SENATE—*Thursday, May 23, 1991*

(Legislative day of Thursday, April 25, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

The PRESIDING OFFICER. Today's prayer will be offered by guest chaplain, Dr. Louis H. Evans, Jr., pastor of the National Presbyterian Church, Washington, DC.

PRAYER

The Reverend Dr. Louis H. Evans, Jr., National Presbyterian Church, Washington, DC, offered the following prayer:

Members of the Senate and friends, let us pray:

Gracious God of all life, You have called Senators of this country to be servants.

All too often, that is exactly how we, the people, treat them. We make impossible demands and criticize them when they do not please us. We seem to delight in bringing them down, making news out of their apparent failings or mistakes.

Give to them a rare wisdom to understand both the problems and the long-range effects of each decision. Grant them strengths to walk tall in the maelstrom of relentless demands.

Bless their families, O God, with time together, with sensitivity, tenderness and laughter at the table, quiet moments to touch, to dream, to reminisce.

Especially bless and heal the Chaplain of this Chamber, the beloved Reverend Richard C. Halverson, who truly has been a careful servant in this Senate.

Give a sense of importance to those who keep the doors secure, who expedite the flow of information, who touch the sometimes noisy and demanding constituents with open ears and helpful responses, for the staffers who find creative alternatives when deadlock seems inevitable.

To these, from whom we demand so much, may we give those seldom heard words, "What can I do for you today?" Thus, fill this Chamber with the aura of camaraderie and collaboration to benefit this land upon which You have bestowed so much, O caring and gracious Providence. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 23, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein, the time to be equally divided and controlled by the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH].

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

AMERICA 2000 EXCELLENCE IN EDUCATION ACT

Mr. KENNEDY. Mr. President, on behalf of Senators PELL, HATCH, KASSEBAUM, and myself, I send a bill to the desk and ask that it be referred to the appropriate committee.

The bill I have just introduced is America 2000, the President's education package. Secretary Alexander indicated that he would have the legislation ready for transmittal before the start of the May recess and he has met his deadline. I commend him and his colleagues at the Department of Education for meeting their target.

I have introduced this legislation by request. I have reservations about some parts of it—especially the plans to turn the chapter 1 program into a voucher and the creation of a choice program that includes private schools. These are complex and controversial ideas that need to be examined very carefully.

However, we all know that our schools are in a state of crisis. We all know the statistics. We all know that our Nation's growth and progress in the future depend on the steps we take to improve our schools today.

Despite years of rhetoric, our schools are not all that much different today than they were in 1983, when the National Commission on Excellence in Education warned us that we were a Nation at risk.

The quality of our schools is not good enough to enable our students to compete with the rest of the world. Rather than treating education as just another political issue and seeking narrow political advantage, we need to put partisan differences aside and get on with the business of improving our schools. I look forward to working closely and cooperatively with the administration in considering the legislation they have submitted.

Some elements of the administration's proposals are similar to ideas that we tried to enact at the end of the last Congress. In particular, merit schools, the teachers' academies, alternative routes to certification, and educational flexibility legislation are all proposals that were approved by the Senate Labor Committee in last year's education bill. I hope we can act quickly on these ideas this year.

My principal concern with the President's proposals, however, is that they do not go far enough to meet the nation's real education needs. We cannot pretend that education reform will be easy or that small, incremental steps will be enough to get us where we need to go.

The most serious omission is the lack of any real commitment in the administration's program to the goal of school readiness. Ensuring that all children are ready to learn when they start school is the Nation's first education goal. Unless we are willing to do what it takes to meet this goal, the chances of meeting the other goals are minimal.

Earlier this month, I introduced S. 911 to make Head Start an entitlement for all eligible children, and to guarantee greater access to basic health care and childhood immunizations. I believe that enacting this legislation is the most important step the Nation can take to meet the school readiness goal.

Yesterday, I introduced several additional bills that address other problems in our schools. The first bill, the Comprehensive Services for Youth Act of 1991, will make 5-year grants to part-

• 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

nerships of local schools and other agencies to provide social services for students in and out of school. Grantees would use administrative funds under this bill to coordinate various services for at-risk students and their families—and make them available in the schools or at other single convenient locations.

The second bill, called the Education USA Act, will provide grants for a comprehensive restructuring of urban and rural schools. Receipt of the funds would be contingent on schools meeting self-imposed performance targets which move toward the national education goals. In addition, the legislation authorizes funds to renovate and repair school buildings in urban and rural districts.

The third bill, called access—America's Commitment to College Education and Success for All Students Act—will motivate students to finish high school by telling at-risk children when they are in the sixth and seventh grades that if they stay in school and take a rigorous curriculum, the Government will provide the necessary funds for them to attend college.

The promise of college may well turn out to be the most important incentive of all for students to stay in school. A few days ago, I met with Patrick Taylor, who has been pressing this idea of a college guarantee with remarkable success in many States. He tells the inspiring story of a visit to a classroom in which he asked young students a series of questions about their school and their feelings about education. When he asked them how many wanted to go to college, all the children in the classroom raised their hands instantly, without looking around to see how others were responding. Those children understand the importance of education for their future, and we have it within our power to make their dreams come true.

The fourth bill is the Public School Choice Act of 1991. This legislation authorizes grants to State and local education agencies to plan, implement or expand programs that provide opportunities for parents to select the public school attended by their children. Those applying for grants must demonstrate that their programs will have the elements necessary for high-quality choice programs.

I recently had the opportunity to visit parents, teachers, administrators, and students participating in the choice program in the Cambridge, MA, public schools. This is, of course, one of the most respected choice programs in the country, and it has become a model for many other school districts. I hope that this legislation will help make it possible for many more districts to implement similar programs.

Early next month, I plan to introduce an additional bill to deal with one other urgent aspect of our education crisis—the school to work transition. This measure will be based on the recommendations of the bipartisan commission on the skills of the American work force, chaired by Ray Marshall and Bill Brock. Nearly half of all American students go from school to work not to college, and any proposals to address our national goals must deal with their needs as well.

It is my intention to begin consideration of these bills in the Labor Committee immediately after the Memorial Day recess. My plan is to hold hearings the first week after recess and put together legislation that embodies the features of the President's education package and my proposals that have already gained broad bipartisan support. I would like to mark up this legislation before the Fourth of July recess and take it to the floor as soon as possible. It will be a downpayment on education reform.

The more complex and controversial proposals will take more time and more study. The Labor Committee will consider these issues—including choice, vouchers, and testing—this fall and I hope we will be ready to move on them by the end of this Congress.

I have discussed this approach with Senator PELL, the distinguished chairman of the Education Committee, and with Senator HATCH, and they understand my hopes for working on these pieces of legislation. President Bush has said he wants to become the education President. I hope this Congress can become the education Congress. If we succeed together in this effort, American education and America's future will be the winner.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and a section-by-section analysis were ordered to be printed in the RECORD, as follows:

S. 1141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "America 2000 Excellence in Education Act".

TABLE OF CONTENTS

SEC. 2. This Act is organized as follows:

TITLE I—NEW AMERICAN SCHOOLS
TITLE II—MERIT SCHOOLS
TITLE III—TEACHERS AND SCHOOL LEADERS
PART A—GOVERNORS' ACADEMIES FOR TEACHERS
PART B—GOVERNORS' ACADEMIES FOR SCHOOL LEADERS
PART C—ALTERNATIVE CERTIFICATION OF TEACHERS AND PRINCIPALS
TITLE IV—EDUCATIONAL REFORM AND FLEXIBILITY
PART A—EDUCATIONAL REFORM THROUGH FLEXIBILITY AND ACCOUNTABILITY
PART B—AMENDMENTS TO CHAPTER 2
TITLE V—PARENTAL CHOICE OF SCHOOLS
PART A—FINDINGS
PART B—PARENTAL CHOICE AND CHAPTER 1
PART C—ASSISTANCE FOR PARENTAL CHOICE PROGRAMS
PART D—PARENTAL CHOICE PROGRAMS OF NATIONAL SIGNIFICANCE
TITLE VI—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS
TITLE VII—NATIONAL COMMISSION ON TIME, STUDY, LEARNING, AND TEACHING
TITLE VIII—REGIONAL LITERACY RESOURCE CENTERS
TITLE IX—GENERAL PROVISIONS

FINDINGS

SEC. 3. The Congress finds that—

(1) eight years after the report of the National Commission on Excellence in Education, the Nation's schools have yet to show significant improvement;

(2) the educational reforms of the 1980's were too slow and too timed; a bolder and more comprehensive effort that involves the citizens of every American community is needed;

(3) the Federal Government should provide start-up funding to communities across the country to create their own high-performance New American Schools—schools where all students meet new World Class Standards;

(4) rewards for schools in which students make significant gains in learning can spur improvements in all schools;

(5) teachers and schools leaders in every State should receive the additional training they need to deliver capable instruction in the core academic disciplines and to provide strong instructional leadership to their schools;

(6) new approaches to training and certifying teachers and principals would expand the pool of talent from which schools draw professional staff and would enable talented, qualified individuals who do not possess traditional credentials to enter teaching and the principalship;

(7) greater flexibility and accountability at the school site can enable educators to improve learning for all students;

(8) expanding parental choice among schools can help all schools to improve;

(9) an expanded National Assessment of Educational Progress can be used to provide clear and comparable information on the progress of States, school districts, and schools toward attainment of the National Education Goals;

(10) Americans need to know how much time their children should spend learning,

and how that time should be used, in order for those children to develop the intellectual competencies necessary for a productive workforce and an enlightened citizenry;

(11) better coordination of adult literacy services, and access by service providers to information about the best practices in the field of literacy, will assist the Nation in meeting the goal that every adult American be literate by the year 2000; and

(12) therefore, national progress toward attainment of the National Education Goals by the year 2000 can be assisted by the Federal Government through initiatives that provide funds for the creation of the first of a new generation of American schools; reward schools that make demonstrated progress toward attainment of the National Education Goals; create academies for the training of teachers and school leaders; provide support for development of alternative teacher and school administrator certification programs in the States; provide schools with greater flexibility in exchange for accountability for results; encourage, test, and evaluate educational choice programs; expand the National Assessment of Educational Progress; create a National Commission on Time, Study, Learning, and Teaching; and establish Regional Literacy Resource Centers.

