuania. Your work is very timely and inspiring for us in this difficult moment for our country.

It has been called to my attention that these same organizations have promoted a petition in support of Lithuanian independence and that more than one million people have already signed it. This is one of the most important initiatives of moral support we have thus far received from Western nations. We thank you also for this action.

Yours sincerely,

ALGIRDAS SAUDARGAS,
Minister of Foreign Affairs.

DECEMBER 10, 1990.

DEAR FELLOW FREEDOM FIGHTERS: On behalf of the people of Lithuania, we wish to express our deep gratitude for your tireless efforts in collecting 5,218,520 signatures in support of Lithuanian's Independence.

You have demonstrated that there is world wide support for the rights of Lithuanians to freedom and democracy.

Please know that this great gift that you have given to the people of Lithuania will always be appreciated and remembered, as will the memory of those[2] whose lives were lost in this great effort.

JUOZAS TUMELIS,
President, The Lithuanian Movement Sajudis Council.

Launched on May 31, the TFP petition campaign lasted some five months, amassing the equivalent of a million signatures a month. Had the campaign continued, many more people would have signed. But realizing, the urgency of the crisis and in accord with the desires of the government of Lithuania, the petitions were delivered on December 4, 1990, as described above.

Shortly thereafter, Soviet tanks and troops invaded Vilnius butchering unarmed Lithuanian patriots and arresting youths refusing to enlist in the Red Army.

On January 9, Antanas Racas, member of the Foreign Affairs Commission of the Supreme Council of the Republic of Lithuania, sent the following facsimile message to the American TFP: "Military vehicles can be seen in the streets of Vilnius and in front of the Parliament. Mass fascist-soviet provocations are frequently repeated. Lithuania is in danger; the help of the world is needed."

However, Lithuania did not surrender . . .

DEMOCRACY—THE VANGUARD OF FREEDOM

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. STALLINGS. Mr. Speaker, the Veterans of Foreign Wars recently sponsored the "Voice of Democracy" contest in my State. Entered in that contest was a young man with remarkable ability.

Marcus Mumford is a senior at West Side High School in Dayton, ID. He is an excellent student and a talented athlete. Marc is not only admired for his academic and sports ability, however, but for his courageous fight to accomplish in spite of a speech disability, a problem going back for many years. His great desire to overcome his problem and his courage and tenancity in refusing to let the problem stop his participation in any facet of life

[1] The 15 TFP's petition drive exceeds the registered world record, 3,107,000 signatures. (Cfr. Guiness Book of World Records, London, pg. 194, ed. 1989.)

[2] Mr. Fred Porfilio and Mr. Daryl Huang, of the American TFP, were killed in an automobile accident in Tennessee on September 3, 1990, while participating in the Lithuanian independence campaign.

are admired by his schoolmates and his teachers. He is an example of courage under pressure and a winning attitude which strengthens all of us who associate with him.

Marcus is the son of Ron and Carol Mumford who are justifiably proud of their oldest son. I would like to present his speech for the Voice of Democracy contest which received a special recongnition award from the Veterans of Idaho:

DEMOCRACY—THE VANGUARD OF FREEDOM

CHANGE TO FREEDOM

At last, Immigrant has crossed the border. He inhales the air—the free air. He is finally free of the reasonless guilt deposited on him by his former totalitarian government. His struggle is not over, as he now finds himself part of a nation whose challenge is self control within self-government.

The country he left claimed to be a democracy also. Why? The leaders knew full well their system—to call "democratic" that which is actually despotic. Why do they seek to shadow their intentions under the false title of "Democracy" or "People's Republic?" Freedom of assembly is "permitted," but not at Tianamen Square! "Individual rights" becomes a deception. No matter the degree of repression, in all human beings, race regardless, education irrelevant, there burns an instinctive longing for God-given inalienable rights: to live life, to treasure liberty, to pursue happiness.

Here, in genuine democracy, Immigrant will acquire his equality, his personal dignity this nation strives to provides. The struggle of democratic government is to instill this democratic ideal within its people—within its society. If Immigrant accepts this opportunity and magnifies his new-found potential, he will obtain peace, at least within himself and hopefully with others. This new democracy is his. His to abide by, to encourage, to inspire and embrace, and to change. True freedom is beautiful.

Does democracy achieve perfection? No, for the media will bluntly attack to facilitate the opposite. The citizens of a democracy know this and utilize their democracy's due process to activate change, either temporary or permanent, as they see fit.

Immigrant only now begins to realize the magnitude of what lies before him. He begins to feel himself a part of Woodrow Wilson's quote, "I believe in democracy because it releases the energies of every human being." This new freedom is his. He will partake.

THE COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. MICHEL. Mr. Speaker, today, I am introducing the Comprehensive Violent Crime Control Act of 1991, the President's plan to fight the scourge of crime in America. Mr. Speaker, we have debated these issues before and it is time to act.