TITLE I—NEW AMERICAN SCHOOLS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds that—

(1) many American elementary and secondary schools—

(A) are structured according to models that are outmoded and ineffective;

(B) rely on notions about pedagogy, management, technology, staffing, and other resources that may be outdated or insufficient for the challenges of the next century; and

(C) are unsuccessful at equipping the majority of students with the knowledge and skills needed to succeed as citizens and in the workplace;

(2) new approaches to elementary and secondary education are needed. Without major reforms in elementary and secondary schools, the United States will lose its ability to compete fully and successfully in the world economy;

(3) although educational change must take place school by school, experience shows that the schools, on their own, will not alter themselves radically;

(4) there is an appropriate Federal role in providing seed money for the establishment of new types of schools in communities across the country; and

(5) the Nation is embarking on a major effort to support the invention of radically better forms of schooling, and to establish a network of American communities whose citizens are dedicated to the improvement of education.

PURPOSE

SEC. 102. (a) The purpose of this title is to support the creation of new schools across the country—schools that reflect the best thinking about teaching and learning, employ the highest-quality instructional materials and technologies, and are designed to meet the National Education Goals, as well as the particular needs of their students and communities.

(b) In order to carry out this purpose, this title authorizes financial asssistance for New American Schools in communities that have been designated "AMERICA 2000 Communities".

ALLOCATION OF FUNDS

SEC. 103. (a) From the amount of funds appropriated to carry out this title for fiscal years 1992, 1993, and 1994, the Secretary shall reserve a total of up to $3 million for a national program evaluation.

(b)(1) The Secretary shall allocate the remaining funds among the several States in proportion to their respective numbers of members of Congress, including Senators, Representatives, and Delegates. For the purpose of this subsection, the Commonwealth of the Northern Mariana Islands and Palau (until the effective date of the Compact of Free Association with the Government of Palau) shall be treated as if they each had one member of Congress.

(2) If, within any State, a congressional district has no community that has been designated an AMERICA 2000 Community, or there are fewer such communities than members of Congress from such State, the Secretary shall proportionately reduce such State's allocation under paragraph (1), and shall proportionately increase the allocation of all other States.

STATE APPLICATIONS

SEC. 104. In order for a State to qualify for its allocation under section 103(b), the Governor shall submit an application at such time as the Secretary may determine, including—

(1) a description of the process the Governor has used, in accordance with section 105, to nominate communities to create New American Schools;

(2) a list of the communities nominated by the Governor, and the name of the agency, institution, or organization designated by the Governor to receive a New American School grant on behalf of each such community;

(3) copies of the plans, prepared by each community nominated by the Governor for funding under this title, for establishing and operating a New American School, including, as necessary, a description of the steps to be taken to obtain recognition or accreditation from the State;

(4) an identification of non-Federal resources that will be available to establish and operate such New American School in the State; and

(5) such other information as the Secretary may require.

SELECTION OF COMMUNITIES TO CREATE NEW AMERICAN SCHOOLS

SEC. 105. (a)(1) The Governor of each State shall nominate communities within the State to create New American Schools.

(2) The Governor may nominate only communities that have been previously designated by the Governor as AMERICA 2000 Communities, in accordance with the President's AMERICA 2000 initiative.

(b) In carrying out subsection (a), each Governor shall nominate—

(1) at least as many communities as there are members in the State's congressional delegation; and

(2) at least one community in each congressional district in the State.

(c)(1) Each Governor shall nominate communities on the basis or criteria established by the Secretary, based on the advice of the panel of experts established under section 107, including, at a minimum—

(A) the level of commitment and activity displayed by the community through its participation in the AMERICA 2000 Communities initiative;

(B) the need for new and innovative educational programs in the schools of the community; and

(C) the quality of the application submitted by the applicant to the Governor.

(d)(1) The Secretary, with the advice of the panel of experts established under section 107, shall approve some or all of the communities nominated by each Governor, and the agencies, institutions, and organizations designated by the Governor to receive New American School grants on behalf of those communities, based on the Secretary's determination that such approval would be fully consistent with the purpose and requirements of this title.

(2) The Secretary shall ensure that—

(A) to the extent consistent with paragraph (1), a New American School is created in each congressional district and that the number of such schools created in each State is at least equal to the number of members in the State's congressional delegation; and

(B) communities with high concentrations of children from low-income families in each State receive an equitable share of awards under this title.

(e) The Governor may nominate other communities or recipients if—

(1) the Secretary does not approve one or more of the Governor's nominees;

(2) an approved community or recipient withdraws from the program; or

(3) the Secretary determines that the community or recipient is unable successfully to carry out its project or is not making adequate progress in carrying out such project.

AMOUNT OF AWARDS, OPERATION OF SCHOOLS, AND USES OF FUNDS

SEC. 106. (a)(1) The Secretary shall make grants for New American Schools to agencies, organizations, and institutions selected by the Secretary under section 105(d).

(2) The Secretary, after consultation with the Govenror, shall determine the total amount of each award under this title, except that—

(A) no such award shall exceed $1,000,000; and

(B) the Secretary shall consider the expected student enrollment in the New American School in setting such amount.

(b) In establishing a New American School, the grantee is encouraged to adapt and implement one or more New American School designs developed by research and development teams funded by the New American Schools Development Corporation.

(c)(1) Funds made available under this title may be used only to meet the special start-up costs associated with the creation and establisment of a New American School, including—

(A) planning, curriculum development, and curriculum adaptation;

(B) training of teachers, administrators, and other staff, as well as parents and members of the community who are involved with the school;

(C) purchase of equipment and materials;

(D) minor renovation and remodeling of facilities; and

(E) obtaining the assistance of outside experts, including one or more of the teams described in subsection (b), to assist it in adapting and implementing one or more of the designs developed by such teams to the needs of the individual community and school.

(2) Such funds may not be used for construction or for the grantee's general administrative expenses.

(d) Each New American School shall have obtained State recognition or accreditation, as necessary, and be fully operating by the start of the 1996–1997 school year.

SECRETARY'S PANEL OF EXPERTS

SEC. 107. Within 90 days of enactment of this Act, the Secretary shall convene an ex-

pert panel of educators, representatives of private business, and public representatives to advise on the administration of the program authorized by this title, including—

(1) the criteria to be used to nominate communities for New American Schools; and

(2) the approval of communities nominated by Governors to establish and operate New American Schools, and of the agencies, institutions, and organizations to receive grants for those schools.

NATIONAL EVALUATION

SEC. 108. (a) The Secretary shall use the funds reserved under section 103(a) to conduct a national evaluation of the impact of the New American Schools program on schools and communities, and on education generally.

(b) The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report by September 30, 1998.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. For the purpose of carrying out this title, there are authorized to be appropriated $180 million for fiscal year 1992, $180 million for fiscal year 1993, and $185 million for fiscal year 1994. Such sums shall remain available for obligation by the Secretary for two fiscal years beyond the fiscal year for which they are appropriated.

DEFINITION

SEC. 110. For the purpose of this title, the term "community" means—

(1) a unit of general purpose local government, such as a city, township, or village;

(2) a geographically distinct area, such as a school district, school attendance area, ward, precinct, or neighborhood; or

(3) an identifiable group of individuals, such as the members of a service organization, who generally reside in a particular geographic area.

TITLE II—MERIT SCHOOLS

FINDINGS AND PURPOSE

SEC. 201. (a) FINDINGS.—The Congress finds that—

(1) all elementary and secondary schools in the United States should seek to attain the National Education Goals by the year 2000;

(2) achievable standards of excellence can and should be set for all students and for all schools;

(3) schools' progress in meeting those standards should be measured and made public;

(4) financial incentives can spur schools to rise to the challenge of meeting those standards; and

(5) demonstrated school-wide progress in achieving excellence, particularly in mathematics and science, deserves reward and recognition.

(b) PURPOSE.—The purpose of this title is to recognize and reward public and private elementary and secondary schools (including their faculty) that make documented progress in attaining the National Education Goals, particularly the goal of increasing students' mastery of the core academic subjects.

AUTHORIZATION OF APPROPRIATIONS

SEC. 202. For the purpose of carrying out this title, there are authorized to be appropriated $100,000,000 for fiscal year 1992 and such sums as may be needed for each of the four succeeding fiscal years. Such sums shall remain available for obligation by the Secretary for two fiscal years beyond the fiscal year for which they are appropriated.

ALLOCATION OF APPROPRIATIONS

SEC. 203. (a) RESERVATIONS.—From the amount appropriated under section 202 for any fiscal year, the Secretary may reserve—

(1) up to one quarter of 1 percent for grants to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau) for activities under this part; and

(2) up to two percent for evaluations and dissemination.

(b) ALLOCATION AMONG STATES.—(1) The amount remaining after any reservation of funds under subsection (a) shall be allocated among the States on the same basis as funds were allocated among such States under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year.

(2) For purposes of this subsection, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

STATE APPLICATIONS

SEC. 204. (a) APPLICATIONS.—The Governor of each State that wishes to receive a grant under this title shall submit to the Secretary an application for a three-year period, which may be followed by an application for the succeeding two years, at such time and in such manner as the Secretary may prescribe.

(b) APPLICATION CONTENTS.—Each State application shall contain—

(1) the criteria the Governor will use to select Merit Schools under section 207;

(2) the criteria the Governor will use to determine the amount of awards;

(3) an assurance that the State will carry out this title in accordance with the requirements of this title and other applicable legal requirements; and

(4) other information the Secretary may require.

(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this title.

STATE USE OF FUNDS

SEC. 205. (a) ADMINISTRATION.—Each State may use up to 5 percent of its annual allocation for the administrative costs of carrying out this title.