Clearly, this legislation is needed by law enforcement officials and desired by the majority of Americans. In fact, the major provisions, habeas corpus reforms, a modified exclusionary rule, and enhanced death penalty procedures, have passed either in the House or Senate by large bipartisan majorities. That is one reason this bill should be considered promptly by the House.

Additional provisions in this package provide a host of other reasons to support this legislation. The equal justice section codifies current case law and assures that discrimination will not occur in each individual case. The firearms section contains various provisions to strengthen Federal firearms laws by enhancing penalties against criminals who violate firearms laws. The gangs and juvenile offenders section broadens the availability of records of serious juvenile offenses, which will help in the prosecution of juvenile offenders. Other sections cover terriorism, sexual violence, and child abuse.

The President's crime bill takes an important step in the fight against crime. It deserves the support of those willing and ready to fight crime in our society.

THE COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

A SUMMARY

Death Penalty (Title I): Establishes constitutionally sound procedures and adequate standards for imposing federal death penalties that are already on the books (including mail bombing and murder of federal officials); and authorizes the death penalty for drug kingpins and for certain heinous acts such as terrorist murders of American nationals abroad, killing of hostages, and murder for hire.

Almost identical to the 1989 violent crime initiative

Equal Justice Act (Title X): Strengthens assurances of equal justice regardless of race, particularly with regard to the imposition of capital punishment; Includes, *e.g.*, prohibition of racial quotas and other statistical tests for imposing the death penalty or other penalties, safeguards against racial discrimination through examination on voir dire and change of venue, requirement, in federal cases, of jury instructions and certifications guarding against considerations of race in capital sentencing decisions, and makes the capital sentencing option consistently available for racially motivated murders in violation of the federal civil right laws.

Habeas Corpus (Title II): Proposes reforms to curb the abuse of habeas corpus by federal and State prisoners by establishing a one-year time limitation, requiring deference to full and fair State court adjudications, appointment of counsel in state capital cases, and restricting repetitive habeas petitions.

Combines the best of various proposals from last Congress

Exclusionary Rule (Title III): Establishes a "good faith" exception to the exclusionary rule; clarifies that federal law does not require the exclusion of evidence obtained in "good faith" circumstances; and renders the exclusionary rule inapplicable to seizures by federal officers of firearms which are to be used as evidence against dangerous offenders. Alternative safeguards against Fourth Amendment violations are provided involving administrative and legislative oversight and compensation of victims of unlawful searches and seizures.

Firearms (Title IV): Contains various provisions to strengthen federal firearms laws, e.g., ten-year mandatory prison term for using a semiautomatic firearm in a drug trafficking offense or violent felony, five-year mandatory sentence for anyone who possesses a firearm after a conviction for a violent crime or serious drug offense, new offenses of theft of firearms or smuggling firearms in furtherance of drug trafficking or violent crimes, and increased penalties for a materially false statement in connection with a firearm purchase; Also contains general ban on gun clips and magazines that enable a firearm to fire more than fifteen rounds without reloading.

Obstruction of Justice (Title V): Provides increased penalties for serious acts of violence against witnesses, jurors, and court officers in federal proceedings, and explicitly extends federal protection to state and local law enforcement officers assisting federal officers.

Gangs and Juvenile Offenders (Title VI): Broadens availability of records of serious juvenile offenses; broadens adult prosecution of gang leaders and other serious juvenile offenders; and increases penalties for certain violent crimes frequently associated with gang activities.

Terrorism (Title VII): Creates new criminal offenses to implement a Protocol directed against acts of terrorist violence at airports; creates new criminal offenses to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and a Protocol directed against terrorist acts against maritime platforms and contains other provisions strengthening protections against maritime terrorism and violence; provides effective procedures for removing aliens involved in terrorist activities from the United States; and authorizes sharing of electronically intercepted communications with foreign law enforcement agencies.

Sexual Violence and Child Abuse (Title VIII): Provides general rule of admissibility for evidence of commission of other similar crimes by a federal defendant in sexual assault and child molestation cases; and increases penalties for drug distribution to pregnant women, for many sex offenses against victims below the age of sixteen, and for recidivist sex offenders.

Drug Testing (Title IX): Generally requires drug testing for federal offenders released on probation, parole, or post-imprisonment supervised release; and requires drug testing programs in State criminal justice systems as condition of federal justice assistance funding.

HIALEAH OPPOSES ADMINISTRATION'S PLAN TO SHIFT FEDERAL FUNDING FROM CITIES TO STATES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the city of Hialeah, FL, which is in my congressional district, has recently passed a resolution opposing the administration's proposal to shift spending away from cities and to the States by 1992.

Their resolution is in accordance with the U.S. Conference of Mayor's position that the administration's plan would dilute the amount of Federal support to cities. The resolution reads as follows:

RESOLUTION

Whereas, the United States Conference of Mayors has denounced the Bush administra-

tion's plan as a dilution of the amount of federal support to cities; now, therefore, be it

Resolved by the Mayor and the city council of Hialeah, Florida, That:

Section 1: The Mayor and the City Council of Hialeah, Florida hereby expresses its opposition to the Bush administration's plan to direct funding of federal programs away from cities, and to the States.

Passed and adopted this 12th day of February, 1991.

The city feels strongly on this issue and is united in its efforts. This resolution was adopted with the approval of Mayor Julio J. Martinez, and a unanimous vote of the councilmembers: Herman Echevarria, council president; Natacha S. Millan, council vice-president; Salvatore D'Angelo, Evelio Medina, Alex Morales, Paulino A. Nunez, and Roberto "Bob" Ruiz.

THE J.R. EWING APPROACH

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. STUDDS. Mr. Speaker, yet another daily newspaper in my district has taken the administration to task for its "produce-more, conserve-little" energy plan. I urge my colleagues to read this editorial, which appeared in the Patriot Ledger on February 22.

[From the Patriot Ledger, Feb. 22, 1991]

WHY WE MUST CONSERVE ENERGY

President Bush's produce-more, conserve-little energy plan falls far short of the policy the United States needs in the 1990s for a more secure energy future.

Here we are, fighting a war in the Persian Gulf, at least in part to keep the region's vast oil resources in friendly hands and supplying the needs of industrial economies. Here we are, in a recession, concerned about keeping energy prices stable. Here we are worried about the damage to the global environment from the use of oil and other fossil fuels.

Yet the White House basically adopts the J.R. Ewing approach: Well, we'll just have to pump a little more oil, won't we?

Bush's supply-side plan won't reduce America's dangerous dependence on foreign oil that now supplies more than 40 percent of our demand. It won't prevent see-sawing oil prices or gasoline lines when someone tampers with the Mideast tap. It won't protect the environment from combustion pollution, or from oil and gas exploration in environmentally delicate areas. And a produce-more policy without a serious conservation effort is self-defeating because it encourages Americans to use up finite oil and gas resources more quickly.

The president's program does include some modest measures to encourage use of alternate energy sources and promote efficiency. They include requiring "cost-effective" energy efficiency standards to be used in new federally assisted construction, and extending a tax credit for investments in solar, geothermal and ocean thermal energy.

But it rejects what should be the centerpiece of a real energy conservation program—increasing the fuel efficiency of automobiles.

Cars and trucks now burn up 40 percent of the oil consumed in this country. Yet instead of exerting presidential leadership to require automakers to raise gas mileage above the present fleet-average federal standard of 27.5 miles per gallon, Bush proposes a measure that could subvert efforts to cut fuel consumption of new cars.

As it is now, in an effort to promote usage of alternate fuels, carmakers are allowed a small exemption from the fuel-economy standard is they build cars that run on fuels other than gasoline. That's a sound policy. However, the president now proposes to abolish the limits on credits manufacturers can earn by building alternate-fuel vehicles. This policy could backfire, though, by encouraging the manufacture of inefficient cars.

Of course there should be some incentives for alternate-fuel vehicles. But as long as the standard fuel is gasoline, stricter fuel-economy requirements should be imposed, too. Last year, the Senate passed a bill that would have raised the standard to about 40 miles a gallon by the beginning of the century. Its sponsor claims it would save 2.8 million barrels of oil a day by 2005—more than a third of the daily amount of petroleum the U.S. is now importing. Even if the savings were half as much, it would be worthwhile.

There are other ways the government should be promoting energy savings—by reinstating tax incentives for industry to invest in cogeneration plants, for example, and for home insulation and weatherization.

New sources of energy take time and technology to develop—and they must be pursued. But nothing can avoid another energy crisis as much as conservation. It is the cheapest source of energy.

INTRODUCTION OF THE USED OIL RECYCLING ACT OF 1991

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SKELTON. Mr. Speaker, once again, I am proposing we take a small step toward energy conservation and reducing our dependence on foreign oil but a very significant step in protecting our environment. Today, I am introducing the Used Oil Recycling Act of 1991 along with 51 of our colleagues who have joined as original cosponsors. The purpose of this bill is very straightforward—it is to establish a national plicy to encourage the proper handling and recycling of used oil so that it will not be disposed of in ways that are harmful to our environment.

Specifically, this bill directs the Environmental Protection Agency [EPA] not to list or identify recycled used oil as a hazardous waste, but without further delay to develop sensible management standards. By sensible I mean management standards that impose sound environmental safeguards without destroying the market for used oil.

Used oil, when properly managed, is a valuable resource. Currently 60 percent of the more than 1.3 billion gallons of used oil generated each year is disposed of properly. Unfortunately, the remaining 400 million gallons of used oil are disposed of in ways that endanger public health and the environment—such as into the sewer, into the trash or into the backyard. Our goal is to bring those remaining 400 million gallons of used oil into the recycling system. However, I am convinced if we list recycled used oil as hazardous, the current recycling system will break down and more midnight dumping will occur.