(b) MERIT SCHOOL AWARDS.—(1) Each State shall use at least 95 percent of its annual allocation for Merit School awards made in accordance with section 207, except that the Governor may, by so notifying the Secretary, designate part or all of such amount to remain available to make such awards for two additional years.

(2) Of the amount used for Merit School awards, the Governor shall use at least 20 percent for awards to schools that demonstrate exceptional progress in improving students' performance in mathematics and science, in addition to meeting the national and State criteria under sections 207(b) and (c).

STATE ACTIVITIES AND RESPONSIBILITIES

SEC. 206. (a) STATE REVIEW PANEL.—(1) Each Governor shall establish a State review panel to assit in the selection of Merit Schools.

(2) The State review panel shall be broadly representative of the following interests in the State—

(A) public and private elementary and secondary school teachers and administrators;

(B) college and university faculty and administrators;

(C) parents;

(D) students;

(E) State and local boards of education;

(F) State and local governments;

(G) labor;

(H) business; and

(I) the general public.

(b) ANNUAL REPORTS TO THE SECRETARY.—(1) Within 60 days of the end of each fiscal year, each Governor shall submit a report to the Secretary that—

(A) identifies the schools chosen as Merit Schools;

(B) states the reasons for their selection; and

(C) states the amount of the award to each school.

(2) Beginning with the second year for which any State makes awards under this title, the Governor's annual report shall also include a brief description of how schools selected in the previous year used their awards.

SELECTION OF MERIT SCHOOLS

SEC. 207. (a) ELIGIBLE SCHOOLS.—(1) A Governor may designate as Merit Schools public or private elementary or secondary schools in the State that have been nominated through procedures established by the Governor.

(2) In selecting Merit Schools, the Governor shall apply the selection criteria described in subsections (b) and (c) uniformly to public and private schools.

(b) NATIONAL CRITERIA.—Each school selected through the nomination procedure established by the Governor that subsection (a) shall have—

(1) demonstrated progress over a period of at least three years in significantly increasing the number of percentage of students who meet the National Education Goal of leaving grades four, eight, and twelve, as applicable, having demonstrated competency in challenging subject matter, including English, mathematics, science, history, and geography;

(2) utilized objective measures of progress over the period that are established by the State in its plan and approved by the Secretary; and

(3) made public an annual "report card", which includes information about the progress the school is making toward achievement of relevant aspects of the National Education Goals.

(c) STATE CRITERIA.—(1) In selecting Merit Schools, each Governor may use selection criteria in addition to those set out in subsection (b).

(2) In setting these additional criteria, the Governor—

(A) may include other aspects of educational performance, including the school's progress in attaining the other National Education Goals;

(B) shall take into account differences in composition of the student body of different schools;

(C) shall give special consideration to schools with substantial numbers of proportions of children from low-income families; and

(D) may set different criteria for awards for achievement in different grade levels.

(3) Each Governor shall develop State criteria for selecting schools to receive awards under section 205(b)(2) for outstanding progress in student achievement in mathematics and science.

(4) In applying the criteria to a school in which a program is conducted under part A

of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Governor shall consider the desired outcomes identified for children in the application submitted under section 1012(b) of such Act by the local educational agency operating the school. No school that has received assistance under section 1021(b) of such Act for all of the years covered by a Merit Schools Award competition shall be eligible for a Merit School Award.

(5) In selecting Merit Schools and in setting the amount of their awards, the Governor may not consider a school's planned use of a Merit School award, if it is otherwise permitted by law.

(d) AMOUNT OF AWARD.—Each Governor shall establish criteria, subject to subsection (c)(5), for determining the amount of Merit School awards. Such criteria shall include criteria relating to the school size and the economic circumstances of the student body.

(e) BYPASS.—If a State is either prohibited by State law from providing funds made available under this title to private schools, or is unwilling to do so, the Governor shall notify the Secretary of such prohibition or unwillingness, as well as the private schools the Governor has designated as Merit Schools and the amount of their awards. The Secretary shall then provide those funds, from the State's allocation under this title, to the designated private schools, through such arrangements as the Secretary finds suitable. The Secretary shall also withhold from the State's allocation under this title the administrative costs of making such arrangements.

USE OF FUNDS BY MERIT SCHOOLS

SEC. 208. A Merit School shall use its Merit School award for activities, otherwise permitted by law, that further the educational program of the school. Such activities may include, but are not limited to—

(1) development, implementation, or expansion of special programs, such as those focused on: dropout prevention or reentry, student transition to college or employment, preschool children, remedial services, or gifted and talented students;

(2) the purchase or lease of computers, telecommunications equipment, scientific instruments, instructional materials, library books, and other equipment and materials, except that a public agency shall have title to, and exercise administrative control of, all such equipment and materials;

(3) bonus payments for faculty and administrator;

(4) college scholarships for secondary school students;

(5) parental involvement activities;

(6) community outreach activities; and

(7) helping other schools replicate its success.

PROHIBITION ON STATE OR LOCAL REDUCTION OF OTHER ASSISTANCE

SEC. 209. No Federal, State, or local agency may, in any year, take a Merit School award into account in determining whether to award any other assistance from Federal, State, or local resources, or in determining the amount of such assistance, to either the Merit School itself or the local educational agency, if any, that operates the school.

TITLE III—TEACHERS AND SCHOOL LEADERS

PART A—GOVERNORS' ACADEMIES FOR TEACHERS

STATEMENT OF FINDINGS

SEC. 301. The Congress finds as follows:

(1) Reform and restructuring of American education, and the Nation's ability to attain the National Education Goals, depend heavily on the quality of teaching in elementary and secondary schools, particularly in the core academic disciplines of English, mathematics, science, history, and geography.

(2) Experienced teachers need access to training of exceptional quality to keep current in the core academic disciplines, participate successfully in curriculum development, and act as master teachers.

(3) Governors' efforts to reform elementary and secondary education in the States should include a focus on ensuring that teachers have a firm grasp of, and keep current in, the core academic disciplines.

(4) Governors' Academies for Teachers can be a principal vehicle for providing the kind of high-level, intensive training essential to education reform and accomplishment of the National Education Goals.

(5) Excellent teachers in the academic subjects deserve public recognition and appropriate financial rewards in return for their efforts.

PURPOSE

SEC. 302. The purposes of this part are—

(1) to build the highest quality teaching force for the Nation's schools, by providing start-up funds for Governors' Academies that teachers from public and private elementary and seocndary schools may attend to obtain advanced instruction focusing on the core academic disciplines; and

(2) to establish awards for outstanding teachers in the academic subjects covered by those Academies.

PROGRAM AUTHORIZED; ALLOCATION OF APPROPRIATIONS

SEC. 303. (a)(1) From funds appropriated under section 308 (a) and (b), the Secretary shall make a one-time, five-year grant to each State, in accordance with this part, to establish and operate Governors' Academies for Teachers and to recognize outstanding teachers.

(2) The Governor of each State shall use the State's grant to make competitive awards to the State educational agency, local educational agencies, institutions of higher education, other public and private agencies and organizations, or consortia of such agencies, institutions, and organizations, to establish and operate Governor's Academies for Teachers.

(3) Such Academies may be operated in cooperation or consortium with those of other States.

(b)(1) From the funds appropriate for this part for any fiscal year, the Secretary—

(A) may reserve up to $500,000 for evaluations of, and dissemination of information about, activities conducted under this part; and

(B) shall reserve up to $175,000 for Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), to be expanded in such manner as the Secretary determines will best meet the purpose of this part.

(2) The Secretary shall proportionately allocate the remainder of such funds to each of the 50 States, the District of Columbia, and Puerto Rico, on the basis of the full-time equivalent number of public elementary and secondary school teachers in the most recent year for which satisfactory data are available.

(3) If the Secretary determines that any amount of a State's allotment for any fiscal year under paragraph (2) will not be needed for such fiscal year by the State, the Secretary shall reallot such amount to other States that need additional funds, in such manner as the Secretary determines is appropriate.

STATE APPLICATION

SEC. 304. (a) The Governor of each State wishing to receive a grant under this part shall submit an application to the Secretary, for a five-year period, at such time and in such manner, as the Secretary may prescribe.

(b) Each such application shall include—

(1) a description of how the Governors' Academies planned for the State will relate to the Governor's overall plan for the reform of elementary and secondary education and the attainment of the National Education Goals in the State, including, in particular, improvement of education in the core academic subjects;

(2) a description of the competitive process the Governor will use to select applicants to operate the Governors' Academies for Teachers in the State;

(3) an assurance that a separate Academy will be established in each of the five core academic subjects (English, mathematics, science, history, and geography), unless the Governor determines that it would be inefficient to use funds in this manner and the application describes the Governor's reasons for establishing Academies that focus on more than one subject. Nothing in this paragraph prohibits the same agency, institution, or organization from operating more than one Academy;

(4) a description of how Academy participants will be selected;

(5) a description of how the State will monitor the implementation of Governors' Academies for Teachers, including the awards to teachers under section 305(d), and the performance of teachers who have been trained in those Academies, and an assurance that it will comply with reasonable requests of the Secretary for information on these matters;

(6) a description of how the State will meet the cost-sharing requirements of section 307, and how the State will continue to operate the Academies when Federal assistance is no longer available; and

(7) such other assurances and information as the Secretary may require.

AUTHORIZED ACTIVITIES

SEC. 305. (a) Each Governor's Academy for Teachers assisted under this title shall conduct a program of intensive instruction, during the summer or the school year, focusing on the core academic disciplines of English, mathematics, science, history, and geography. such instruction shall be provided to current elementary and secondary school teachers.

(b) The instruction provided by each such Academy shall include—

(1) renewal and enhancement of participants' knowledge of one of the five core academic disciplines described in subsection (a), except as provided in section 304(b)(3);

(2) teaching skills and strategies needed to impart academic subject matter to students, including students who are economically disadvantaged, limited English proficient, or have disabilities, and other students from diverse backgrounds;

(3) at the Academy's discretion, the use of educational technologies in teaching the core academic disciplines;

(4) training needed to become a lead teacher or a master teacher in a core subject, consistent with State policies on teacher career ladders;

(5) training needed to participate in curriculum development in a core subject; and

(6) training in the development and use of assessment tools.

(c) Each Academy assisted under this part shall carry out activities consistent with the purpose of this party, which may include—

(1) review of existing teacher enhancement programs to identify the most promising approaches;

(2) development of a curriculum for use by the Academy;

(3) recruitment of teachers within the State to participate in the Academy's program, including, on a nondiscriminatory basis, recruitment of—

(A) minority group members;

(B) individuals with disabilities;

(C) individuals from areas with high numbers or concentrations of disadvantaged students; and

(D) other teachers who have a potential for leadership;

(4) follow-up activities for previous participants;

(5) dissemination of information about the Academy, including the training curricula developed; and

(6) evaluation of the impact of the Academy on the teaching practices of participants, and other evaluation activities designed to strengthen the academy's program.

(d)(1) The Governor shall allocate to the Academies, in the same proportion as funds appropriated under section 308(a) are distributed to those Academies, the State's allocation under section 308(b). Each Academy shall use such allocation for a program of cash awards and recognition to outstanding teachers in the core academic subject or subjects covered by the program of the Academy.

(2) Academies shall select teachers to receive awards from nominations received from local educational agencies, public and private schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, and student groups.

(3) Any full-time public or private elementary or secondary school teacher of a core academic subject, including an elementary school teacher of the general curriculum, shall be eligible to receive an award under this subpart.

(4) The Academy shall select award recipients in accordance with criteria developed by the Academy and approved by the Governor. The selection criteria may take into account, but are not limited to, teacher's success in—

(A) educating disadvantaged children, such as children with disabilities, children of limited English proficiency, homeless children, or children who are currently or formerly migratory, in a core academic subject;

(B) educating gifted and talented students in a core academic subject;

(C) encouraging students to enroll, and succeed, in advanced classes in a core academic subject:

(D) teaching a core academic subject successfully in schools educating large numbers of disadvantaged students, including schools in low-income inner-city or rural areas;

(E) introducing a new curriculum in a core academic subject into a school or strengthening an established curriculum; or

(F) acting as a "master teacher" in a core academic subject.

(5) The amount of a teacher's award under this subsection shall not exceed $5,000 and shall be available for any purpose the recipient chooses.

USE OF FUNDS

SEC. 306. Each recipient of funds appropriated under section 308(a) shall use those funds to meet the reasonable start-up and initial operating costs of carrying out the activities described in section 305 (a) through (c), which may include stipends and travel and living expenses for teachers who participate in the Academy's program if no other funds are available to pay those costs.

COST-SHARING

SEC. 307. (a) Funds received under section 308(a) may be used to pay up to 75 percent of the cost of a Governor's Academy for Teachers in the first year, 65 percent of such cost in the second year, 55 percent in the third year, 45 percent in the fourth year, and 35 percent in the fifth year. The remaining share shall be provided from non-Federal sources, and may include in-kind contributions, fairly valued.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. (a) For the purpose of carrying out this part, except for section 305(d), there are authorized to be appropriated $62,400,000 for fiscal year 1992, $54,170,000 for fiscal year 1993, $45,940,000 for fiscal year 1994, $37,710,000 for fiscal year 1995, and $29,480,000 for fiscal year 1996.

(b) For the purpose of carrying out section 305(d), there are authorized to be appropriated $7,600,000 for each of the fiscal years 1992 through 1996.

PART B—GOVERNORS' ACADEMIES FOR SCHOOL LEADERS

STATEMENT OF FINDINGS

SEC. 311. The Congress finds as follows:

(1) The role of the school principal and other school leaders is central to school performance, school reform, and achievement of the National Education Goals.

(2) School restructuring intensifies the need for effective school leadership as it locates greater authority and responsibility at the school building level. In this context, principals and other administrators need to cultivate strong collegial relationships among teachers and staff and effectively involve parents.

(3) School leaders must be well versed in the core academic disciplines, must provide instructional leadership to the teachers in their schools, and must be able to coordinate school services with those of social service agencies and other organizations, including businesses, in the community affecting students and their families.

(4) Over the next ten years, at least half of those individuals now serving as school principals will be eligible for retirement.

(5) Governors' efforts to reform elementary and secondary education in the States must include a focus on preparing a new generation of highly effective school leaders.

(6) The pool of talent from which to draw school leaders can be expanded substantially with well-designed training programs.

PURPOSE

SEC. 312. The purpose of this part is to improve the training and performance of public and private school principals and other school leaders, and increase the number of persons who are well trained and well qualified to be school leaders, by supporting the development and implementation of programs that offer—

(1) for prospective school leaders, recruitment, training, and, as appropriate, internships under experienced school leaders;

(2) for experienced school leaders, opportunities for professional renewal and enhancement of skills; and

(3) for all participants, a focus on instructional leadership, school-based management, school reform strategies, and implementation of school-level accountability mechanisms.

PROGRAM AUTHORIZED; ALLOCATION OF APPROPRIATIONS

SEC. 313. (a)(1) The Secretary shall make a one-time, five-year grant to each State, in accordance with this part, to establish and operate a Governor's Academy for School Leaders.

(2) The Governor of each State shall use the State's grant to make competitive awards to the State educational agency, local educational agencies, institutions of higher education, other public and private agencies and organizations, or consortia of such agencies, institutions, and organizations, to establish and operate a Governor's Academy for School Leaders.

(3) Such Academies may be operated in cooperation or consortium with those of other States.

(b)(1) From the funds appropriated for this part for any fiscal year, the Secretary—

(A) may reserve up to $500,000 for evaluations of, and dissemination of information about, activities conducted under this part; and

(B) shall reserve up to $55,000 for Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), to be expended in such manner as the Secretary determines will best meet the purpose of this part.

(2)(A) Except as provided in paragraph (3), the Secretary shall proportionately allocate the remainder of such funds to each of the 50 States, the District of Columbia, and Puerto Rico, on the basis of the number of public elementary and secondary schools in each such jurisdiction in the most recent year for which satisfactory data are available.

(B) If the Secretary determines that any amount of a State's allotment for any fiscal year under subparagraph (A) will not be needed for such fiscal year by the State, the Secretary shall reallot such amount to other States that need additional funds, in such manner as the Secretary determines is appropriate.

STATE APPLICATION

SEC. 314. (a) The Governor of each State wishing to receive a grant under this part shall submit an application to the Secretary for a five-year period, at such time and in such manner as the Secretary may prescribe.

(b) Each such application shall include—

(1) a description of how the Governor's Academy for School Leaders planned for the State will relate to the Governor's overall plan for the attainment of the National Education Goals and the reform of elementary and secondary education in the State, including, in particular, improvement of school leadership in the State;

(2) a description of the competitive process the Governor will use to select the applicant to operate the Governor's Academy;

(3) a description of how Academy participants will be selected;

(4) a description of how the State will monitor the implementation of the Governor's Academy and the subsequent progress of individuals trained by the Academy, and an assurance that it will comply with reasonable requests of the Secretary for information on these matters;

(5) a description of how the State will meet the cost-sharing requirements of section 317

and how the State will continue to operate the Academy when Federal assistance is no longer available; and

(6) such other assurances and information as the Secretary may require.

AUTHORIZED ACTIVITIES

SEC. 315. Each Academy assisted under this part shall—

(1) identify models and methods of leadership training and development that are promising or have proven to be successful;

(2) develop curricula, which focus on instructional leadership, school-based management, and the design and execution of school improvement strategies and accountability mechanisms, for the development of school leaders;

(3) identify, in a nondiscriminatory manner, candidates, including members of minority groups, individuals with disabilities, and individuals from schools with high numbers of concentrations of disadvantaged students, to be trained as new school leaders;

(4) provide intensive training and development programs both for persons desiring and demonstrating outstanding promise to become school leaders, and for current school leaders seeking enhanced and up-to-date knowledge needed to perform their jobs effectively;

(5) identify districts and schools with principal and other school leader vacancies and work with them to match Academy participants with such vacancies;

(6) as appropriate, facilitate internships for graduates of the program for new school leaders, under the guidance and supervision of experienced administrators;

(7) provide periodic follow-up development activities for school leaders trained through the Academy's programs;

(8) disseminate information about the Academy, including the training curricula developed; and

(9) evaluation of the impact of the Academy on the leadership practices of participants, and other evaluation activities designed to strengthen the Academy's program.

USE OF FUNDS

SEC. 316. Each recipient of funds under this part shall use those funds to meet the reasonable start-up and initial operating costs of carrying out the activities described in section 315, which may include stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay those costs.

COST-SHARING

SEC. 317. Funds received under this part may be used to pay up to 75 percent of the cost of a Governor's Academy for School Leaders in the first year, 65 percent of such cost in the second year, 55 percent in the third year, 45 percent in the fourth year, and 35 percent in the fifth year. The remaining share shall be provided from non-Federal sources, and may include inkind contributions, fairly valued.

AUTHORIZATION OF APPROPRIATIONS

SEC. 318. For the purpose of carrying out this part, there are authorized to be appropriated $22,500,000 for fiscal year 1992, $19,500,000 for fiscal year 1993, $16,500,000 for fiscal year 1994, $13,500,000 for fiscal year 1995, and $10,500,000 for fiscal year 1996.

PART C—ALTERNATIVE CERTIFICATION OF TEACHERS AND PRINCIPALS

FINDINGS

SEC. 321. The Congress finds that—

(1) effective elementary and secondary schools require competent teachers and strong leadership;

(2) school systems would benefit greatly by recruitment pools of well-qualified individuals, such as scientists and engineers, from which to select teachers and principals;

(3) talented professionals who have demonstrated a high level of subject area competence or management and leadership qualities outside the education profession and who wish to pursue second careers in education often do not meet traditional certification requirements; and

(4) alternative certification requirements that do not exclude such individuals from teaching or school administration solely because they do not meet current certification requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers and principals.