Small Business Subcommittee hearings, in May 1986, held by our colleague CHARLIE STENHOLM, established that this country's oil recycling systems would be severely undermined if unrecycled oil is listed or identified as a hazardous waste under the Resource Conservation and Recovery Act. Our conclusion was subsequently supported in November 1986, when EPA decided not to list used oil recycled oil as hazardous. One reason given in support of EPA's determination was that listing would impair our ability to recycle used oil which would, in turn harm the environment. In October 1988, the U.S. Court of Appeals for the District of Columbia handed down a ruling holding that while the EPA's decision not to list recycled used oil may well be right for the environment, it is contrary to statute. It was left to Congress to clarify and resolve the priorities between waste management and recycling. Our bill would state specifically the Nation's policy on used oil and intelligently chart a new course.

In the 101st Congress, we introduced the Used Oil Recycling Act of 1989, an effort which was eventually joined by 130 of our colleagues. The subcommittee with jurisdiction over this issue, the Energy and Commerce Subcommittee on Transportation and Hazardous Materials, adopted the concept of our bill and included it in their recommended Resource Conservation and Recovery Act reauthorization package which received a favorable recommendation in September 1990. Likewise, the Senate committee reported out a package that directed the EPA not to list used oil. Unfortunately, time ran out for further action on the proposal, however, as passage of the Clean Air Act absorbed the time and attention of the Energy and Commerce Committee in the waning moments of the 101st Congress.

A key premise of this bill is the need to encourage recycling and educate generators of used oil about proper management practices. The generators' basic duty is to make certain that used oil has not been contaminated by solvents, PCBs, pesticides, gasoline or other hazardous wastes. Once clean used oil is turned over to recyclers who are subject to annual inspections, it becomes the recyclers' obligation to conduct careful testing to be certain that no contamination is present, to make sure that used oil is handled, transported, and stored safely by trained employees, that the recycling facility is fully prepared to handle spills and other emergencies, and in the case of fuel oil, that the product sold only to facilities which EPA determines are qualified to burn used oil fuel.

The promulgation of management standards would have another consequence. It would trigger the Superfund used oil liability exemption. That provision, as most of you know, will provide certain generators of used oil, such as service stations, truck stop operators, automobile dealers, car rental agencies, with an exemption for off-site liability under the Superfund statute if the generator: does not mix used oil with any hazardous substances; provides a collection tank for do-it-yourselfer

used oil; transfers the used oil to a legitimate recycler or to a transporter who has an agreement to transfer the used oil to a legitimate recycler; and complies with EPA's management standards.

When this bill is enacted, EPA will be directed to get moving on the development of management standards. Once those standards are in place, the incentives for a large class of generators to handle their own used oil carefully and provide a channel for do-it-yourself used oil would be clearly established. A crucial element of a workable recycling system is the existence of collection centers for the do-it-yourselfers. This crucial service is dependent on the voluntary efforts of service station owners or operators, truck stop operators, and other such facilities to accept used oil from the public. If the service station operator, for example, who is complying with tank requirements and inadvertently accepts contaminated used oil from a do-it-yourselfer and the oil is nonrecyclable, the management standards would require the service station dealer to dispose of the tainted load as a hazardous waste. However, his facility will not become subject to regulation under the hazardous waste provisions under the Resource Conservation and Recovery Act [RCRA].

It should be emphasized that education is a key element in this bill to encourage safe, proper recycling. The public at large, and small businesses across the country, need to have a much better appreciation of the importance of used oil recycling system. After all, virtually everyone generates used oil. It may be a cliche to say that "if you are not part of the solution, you are part of the problem," but it is absolutely true in this case. It is time for a nationwide educational campaign involving the resources of Federal, State, and local governments and the private sector, trade associations, civil organizations, as well as individual businesses. This campaign should stress the harmful effects of indiscriminate disposal and mixing used oil with hazardous wastes and, at the same time, the availability of used oil collection centers.

I would like to mention another factor which I think deserves to be included in this equation, the role of Government as both a generator and a consumer of used oil. If EPA were to list recycled used oil as hazardous waste, it would have to be managed as such and the cost of proper disposal would skyrocket. Since Federal, State, and local governments are of course, major generators of used oil, guess who would pay for the extra cost of management and disposal under RCRA? The taxpayer. In an era of massive budget deficits, does it really make sense to impose on the public an unnecessary multimillion dollar burden of RCRA management? The hazardous waste treatment and disposal system in all probability does not have the capacity at the present time to handle actual hazardous wastes, why impose the additional burden of more than 1 billion gallons a year of used oil, particularly when we can set an example by recycling?

With respect to the Government's role as a consumer of recycled oil, much more needs to be done. EPA has promulgated specifications for lubricants made from recycled oil. Federal agencies are required to give preference to these products wherever possible. These procurement policies should be implemented much more quickly. Also, the policies should not be limited to lubricants. The Federal Government operates numerous high efficiency furnaces and boilers in which used oil can be safely burned. Instead of paying top market dollar for virgin fuel, we should expand the market for used oil fuel and help trim the deficit in the process. This is not a new idea. In fact, in 1986 in the conference report of the Superfund amendments, Congress told EPA to get moving on this project.

Finally, I would point out that while the pressures to recycle waste oil for energy conservation and economic purposes have temporarily eased, our recent actions in the Persian Gulf prove how fragile our foreign oil lifeline can be. Furthermore, the need to dispose of the waste oil safely to protect our environment is ever-growing. Please join me in sponsoring this bill which takes a very significant step in protecting our environment.

These common sense safeguards included in our bill, if enacted and implemented, would go a long way to carrying out Congress' original objectives. It is time to resolve the used oil issue once and for all and to do so in a way that makes sense economically and environmentally.

CONCERN FOR PALESTINIANS

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. MORAN. Mr. Speaker, an eye witness writing for the Washington Post reports that 6,000 Palestinians are being held in Kuwait without charges on the authority of the local militia and in conjunction with United States Forces.

I am concerned about the welfare of the Palestinians and other non-Kuwaitis who have been detained in Kuwait by these forces. Although unsubstantiated at this time, I am deeply troubled by the reported violence used against non-Kuwaitis during this time of turmoil. Our forces should not assist in what could be reprisals against people who suffered during the occupation as the Kuwaitis did.

Our State Department must notify the involved governments and our military of this concern. I also want to say to the full House that our Government did not act against one tyrant and his brutal repression of Kuwaiti citizens' human rights to allow Kuwaiti citizens to subject innocent people to violent suppression.

Let the Government of Kuwait be aware that the Congress is watching how it conducts itself as it reestablishes authority.

ADDRESS OF MAJ. GEN. DANIEL SCHROEDER AT THE ARMY ENGINEER CENTER AT FORT LEONARD WOOD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SKELTON. Mr. Speaker, on October 20, 1990, at the Army Engineer Center at Fort Leonard Wood, MO, Maj. Gen. Daniel R. Schroeder addressed the first unit from Fort Leonard Wood, MO, to be deployed in the support of Operation Desert Shield.

I would like to join with General Schroeder in commending these soldiers as they proudly serve the United States of America. The hopes and prayers of Missouri's Fourth Congressional District as well as the rest of the Nation are with them.

These comments were made before the escalation of hostility began. I include his remarks herewith:

FAREWELL TO 5TH ENGINEERS

(Remarks by Maj. Gen. Daniel R. Schroeder)

It's a great day for the Army! A great day for Fort Leonard Wood! A great day to be an engineer!

Men, you look great! Ooh-Rah!

Ladies and gentlemen, today we've gathered to wish Godspeed to the 5th Engineers. They are the first unit from the Fort Leonard Wood family to deploy in our Army's support of Operation Desert Shield.

The Army provides our great Nation with unique rapid-action forces that are versatile in nature and global in scope.

Operation Desert Shield is an example of strategic forces projecting into a troubled part of the world.

Let me remind everyone present that U.S. troops currently serving in Saudi Arabia are not there to drive the Iraquis out of Kuwait; the economic sanctions imposed by the United Nations are designed to accomplish that goal. We are there to deter any further Iraqi aggression.

America does not seek conflict, nor does it seek to chart the destiny of other nations, but America will stand by her friends. Our mission is wholly defensive.

To use the words of Winston Churchill, "We are conscious of the rightness of our cause * * * we are determined that at whatever cost, whatever suffering, we will not fail mankind."

The Fifth Engineers will become only one small segment of an unprecedented joint multi-national force which includes personnel from Saudi Arabia, Great Britain, France, Syria, Egypt and other countries who share a respect for national sovereignty. The force is an international response to threats to worldwide vital interests. The mission of the Fifth Engineers is that of other forces in the region: (1) To set up defensive positions in Saudi Arabia; (2) to train and work with the Saudi forces to improve their military and defensive capabilities; and (3) should deterence fail, to defend Saudi Arabia against attack.

The Fifth Engineers BN (combat) is well suited by tradition and training for this job. During World War II, it was the Fighting Fifth that wrote another valiant chapter in the history of the Engineer Corps. From the Butler Air hangers in Great Britain and the beaches of Normandy, to Ardennes, the

Rhineland and the bridge over the Meuse River in Holland, the Fifth's Warfighters did their duty as they saw it, and never lost faith in their mission or their country.

Today's Fighting Fifth, stands ready to meet any challenge that presents itself. During the past year this unit has demonstrated its combat readiness as a vital member of the combined arms team in exercises at the National Training Center, Pinion Canyon, Fort Chaffee and Fort McCoy.