PURPOSE

SEC. 322. (a) It is the purpose of this part to improve the supply of well-qualified elementary and secondary school teachers and principals by encouraging and assisting States to develop and implement alternative teacher and principal certification requirements.

(b) As used in this part, the term—

(1) "alternative teacher and principal certification requirements" means State or local requirements that permit entry into elementary and secondary teacher and principal positions for individuals who have demonstrated a high level of appropriate subject area competence, or management or leadership qualities, in careers in or out of the education field, but who would not otherwise meet existing requirements for teaching or supervisory positions. Alternative teacher and principal certification requirements may recognize that—

(A) for teachers, a high level of demonstrated competence in an appropriate subject area may be substituted for traditional teacher certification requirements (such as teacher training course work); and

(B) for principals, a high level of demonstrated competence in administration and management may be substituted for traditional principal certification requirements (such as teaching experience or supervisory experience in the field of education); and

(2) "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

AUTHORIZATION OF APPROPRIATIONS

SEC. 323. For the purpose of carrying out this part, there are authorized to be appropriated $25 million for fiscal year 1992.

ALLOTMENTS

SEC. 324. (a)(1) From the amount appropriated to carry out this part, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 325 or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

(2) If a State does not apply for its allotment, or the full amount of its allotment, under the preceding paragraph, the Secretary may reallocate the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

(b) Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this part shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

STATE APPLICATIONS

SEC. 325. (a) Any State desiring to receive a grant under this part shall submit an application, through its Governor, at such time, in such manner, and containing such information, as the Secretary may reasonably require.

(b) Each State application shall—

(1) describe the programs, projects, and activities to be undertaken; and

(2) contain such assurances as the Secretary deems necessary, including assurances that—

(A) funds awarded to the State will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of alternative teacher and principal certification requirements;

(B) the State has, in developing its application, consulted with the State or local agency that certifies teachers and principals, as well as repesentatives of elementary and secondary school teachers and principals, local school systems, parents, and other interested organizations and individuals; and

(C) the State will submit to the Secretary, through the Governor, at such time as the Secretary may specify, a final report describing the activities carried out with funds awarded under this part and the results achieved.

(c) Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

USE OF FUNDS

SEC. 326. (a)(1) A State shall use funds awarded under this part to support programs, projects, or activities that develop and implement new, or expand and improve existing, alternative teacher and principal certification requirements.

(2) A State may carry out such programs, projects, or activities directly, through contracts, or through subgrants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

(b) Programs, projects, and activities supported under this part may include, but are not limited to, the—

(1) design, development, implementation, testing, and evaluation of alternative teacher and principal certification requirements;

(2) establishment of administrative structures necessary to the development and implementation of alternative teacher and principal certification requirements;

(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers and principals entering the school system through the alternative teacher and principal certification program;

(4) development of recruitment strategies; and

(5) development of reciprocity agreements between or among States for the certification of teachers and principals.

TITLE IV—EDUCATIONAL REFORM AND FLEXIBILITY

PART A—EDUCATIONAL REFORM THROUGH FLEXIBILITY AND ACCOUNTABILITY

STATEMENT OF FINDINGS AND PURPOSE

SEC. 401. (a) FINDINGS.—Historically, Federal education programs have addressed the Nation's most pressing educational problems by providing categorical assistance with de-

tailed requirements relating to the use of funds. While this approach has proven generally successful, some program requirements may inadvertently impede educational achievement. The Nation's schools are being asked to deal effectively with increasingly diverse educational needs that current program structures may not be flexible enough to address. In an era when educational changes and reform must prevail, it is more important than ever to provide programs that result in improved educational outcomes for all students; promote the coordination of education and related services that benefit children and their families; respond flexibility to the needs of a diverse student population; stop the proliferation of unnecessary Federal, State, and local regulation; and place less emphasis on measuring resources and reviewing procedures and more emphasis on achieving program results.

(b) PURPOSE.—The purpose of this part is to promote educational reform that leads to improved educational outcomes for participants in affected programs. Under this approach, the schools and other recipients of Federal funds would be held accountable for achieving specific educational improvement goals in exchange for increased flexibility in the use of their resources. This more flexible approach is intended to enable school and program administrators, teachers, parents, local agencies, and community groups to work together to develop effective education programs that lead to improved achievement and meet the needs of all participants, particularly those who are disadvantaged.

FLEXIBILTIY AND ACCOUNTABILITY IN EDUCATION AND RELATED SERVICES

SEC. 401. Subpart 1 of Part C of the General Education Provisions Act (20 U.S.C. 1221 *et seq.*) is amended by adding after section 421A a new section 421B to read as follows:

"FLEXIBILITY AND ACCOUNTABILITY IN EDUCATION AND RELATED SERVICES

"SEC. 421B. (a) PROGRAM AUTHORIZED.—(1)(A) The Secretary shall, in accordance with this section, assist elementary and secondary schools and other service providers to improve the achievement of all students and other participants, but particularly disadvantaged individuals, by authorizing waivers by which the Governors, State and local educational agencies, and other service providers can improve the performance of schools and programs by increasing their flexibility in the use of their resources while holding them accountable for achieving educational gains.

"(B) In support of these projects, the Secretary is authorized to waive any statutory or regulatory requirement (except as provided in subsection (e)) applicable to a program administered by the Department of Education that the Secretary determines may impede the ability of a school or other service provider to meet the special needs of such students and other individuals in the most effective manner possible. The head of any other Federal agency is similarly authorized to waive such requirements applicable to a program administered by such agency if the agency head and the Secretary agree that such a waiver would promote the purpose of this section.

"(2) Projects conducted under this section, and any waivers associated with such projects, shall last no longer than three years, except that the Secretary may extend a project and any associated waivers for an additional two years if the Secretary determines that the project is making substantial progress in meeting its goals.

"(3) The Secretary shall terminate a project and its associated waivers if the Secretary, at any time, determines it is not making acceptable progress toward meeting its goals. The head of any other Federal agency who has granted waivers under this section shall determine whether to extend or terminate those waivers, but the Secretary shall have exclusive authority to extend or terminate the project.

"(b) ELIGIBILITY.—(1) Each project that involves elementary or secondary schools shall include the participation of a State educational agency and at least—

"(A) one local educational agency; and

"(B) two schools.

"(2) To the extent possible, each grade and academic program, including programs under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, in a participating school shall participate in the project.

"(3) If fewer than all the schools of a local educational agency participate in a project, available resources, including available Federal assistance, shall not be concentrated unreasonably in those schools that do participate.

"(4) Each project that does not involve elementary and secondary schools shall involve at least two programs, including at least one program administered by the Secretary.

"(c) APPLICATIONS.—The Governor of any State wishing to conduct a project under this section shall, after consultation with, as the Governor finds appropriate, the State educational agency, one or more local educational agencies, and other State and local agencies and service providers, submit an application to the Secretary for each such project. Each application shall include a plan that—

"(1) describes the purposes and overall expected outcomes of the project;

"(2) identifies, for each school or site participating in the project, those impediments to improved educational outcomes that would be removed by the proposed waivers;

"(3) identifies the Federal programs to be included in the project, the Federal statutory or regulatory requirements to be waived, and the purpose and duration of the requested waivers;

"(4) describes the State and local requirements that will be waived, the purpose of such waivers, and, if such requirements will not have been waived before the project begins, when those waivers will be obtained and take effect;

"(5) describes specific, measurable, educational improvement goals for each school or other site in the project and for each school year of the project, including—

"(A) goals for improving the achievement of all participants, including disadvantaged individuals, with respect to achievement in basic and advanced skills;

"(B) goals that reflect the broad purposes of each program for which a waiver is sought; and

"(C) an explanation of how the applicant will measure progress in meeting the goals set for each school or site in the project and for disadvantaged individuals participating in the project; and

"(6) for projects involving elementary or secondary schools—

"(A) identifies the schools to be included in the project and describes the student population at each school, including—

"(i) current data regarding the achievement of the disadvantaged students as well as other students; and

"(ii) the number of students who—

"(I) are of limited English proficiency, as defined in section 7003(a)(1) of the Biligual Education Act;

"(II) are children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act;

"(III) are currently or formerly migratory:

"(IV) are educationally deprived, for the purposes of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(V) are eligible for a free or reduced price school lunch:

"(B) describes specific goals for enhancing coordination between the regular education program available to all students and programs serving disadvantaged students;

"(C) if fewer than all the schools in a local educational agency will participate in a project, describes the expected educational outcomes for disadvantaged students in schools that do not participate, and how those outcomes will be assessed; and

"(D) describes how school administrators, teachers, staff, and parents (including parents of educationally disadvantaged children) have been, or will be, involved in the planning, development, and implementation of the goals and program for each participating school.

"(d) APPROVAL OF PROJECTS.—(1) The Secretary shall approve an application for a project under this section if he determines that the project shows substantial promise of achieving the purposes of this section, after considering—

"(A) the comprehensiveness of the project, including the types of students, schools, programs, and activities to be included;

"(B) the extent to which the provisions for which waivers are sought impede educational improvement;

"(C) the State and local requirements that will be waived for the project;

"(D) the significance and feasibilty of the proposed projects's goals for each participating school or site; and

"(E) the quality of the plan for ensuring accountability for the proposed plan's activities and goals.

"(2) The Secretary shall consult with the heads of other appropriate Federal agencies, if any, in determining whether to approve a project. Each such agency head shall notify the Secretary of any waivers granted by such agency head as part of such project.

"(e) ALLOCATION OF FEDERAL FUNDS: RESTRICTION OF WAIVERS.—(1) Federal funds under any program that are used to support a project under this section shall be allocated to States and other recipients in accordance with the statutory and regulatory requirements that govern the operation of that program, except that, for the purpose of such a project, the Secretary (or the head of any other Federal agency) may extend the duration of, and provide continuation funding to, a project chosen on a competitive basis that a participating agency is conducting before the project under this section commences.

"(2) Neither the Secretary nor the head of any other Federal agency shall waive under this section any statutory or regulatory requirement in awarding a new competitive grant to a State educational agency, local educational agency, or other applicant participating in a project under this section.

"(3) Neither the Secretary nor, where applicable, the head of any other Federal agency shall waive under this section any statutory or regulatory requirement—

"(A) relating to—

"(i) maintenance of effort;

"(ii) comparability; or

"(iii) the equitable participation of students attending private schools;

"(B) under section 438 or 439 of the General Education Provisions Act;

"(C) under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendment of 1972, or the Age Discrimination Act of 1975; or

"(D) under the Individuals with Disabilities Education Act—

"(i) relating to the availability of a free appropriate public education to children with disabilities (including the evaluation and placement of such children), or the procedural safeguards afforded such children and their parents, under part B thereof; or

"(ii) relating to the provision of early intervention services to infants and toddlers with disabilities, or the procedural safeguards afforded such infants and toddlers and their parents, under part H thereof.

"(f) REPORTS AND EVALUATIONS.—(1) Each project shall submit, no later than 90 days after the end of each year of the project, an annual report to the Secretary that—

"(A) summarizes the principal activities of the project;

"(B) contains school-by-school and other data, as described in the project plan, that show the extent to which the project is meeting its overall goals, including its goals for improving the achievement of all participants, particularly disadvantaged individuals, with respect to achievement in basic and advanced skills, and is meeting the goals for each school or other site;

"(C) describes the impact of the project on disadvantaged children in schools, if any, that are not participating in the demonstration; and

"(D) describes the effectiveness of efforts to coordinate programs and services for children and their families as appropriate.

"(2) The Secretary shall submit a report to the Congress every two years that summarizes and analyzes the project reports required by paragraph (1).

"(3) At the end of the 5-year period described in this section, and at such interim points as the Secretary deems appropriate, the Secretary shall report to the Congress on the evaluation of this section by the Department of Education and other affected Federal agencies. Such reports may include recommendations for amendments to program statutes that are based on the experience of projects that successfully raise educational achievement by eliminating or modifying statutory or regulatory provisions that impede educational improvement.

"(g) DEFINITION.—For the purpose of this section, the term 'disadvantaged students' includes students of limited English proficiency, children with disabilities, students who are currently or formerly migratory, and students who are educationally deprived.

"(h) BUDGET NEUTRALITY.—The authority provided by this section shall not be exercised in a manner that, for any fiscal year, increases total obligations or outlays of discretionary appropriations for programs subject to such authority, or that increases total obligations or outlays of funding for all direct-spending programs subject to such authority over those that would have occurred absent such authority.".

PART B—AMENDMENTS TO CHAPTER 2

ALLOCATION TO LOCAL EDUCATIONAL AGENCIES

SEC. 411. Section 1512(a) of the Elementary and Secondary Education Act of 1965 is amended by striking out "not less than 80 percent" and inserting in lieu thereof "50 percent".

STATE USES OF FUNDS

SEC. 412. Section 1521(b) of the Elementary and Secondary Education Act of 1965 is amended—

(1) in paragraph (1), by striking out "25 percent" and inserting in lieu thereof "10 percent"; and

(2) in paragraph (2)(A), by striking out "20 percent" and inserting in lieu thereof "8 percent".

STATE APPLICATIONS

SEC. 413. Section 1522(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by submitting a comma and "approved by the Governor," after "an application"; and

(2) in paragraph (2), in the text following subparagraph (I), by striking out "(not to exceed 20 percent of the amount of the State's allotment)".

LOCAL USES OF FUNDS

SEC. 414. Section 1531(b) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(2) by inserting before paragraph (2), as so redesignated, a new paragraph (1) to read as follows:

"(1) educational choice programs;".

AUTHORIZED ACTIVITIES

SEC. 415. Section 1532(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, a new paragraph (1) to read as follows:

"(1) any activities or expenses directly related to planning, implementing, operating, evaluating, and disseminating information about, the local educational agency's educational choice program, if any, including expenses of parents and children resulting from their participation in such program, to the extent otherwise permitted by law;".

TITLE V—PARENTAL CHOICE OF SCHOOLS

PART A—FINDINGS

SEC. 501. The Congress finds that—

(1) parental choice in education creates market-based accountability, encourages school diversity and competition, and provides parents and their children with a sense of investment in their schools;

(2) economically disadvantaged children deserve the same educational choices, both public and private, as their more advantaged peers;

(3) educational choice programs and programs of compensatory education assisted under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 should be coordinated with, and be carried out so as to enhance, each other;

(4) local implementation of programs that enhance student and parental choice deserves national support and encouragement; and

(5) different methods for expanding educational choice should be tested and evaluated.

PART B—PARENTAL CHOICE AND CHAPTER 1

CHAPTER 1 SERVICES FOR CHILDREN PARTICIPATING IN EDUCATIONAL CHOICE PROGRAMS

SEC. 511. (a) Subpart 2 of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof a new section 1022 to read as follows:

"CHILDREN PARTICIPATING IN EDUCATIONAL CHOICE PROGRAMS

"SEC. 1022. (a) SERVICES TO FOLLOW THE CHILD.—Notwithstanding any other provision of this chapter, a local educational agency that is carrying out an educational choice program shall, in accordance with this section, make available supplementary compensatory education services, paid for under this part, to each child residing in such agency who is afforded the opportunity to participate in that program and who, in the absence of the choice program, would receive services from that agency under this part.

"(b) FUNDS TO PARENTS.—(1) If the local educational agency determines that it is not feasible or efficient to make such services available to such a child directly or through arrangements with other service providers, it shall provide to the parents of such child a per-child share of funds received by such agency under subpart 1 of this part for the applicable fiscal year.

"(2) as used in paragraph (1), a 'per-child share' means—

"(A) the total amount of funds received by the local educational agency under subpart 1 of this part for the applicable fiscal year, minus amounts spent on administrative expenses including transportation provided under section 1011(a)(4); divided by

"(B) the number of children selected by such agency to receive services under this part.

"(3) Parents may use funds received from a local educational agency under paragraph (1) only for either or both of the following—

"(A) to purchase supplementary compensatory education services that meet the special educational needs of the parents' eligible child, as identified by the local educational agency, from any elementary or secondary school, or any other public or private agency, organization, or institution that the local educational agency determines is able to provide appropriate and effective supplementary compensatory educational services to the child; and

"(B) for the costs of transportation related to the child's participation in the educational choice program.

"(4) Payments received by parents under paragraph (1) are not income for Federal income tax purposes.

"(c) APPLICATION BY LOCAL EDUCATIONAL AGENCY.—Each local educational agency subject to this section shall include in its application under section 1012—

"(1) a description of its policies and procedures for carrying out this section;

"(2) an assurance that it will keep such records and provide such information to the State educational agency relating to the provision of funds to parents under subsection (b) as may be required for fiscal audit and program compliance; and

"(3) an assurance that it will exercise due diligence to—

"(A) ensure that payments made to parents under subsection (b)(1) will be used only for the purposes authorized by subsection (b)(3); and

"(B) recover such payments that are not so used.".

(b) Section 1011(a) of the ESEA is amended by adding at the end thereof a new paragraph (4) to read as follows:

"(4) A local educational agency may use funds received under this chapter for the additional transportation costs of children receiving services under this part who are participating in an educational choice program.".

PARENTAL INVOLVEMENT

SEC. 512. Section 1016(c) of the Elementary and Secondary Education Act of 1965 is amended—

(1) in paragraph (2), by adding the following sentence at the end thereof: "If the local educational agency is carrying out an educational choice program, representatives of such agency shall explain the availability of compensatory education services under the various available options."; and

(2) by adding at the end thereof a new paragraph (7) to read as follows:

"(7) Each local educational agency that is implementing an educational choice program shall provide an explanation in writing, and in such other manner as may be appropriate, to the parents of each eligible child selected to participate in the agency's program under this part of the options available to them under the educational choice program and this part.".

DEFINITION

SEC. 513. Section 1471 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof a new paragraph (24) to read as follows:

"(24) The term 'educational choice program' means a program, including a desegregation plan, adopted by a State educational agency or a local educational agency under which parents select the school in which their children will be enrolled.".

PART C—ASSISTANCE FOR PARENTAL CHOICE PROGRAMS

PROGRAM AUTHORIZED

SEC. 521. The Secretary shall make grants, in accordance with this part, to local educational agencies that carry out educational choice programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 522. For the purpose of carrying out this part, there are authorized to be appropriated $200 million for fiscal year 1992, and such sums as may be needed for each of the four succeeding fiscal years.

ELIGIBILITY

SEC. 523. (a) A local educational agency is eligible for a grant under this part if it will carry out an educational choice program during the year for which assistance is sought and carried out such a program during the preceding year.

(b) For the purpose of this part, an "educational choice program" is a program adopted by a State or by a local educational agency under which—

(1) parents select the school, including private schools, in which their children will be enrolled; and

(2) sufficient financial support is provided to enable a significant number or percentage of parents to enroll their children in a variety of schools and educational programs, including private schools.

ALLOCATION OF APPROPRIATIONS

SEC. 524. (a) From the amount appropriated under section 522 for any fiscal year, the Secretary shall allot, to each eligible local educational agency whose application for a grant under this part has been approved, an amount that bears the same ratio to such amount as the amount allocated to such agency under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 for the previous fiscal year bears to the amounts so allocated to all such eligible agencies whose applications have been approved.

(b) No local educational agency's allotment shall exceed—

(1) the average per pupil expenditure of all local educational agencies in the State for the most recent fiscal year for which satisfactory data are available to the Secretary; multiplied by

(2) the number of children afforded the opportunity to participate in the educational choice program in the year preceding the year for which assistance is sought.