(To the soldiers): Like the soldiers you'll soon join, you are members of a trained and ready force. I have no doubt that whatever the mission, you will succeed.

However, there is no truth to the rumor that the real purpose of this exercise is to give us an excuse to update your shot records!

Then again we've tested your mettle by making you "go through basic again" at clothing issue.

Don't let anyone here forget that soldiers are human beings fraught with the same concerns of us all. If you're worried about how the wife and the kids are, you won't be able to perform effectively. The Army is committed to meeting your families needs while you are deployed.

You have my personal pledge that your families will get the support back here that they need. I think that the family orientation sessions that you've all been attending are an indication of this post's commitment to taking care of our own.

I am pleased that representatives from our neighboring communities are attending today's review. They represent the support you enjoy from all Americans for your peacekeeping mission.

Two thousand years ago, one far more eloquent than I, described your final reward when he said, "Blessed are the Peacekeepers for Theirs is the Kingdom of Heaven."

Fifth Engineers, you are today's peacekeepers. Be aware of your motto, it summarizes the mettle needed for a successful mission, "Courage, skill and strength."

Be mindful, therefore, of your rich heritage—as Americans and as engineers. Be proud of it, you are the pride of Fort Leonard Wood. You represent the finest combat engineers in the world.

Godspeed. Essayons.

MEDICAID CHILD HEALTH AMENDMENTS OF 1991

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. SLATTERY. Mr. Speaker, access to health care for all citizens is basic to any civilized society and particularly fundamental when it comes to children. Children are every nation's most important resource.

Yet in the United States, the guarantee of basic health care for all children is still a dream deferred, and the burdens of illness, disability, and death fall disproportionately on the Nation's poorest children. Unless we reverse current patterns, countless children will be lost to preventable death and disability.

Investing in children's health also saves money. In a nation with skyrocketing health expenses, denying preventive health care to children is particularly costly. Denying health care to children also hurts our long-term national achievement. Children with poor health have less chance of becoming productive workers. If this country is to compete internationally in the years ahead, every child must grow up healthy and contribute fully to the labor force.

During 1990, I introduced H.R. 3932, the Medicaid Child Health Amendments of 1990. A similar bill was introduced by Senator LLOYD BENTSON of Texas. Both bills were amended and included in Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990.

The result was a very modest victory in an effort to extend basic health care services to poor children in America.

Current Federal law requires all States to provide Medicaid benefits to pregnant women, infants, and children under age 6 with family incomes below 133 percent of the Federal poverty line. However, States have the option of going beyond these mandates and providing Medicaid benefits to pregnant women and infants with family incomes up to 185 percent of the poverty line.

The changes approved by Congress last year provide that, as of July 1, 1991, States will also be required to extend coverage to poor children age 6 and older who were born after September 30, 1983. This requirement will phase in Medicaid coverage over the next 12 years for poor children from the ages of 6 through 18. By October 1, 2002— when this requirement will be fully phased in—virtually all poor children less than 19 years of age will be eligible for Medicaid.

Even with these mandates, however, a substantial number of low-income children will still lack health insurance coverage. These include children age 6 and older whose families have incomes between 100 percent and 185 percent of the poverty line, as well as children below age 6 whose families have incomes between 133 percent and 185 percent of the poverty line.

Mr. Speaker, today I am introducing legislation which I believe will build upon the important progress achieved last year for this country's poorest children and which will give States the option to fill these gaps.

The centerpiece of the Medicaid Child Health Amendments Act of 1991 would give States the option to increase income eligibility limits to provide Medicaid for children with family incomes below 185 percent of the Federal poverty line.

We cannot afford to ignore the urgent health care needs of poor children any longer. Skimping on Medicaid for children is shortsighted public and economic policy. If we don't find a way to pay now, we will pay 3 to 4 times more, later, when many of these children show up in emergency rooms much sicker. I believe Medicaid coverage for children is among our best investments in poverty prevention for adults.

I recognize that as a country we must address a fundamental problem in our health care system regarding access to health care. It is an unfortunate fact that millions of American families and children are forced to go without necessary care because they cannot afford it. Many, especially lower income working families, are not covered by either private or public insurance. The President and Congress must find a workable and economically feasible comprehensive solution to this crisis.

I simply believe we must start with the poorest children first. The children who will benefit from the legislation won't receive "Cadillac" health care services but hopefully they will receive enough basic services and attention to keep them in school, able to learn and grow into healthy, productive, taxpaying adults.

The current Medicaid program should be improved through the following provisions incorporated in the Medicaid Child Health Amendments of 1991:

PROPOSED MEDICAID CHILD HEALTH AMENDMENTS OF 1991

Optional Coverage of Children Up to Age 19 With Incomes Below 185 Percent of the Poverty Level. Under current law, States are required to cover all children born after September 30, 1983, up to age 6, in families with incomes at or below 133 percent of the poverty level. This provision allows States the option of extending Medicaid to children up to age 19 with family incomes at or below 185 percent of the poverty level. Effective January 1, 1992.