(c) Any funds appropriated under this part for any fiscal year that exceed the amounts that can be awarded under this section shall be returned to the Treasury.

AUTHORIZED ACTIVITIES

SEC. 525. (a) Each local educational agency that receives funds under this part may use those funds only for educational services provided to the students of such agency and for parental involvement activities, except that such services and activities must be in addition to services and activities that would otherwise be provided from State or local funds.

(b) A local educational agency may not use funds received under this part for general administrative expenses.

APPLICATIONS

SEC. 526. (a) Each local educational agency that wishes to receive a grant under this part shall submit an application to the Secretary, covering a period of one year, at such time and in such manner as the Secretary may prescribe.

(b) Each such application shall contain—

(1) a description of the educational choice program carried out in the year preceding the year for which assistance is sought, and to be carried out in the year for which assistance is sought, in sufficient detail for the Secretary to determine whether the agency is eligible under this part; and

(2) such other assurances and information as the Secretary may require.

(c) Before finally deciding not to approve a local educational agency's application under this part, the Secretary shall—

(1) provide a written explanation to such agency; and

(2) afford such agency a reasonable opportunity to respond.

PART D—PARENTAL CHOICE PROGRAMS OF NATIONAL SIGNIFICANCE

PROGRAM AUTHORIZED

SEC. 531. The Secretary shall make grants, in accordance with this part, to State educational agencies, local educational agencies, and other agencies, institutions, and organizations to conduct and demonstrate nationally significant model programs of educational choice.

AUTHORIZATION OF APPROPRIATIONS

SEC. 532. (a) For the purpose of carrying out this part, there are authorized to be appropriated $30 million for fiscal year 1992 and such sums as may be needed for each of the four succeeding fiscal years.

(b) From the amount appropriated under subsection (a) for any fiscal year, the Secretary may set aside up to five percent for evaluation of, and dissemination of information about, educational choice programs assisted under this part.

ANNUAL COMPETITION

SEC. 533. In any fiscal year for which funds are available to make new awards, the Secretary shall announce the approaches to educational choice that will be considered for funding under this part. An application for assistance may be considered only if it complies with such announcements.

APPLICATIONS

SEC. 534. (a) Each agency, institution, or organization that wishes to receive a grant under this part shall submit an application to the Secretary, at such time, in such manner, and containing such assurances and information as the Secretary may prescribe.

(b) Each application under this part shall be for a period of up to five years.

AUTHORIZED ACTIVITIES

SEC. 535. (a) Each recipient of a grant under this part shall use the grant funds only for activities directly related to planning, implementing, operating, and evaluating, and disseminating information about, the educational choice demonstration program funded under this part.

(b) Such funds may be used, to the extent otherwise permitted by law, to meet expenses of parents and children resulting from their participation in such program.

EXPERT ADVICE

SEC. 536. The Secretary shall consult with educational practitioners with experience with educational choice programs, individuals with expert knowledge and experience in the area of educational choice, and other interested individuals, including parents, in determining which approaches to educational choice to support under, and in otherwise carrying out, this part.

DEFINITION

SEC. 537. For the purpose of this part, an "educational choice program" is a program adopted by a State or by a local educational agency under which parents select the school in which their children will be enrolled and that complies with the annual announcement under section 533.

TITLE VI—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SEC. 601. Section 406 of the General Education Provisions Act is amended—

(1) by amending subsection (f)(1) to read as follows:

"(1) There are authorized to be appropriated for the purposes of this section $86,160,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.";

(2) in subsection (i)—

(A) in paragraph (2)(A)—

(i) by amending the first sentence to read as follows: "The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history, and geography, and in other areas specified by the Board, and shall use sampling techniques that produce data that are representatives on a national and on a State basis for those States that choose to participate.";

(ii) by amending clause (i) to read as follows:

"(i) collect and report data on a periodic basis, but at least once every four years in reading, writing, mathematics, science, history, and geography;"; and

(iii) in clause (ii), by striking out "every 2 years" and inserting in lieu thereof "annually";

(B) by striking out paragraph (2)(B);

(C) in paragraph (4)(B)(i), by striking out "and that information with respect to individual schools";

(D) by striking out paragraph (4)(C); and

(E) by amending parapraphs (8)g (B) and (C) to read as follows:

"(B) Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain assurances that the State will—

"(i) participate in the Assessment;

"(ii) perform the functions of conducting the Assessment at the school level for all schools in the State sample and coordinating within the State, subject to subparagraph (C);

"(iii) pay from non-Federal sources the minimum State contribution required in subparagraph (C)(i); and

"(iv) comply with the terms and conditions specified in subsection (i)(2)(C)(iv).

"(C)(i) The minimum State contribution for participation in the State assessments for each fiscal year shall be $100,000, which the State may meet by in-kind contributions, fairly valued.

"(ii) The Secretary shall pay the State for the cost, in excess of the minimum State contribution, of conducting the Assessment at the school level for all schools in the State sample and for the cost of coordination within the State an amount that shall be identified in the agreement reached under subparagraph (B), that shall be the product of the total number of hours of work and training of school staff the Secretary estimates is required to conduct the Assessment at the school level and the total number of hours of work of State staff the Secretary estimates is required to coordinate the Assessment within the State multiplied by a daily rate of pay, as determined by the Secretary.".

TITLE VII—NATIONAL COMMISSION ON TIME, STUDY, LEARNING, AND TEACHING

SEC. 701. (a) ESTABLISHMENT.—There is hereby established a National Commission on Time, Study, Learning, and Teaching (here after in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—(1) IN GENERAL.—The Commission shall consist of 15 members appointed by the President. The President shall give serious consideration to appointing three members recommended by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and to appoint three members recommended by the President pro tempore of the Senate upon the recommendations of the Majority Leader and the Minority Leader of the Senate.

(2) REQUIREMENTS.—(A) Members of the Commission shall be appointed on the basis of exceptional education, training, or experience from among—

(i) the Nation's Governors;

(ii) individuals from the business community;

(iii) representatives of nonprofit organizations or foundations committed to the improvement of American education;

(iv) individuals who are engaged in the profession of teaching;

(v) individuals engaged in school administration, members of school boards, and parents or representatives of parents or parent organizations;

(vi) State officials directly responsible for education;

(vii) Federal officials responsible for education policy; and

(viii) educational researchers with experience relevant to the Commission's work.

(3) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) TERMS.—Members of the Commission shall be appointed to serve at the pleasure of the President.

(5) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(6) ACTIVITY OF COMMISSION.—The Commission may begin to carry out its duties under this subsection when at least seven members of the Commission have been appointed.

(c) FUNCTIONS OF THE COMMISSION.—(1) STUDY.—The Commission shall examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States in an era when World Class Standards of achievement need to be met, including issues regarding the length of the school day and year, the extent and role of homework, how time is currently being used for academic subjects, year-round professional opportunities for teachers, and the use of school facilities for extended learning programs.

(2) REPORT.—The Commission shall submit a final report under subsection (d). The report shall include an analysis and recommendations concerning—

(A) the length of the academic day and the academic year in elementary and secondary schools throughout the United States and in schools of other nations;

(B) the time children spend in school learning the five core subjects of English, mathematics, science, history, and geography;

(C) the use of incentives for students to increase their educational achievement in available instructional time;

(D) how children spend the 91 percent of their time that is outside school, with particular attention to how much of that time can be considered "learning time" and how out-of-school activities affect intellectual development;

(E) the time children spend on homework, how much of that time is spent on the core curriculum subjects, the importance that parents and teachers attach to homework, and the extent to which homework contributes to student learning;

(F) year-round professional opportunities for teachers and how teachers can use their time to acquire knowledge and skills that will permit them to improve their performance and help raise the status of the profession;

(G) how school facilities are used for extended learning programs;

(H) the appropriate number of hours per day and days per year of instruction for United States elementary and secondary schools; and

(I) if appropriate, a model plan for adopting a longer academic day and academic year for use by United States elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in making the transition from the current academic day and year to an academic day and year of a longer duration.

(d) COMMISSION REPORT.—Not later than one year after the Commission concludes its first meeting, the Commission shall submit a report to the President and the Congress on the study and any recommendations required pursuant to this section.

(e) POWERS OF THE COMMISSION.—(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) TESTIMONY; PUBLIC HEARINGS.—In carrying out this section, the Commission may receive testimony and conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the quality and adequacy of American students' study and learning time in an era when World Class Standards of achievement need to be met.

(3) INFORMATION.—The Commission may secure directly from any Federal agency such information, relevant to its functions, as may be necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of the agency shall, to the extent permitted by law, furnish such information to the Commission.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of money, services, or property, both real and personal, for the purpose of aiding the work of the Commission.

(5) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(6) SUPPORT SERVICES.—The Secretary shall provide to the Commission on a reimbursable basis such reasonable administrative and support services as the Commission may request.

(f) ADMINISTRATIVE PROVISIONS.—(1) MEETINGS.—The Commission shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(3) CHAIRMAN AND VICE CHAIRMAN.—(A) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission.

(B) The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to classification and General Schedule pay rates.

(4) OTHER FEDERAL PERSONNEL.—Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, with or without reimbursement, any personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section. Such detail shall be without interruption or loss of civil service status or privilege.

(g) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after

submitting the final report required by subsection (d).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated a total of $1,000,000 for fiscal years 1991 and 1992 to carry out this title.

TITLE VIII—REGIONAL LITERACY RESOURCE CENTERS

REGIONAL LITERACY RESOURCE CENTERS

SEC. 801. Part B of the Adult Education Act (20 U.S.C. 1203 *et seq.*) is amended—

(1) by redesignating subpart 7 as subpart 8; and

(2) by inserting after subpart 6 the following:

"SUBPART 7—REGIONAL LITERACY RESOURCE CENTERS

"REGIONAL LITERACY RESOURCE CENTERS

"SEC. 356. (a) PURPOSE.—It is the purpose of this section to assist State and local public and private nonprofit efforts to improve literacy through a program of regional literacy resource center grants to—

"(1) stimulate the coordination of literacy services;

"(2) enhance the capacity of State and local organizations to provide literacy services.