Optional Extension of Medicaid Transition Coverage. Allows States, at their option to provide an additional 12 months of Medicaid coverage to families who leave cash welfare due to earnings and who continue to work. (Under current law, States are required to cover these families for 12 months after leaving cash assistance). Also repeals the sunset of this benefit in current law. Effective January 12, 1992.

Payment for Medically Necessary Services in Disproportionate Share Hospitals to Children under 18. Under current law, with respect to children under age 6, receiving medically necessary inpatient hospital services from disproportionate share hospitals, States may not limit the number of medically necessary inpatient hospital days they will cover, and, if they reimburse on a prospective basis, must make outlier adjustments for exceptionally high-cost or long-stay cases. These current law provisions would be extended beyond children under age 6 to all children under 18, effective July 1, 1992.

Required Coverage of Disabled Children in "209 (b)" States. Requires States that apply more restrictive eligibility standards under their Medicaid programs to low-income individuals who receive cash assistance under the Supplemental Security Income (SSI) program to extend Medicaid coverage to disabled children who qualify for SSI. Effective July 1, 1991.

Mandatory Continuation of Coverage for Children Otherwise Qualified for Benefits Until Redetermination. Prohibits States from terminating Medicaid coverage for a child under 18, who, due to a change in family income or resources, is determined to be ineligible, until the State has determined that the child is not eligible for Medicaid on some othe basis. Effective July 1, 1992.

Optional Medicaid Coverage for Foster Children. Allows States, at their option, to offer Medicaid coverage to foster children whose incomes are above State cash assistance levels but below the Federal poverty level. Effective July 1, 1992.

Optional Medicaid Coverage of Migrant Children, Pregnant Women, and Their Families. Allows States to enter into interstate compacts to issue Medicaid cards to low-income migrant children and their families which will be recognized by all of the States that are parties to the compact through

which the child and his or her family move during the harvesting season. Effective January 1, 1992.

THE INTRODUCTION OF THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1991

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1991

Mr. TAUZIN. Mr. Speaker, today, I and 50 of my colleagues introduce the Comprehensive Wetlands Conservation and Management Act of 1991 to address the enormous problems created by a well-meaning but grossly misdirected program enacted not by Congress but by employees of various Federal agencies. This program was greatly expanded last year not through rulemaking under the Federal Administrative Procedures Act, but by guidelines and memoranda of agreement which were adopted without prior public comment. This program is the Section 404 Permit Program under the Clean Water Act.

Section 404 of that act authorizes the Secretary of the Army to issue permits for the discharge of dredged or fill material into the navigable waters of the United States at specified disposal sites. This general authorization to issue permits for the discharge of dredged or fill materials has been expanded by the courts and the Corps of Engineers to include not only navigable waters of the United States but millions of acres of private lands which may be periodically inundated with water but which are otherwise dry. The regulations which cover the conduct of activity on wetlands derive their authority from this short statement requiring permits for the discharge of dredge and fill material.

Congress has not specifically authorized the Federal Government to regulate the use of wetlands. The four Federal agencies which have been regulating wetlands use have gone far beyond the original intent of the statute. It is past time for Congress to speak to this issue and to establish a wetlands policy which accomplishes the laudable goal of protecting our vanishing wetlands, but which recognizes that most wetlands are privately owned. We must undertake to insure that the constitutional protections afforded to the ownership of private property in this country are preserved while seeking to conserve and replenish our wetland treasures.

I want to make it clear that I favor tne protection of true wetlands which serve a valuable wetlands function. However, during the past year we have been shocked by the policies adopted by the Corps of Engineers and EPA, which expand the definition of wetlands to include millions of acres of land which we have historically and practically believed to be dry and usable for many purposes, such as farming, housing, industry, and other commercial uses. In addition to greatly expanding the definition, the corps and EPA adopted a policy requiring mitigation for any land which is used. Both of these far-reaching policies were adopted, unfortunately, without going through the rulemaking procedures provided in the Administrative Procedures Act and without allowing for full and fair public comment.

This mitigation policy allows for certain uses of these lands, but sometimes exacts a high price by requiring the expenditure of funds for mitigation projects. Mitigation projects have included requirements that the landowners purchase and rebuild wetlands in other areas to replace the wetlands being lost.

This sounds at first glance like a laudable goal. However, it fails to consider the economic impact on regions of the country such as Louisiana, which contain millions of acres of land which have recently been reclassified as wetlands. This includes most of south Louisiana which is where the majority of our population lives. Therefore, all economic development in the southern part of our State must factor in the added cost of the permit process and mitigation projects. The Corps of Engineers now proposes to charge exorbitant fees for telling you whether your property is a wetland and then for processing the permit application. This means that individuals and small businesses are priced out of the market for the use of land in our area. It is conceivable that this policy, if carried out, could bring our small business activities to a halt.

This new policy as presently applied will mean the redistribution of wealth and resources from those areas surrounded by wetlands to those areas where no wetlands exist. For my district, this means economic stagnation and the loss of a tax base from which to derive funds for basic public services, such as schools, roads, medical care, and other infrastructure needs. However, the problem is not unique to Louisiana, but now is found in every State in the country.

Therefore, to address this complex and difficult issue, I have in prior Congresses introduced several bills to attempt to bring about a rational approach to wetlands protection. I have been a champion of wetlands protection since the mid-1970's. In an effort to deal with this issue, I and my colleagues, Congressman JIMMY HAYES and Congressman TOM RIDGE, have been working for many months to draft a wetlands protection bill that addresses the issues of wetlands values and private property protections. I believe that if we are to find a satisfactory means of protection of these wetlands, we must involve the owners of these lands in that effort by providing incentives for wetlands protection, while insuring that the constitutional rights of the landowners are also protected.

There are those who oppose this concept of providing compensation to landowners whose lands are set aside as wetlands. The concept of providing compensation for taking property is a cornerstone of our system of government. We presently compensate landowners when their land is taken for roads and other public works projects. A taking for wetlands protection purposes should be treated no differently. Private landowners should not be required to bear all of the cost for this very public purpose. I do not believe that any Member of this Congress would favor allowing our Government to take private property from any individual without just compensation. This bill seeks to address this difficult and complex issue.

This bill is the result of many meetings and discussions among Members of Congress from States with substantial wetlands resources. We are from both parties, we are from north and south, east and west, and we represent districts with many diverse interests. Our one common concern is that all of us wish to protect wetlands. However, we are witnessing the enactment of new, far-reaching wetlands policies by unelected individuals in the Federal bureaucracy without adequate opportunity for the public to participate in the process. We believe that the Congressional role in setting national wetlands policy has been usurped by the bureaucracy with the assistance of the Federal courts. We believe that it is the role of this Congress to set wetlands policy for this country and that is what this bill does.

This bill provides a new strict regulatory program to protect the true wetlands without unduly restricting the use of those lands which have some wetlands characteristics, but which have little or no wetlands values and functions. Wetland values and functions include use of the wetlands for wildlife habitat, fisheries propagation, hurricane protection barriers, water quality management, recreational activities, and flood protection. However, the bill contains new and creative solutions to many of the valid criticisms of the existing wetlands program.

Under our bill, wetlands which meet the scientific and technical criteria for wetlands will then be further classified into wetlands categories. The most valuable wetlands which require the greatest protections and where activities of man should be the most restricted will be classified as type A wetlands. Those wetlands which have many of the same values but which will tolerate some activities as long as mitigation is carried out will be classified as type B wetlands. Those wetlands which have little or no wetland values and which are already highly developed will be classified as type C wetlands. Type C wetlands meet the scientific test for wetlands, but they don't meet what many of us call the commonsense test for wetlands. Therefore, these wetlands will be subject to very little regulation.

One important feature of the legislation will be to provide for advanced mapping showing how land within a given area will be classified. This advanced mapping is tendered to provide notice to potential landowners that they may be purchasing a wetland. It is a tragedy to hear a landowner tell of saving for or borrowing money for the purchase of property to be used for some important project, only to find out that the land cannot be developed or that a wetlands permit is required. The permit process is very time-consuming and expensive and is frequently conditioned upon the construction of expensive wetlands mitigation projects.

One goal of the legislation is to insure a greater role for the general public in the development of wetlands policy. Therefore, the Corps must go through the rulemaking process in developing both the definition of wetlands and the permitting process. Also the public will be given an opportunity to comment on the advanced mapping. I believe a strong public involvement in this process will be one of the significant provisions of the bill.

Another concept of the legislation is to force our Government to come to terms with the impact of wetlands policy on private landowners. If the wetland is so valuable that it is classified as a type A wetlands, the bill gives the owner of the land the option of seeking compensation from the government under the takings clause of the U.S. Constitution. When land is classified as a type A wetland, it will be so well protected that its use will be severely limited. Therefore, the value to the landowner is so diminished that it will constitute a taking of the property. Therefore, we believe that the landowner should, if he desires, be able to receive compensation in return for surrendering title to the land. This is not intended to be used to force landowners to leave their land. However, we must not allow our Government to expropriate lands for use as wetlands without compensating the landowner.

The bill continues those activities presently exempt from section 404, such as farming and continues the present policy of exempting prior converted croplands. It will also allow the delegation of the program to the States.

I urge the members of this body to join in the effort to develop a sensible and compassionate approach to protecting our Nation's wetlands. We believe this concept can achieve that goal.