"(b) REGIONAL RESOURCE CENTERS.—The Secretary, from funds available for this subpart, shall make grants to or enter into contracts with, State educational agencies, local educational agencies, State offices on literacy, volunteer organizations, community-based organizations, institutions of higher education, or other nonprofit entities to operate regional literacy resource centers in such regions of the United States as the Secretary determines are appropriate.

"(c) USE OF FUNDS.—Funds awarded under subsection (b) to carry out this section shall be used to conduct such activities as—

"(1) improving and promoting the dissemination and adoption of teaching methods, technologies, and program evaluations;

"(2) developing innovative approaches to the coordination of literacy services within and among States and with the Federal Government;

"(3) assisting public and private agencies in coordinating the delivery of literacy services;

"(4) encouraging government and industry partnerships, including partnerships with small businesses, private/nonpofit organizations, and community-based organizations for the delivery of literacy services;

"(5) encouraging innovation and experimentation in literacy activities that will enhance the delivery of literacy services and address emerging problems;

"(6) providing technical assistance to State and local governments and service providers to improve literacy programs and access to such programs; and

"(7) providing training and technical assistance to literacy instructors in reading instruction and in—

"(A) selecting and making the most effective use of methodologies, instructional materials, and technologies such as—

"(i) coumputer-assisted instruction;

"(ii) video tapes;

"(iii) interactive systems; and

"(iv) data link systems; or

"(B) assessing learning styles, screening for learning disabilities, and providing individualized remedial reading instruction.

"(d) APPLICATIONS.—Each entity that desires to receive an award under this section for a regional adult literacy resource center shall submit to the Secretary an application that describes how the applicant will—

"(1) develop a literacy resource center or expand an existing literacy resource center;

"(2) provide services and activities with the assistance provided under this section;

"(3) ensure access to services of the center for the maximum participation of all public and private programs and organizations providing or seeking to provide basic skills instruction, including local educational agencies, agencies reponsible for corrections education, service delivery areas under the Job Training Partnership Act, welfare agencies, labor organizations, businesses, volunteeer groups, and community-based organizations;

"(4) develop procedures for the coordination of literacy activities conducted within the States of the region by public and private organizations, and for enhancing the systems of service delivery;

"(5) secure approval of the Governors of each State in the region, to ensure that the regional literacy resource center serves the needs of the State, as identified in the four-year plan developed under section 342 of this Act;

"(6) evaluate the effectiveness of the services and activities supported by the center, including the provision of such information as the Secretary may require; and

"(7) meet the cost-sharing requirements of subsection (e).

"(e) PAYMENTS; FEDERAL SHARE.—(1) The Secretary shall pay to each entity having an application approved pursuant to subsection (d) the Federal share of the cost of the activities described in the application.

"(2) The Federal share—

"(A) for each of the first 2 fiscal years in which the applicant receives funds under this section shall not exceed 80 percent;

"(B) for each of the third and fourth fiscal years in which the applicant receives funds under this section shall not exceed 70 percent; and

"(C) for the fifth fiscal year in which the applicant receives funds under this section shall not exceed 60 percent.

"(3) The non-Federal share of payments under this section may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.".

TITLE IX—GENERAL PROVISIONS

DEFINITIONS

SEC. 901. Except as otherwise provided as used in this Act—

(1) the terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given them in section 1471 of the Elementary and Secondary Education Act of 1965;

(2) the term "Governor" means the chief executive of each State;

(3) the term "Secretary" means the Secretary of Education; and

(4) the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, America Samoa, the Virgin Islands, the Commonwealth of Northern Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau).

INSULAR AREAS

SEC. 902. The provisions of Public Law 95-134, permitting the consolidation of grants to the Insular Areas, shall not apply to funds received by such area under this Act.

EFFECTIVE DATE

SEC. 903. This Act shall take effect on enactment.

AMERICA 2000 EXCELLENCE IN EDUCATION ACT—SECTION-BY-SECTION ANALYSIS

Section 2. Section 2 provides a table of contents for the bill.

Section 3. Section 3 of the bill would set out congressional findings, in support of the bill, that: (1) eight years after the report of the National Commission on Excellence in Education, the Nation's schools have yet to show significant improvement; (2) the educational reforms of the 1980's were too slow and too timid; a bolder and more comprehensive effort that involves the citizens of every American community is needed; (3) the Federal Government should provide start-up funding to communities across the country to create their own high-performance New American Schools, schools where all students meet World Class Standards; (4) rewards for schools in which students make significant gains in learning can spur improvements in all schools; (5) teachers and school leaders in every State should receive the additional training they need to deliver capable instruction in the five core academic disciplines and to provide strong instructional leadership to their schools; (6) new approaches to training and certifying teachers and principals would expand the pool of talent from which schools draw professional staff and would enable talented, qualified individuals who do not possess traditional credentials to enter teaching and the principalship; (7) greater flexibility and accountability at the school site can enable educators to improve learning for all students; (8) expanding parental choice among schools can help all schools to improve; (9) an expanded National Assessment of Educational Progress can be used to provide clear and comparable information on the progress of States, school districts, and schools toward attainment of the National Education Goals; (10) Americans need to know how much time their children should spend learning, and how that time should be used, in order for those children to develop the intellectual competencies necessary for a productive workforce and an enlightened citizenry; and (11) better coordination of adult literacy services, and access by service providers to information about the best practices in the field of literacy, will assist the Nation in meeting the goal that every adult American be literate by the year 2000; and (12) therefore, national progress toward attainment of the National Education Goals by the year 2000 can be assisted by the Federal Government through initiatives that address these findings.

TITLE I—NEW AMERICAN SCHOOLS

Section 101. Section 101 of the bill would establish the following congressional findings: First, many American elementary and secondary schools are structured according to models that are outmoded and ineffective; rely on notions about pedagogy, management, technology, staffing, and other resources that may be outdated or insufficient for the challenges of the next century; and are unsuccessful at equipping the majority of students with the knowledge and skills needed to succeed as citizens and in the workplace. Second, new approaches to elementary and secondary education are needed. Without major reforms in elementary and secondary schools, the United States will lose its ability to compete fully and successfully in the world economy. Third, although educational

change must take place school by school, experience shows that the schools, on their own, will not alter themselves radically. Fourth, there is an appropriate Federal role in providing seed money for the establishment of new types of schools in communities across the country. Fifth, the Nation is embarking on a major effort to support the invention of radically better forms of schooling, and to establish a network of American communities whose citizens are dedicated to the improvement of education.

Section 102. Section 102(1) of the bill states that the purpose of Title I of the bill is to support the creation of new schools across the county—schools that reflect the best thinking about teaching and learning, employ the highest-quality instructional materials and technologies, and are designed to meet the National Education Goals, as well as the particular needs of their students and communities.

Section 102(2) states that, in order to carry out this purpose, Title I authorizes financial assistance for New American Schools in communities that have been designated "AMERICA 2000 Communities".

Section 103. Section 103(a) of the bill would authorize the Secretary to reserve up to a total of $3 million from the amounts appropriated under section 109 for fiscal years 1992, 1993, and 1994, for a national program evaluation of New American Schools.

Section 103(b) of the bill would direct the Secretary to allocate the remaining funds among the several States in proportion to the size of their congressional delegations, including Senators, Representatives, and Delegates. (For this purpose, the Commonwealth of the Northern Mariana Islands and Palau would each be treated as if it had one member of Congress.) The Secretary would proportionately reduce a State's allocation, and increase the allocation of all other States, if a congressional district in the State did not contain a community that has been designated an AMERICA 2000 Community, or if there are fewer such communities than members of Congress from that State.

Section 104. Section 104 would provide that, for a State to qualify for its allocation under this program, the Governor would submit an application to the Secretary. The application would include: (1) a description of the process the Governor has used, in accordance with section 105, to nominate communities to create New American Schools; (2) a list of the communities nominated by the Governor, and the name of the agency, institution, or organization designated by the Governor to receive a New American School grant on behalf of each such community; (3) copies of the plans, prepared by each community nominated by the Governor for funding under this part, for establishing and operating a New American School; (4) an identification of non-Federal resources that will be available to establish and operate each New American School in the State.

Section 105. Section 105 of the bill describes how communities would be selected to create New American Schools. In general, the Secretary would approve communities from among those nominated by the Governors. Under section 105(a), each Governor would nominate, from communities that the Governor has previously designated as AMERICA 2000 Communities in accordance with the President's AMERICA 2000 initiative, communities within the State to create New American Schools. As provided in section 105(b), the Governor would nominate at least as many communities as there are members in the State's congressional delegation, including at least one community in each congressional district in the State. Section 105(c) would require that the Governor base these nominations on criteria established by the Secretary with the advice of a panel of experts to be established under section 107. At a minimum, these criteria would include the level of commitment and activity displayed by the community through its participation in the AMERICA 2000 Communities initiative; the need for new and innovative educational programs in the schools of the community; and the quality of the application submitted by the applicant to the Governor.

Under section 105(d)(1) the Secretary, with the advice of the panel of experts established under section 107, would approve some or all of the communities nominated by each Governor, and the agencies, institutions, and organizations designated by the Governor to receive New American School grants on behalf of those communities, based on the Secretary's determination that such approval would be fully consistent with the purpose and requirements of this part. Section 105(d)(2) would obligate the Secretary to ensure that, to the extent consistent with the approval process described in paragraph (1), a New American School is created in each congressional district, and that there are as many such schools created in the State as there are members in the State's congressional delegation. The Secretary would also ensure that communities with high concentrations of children from low-income families in each State receive an equitable share of New American School awards.

Finally, section 105(e) would clarify that a Governor may nominate additional communities or recipients if the Secretary does not approve one or more of the Governor's nominees, if an approved community or recipient subsequently withdraws from the program, or if the Secretary determines that the community or recipient is unable to successfully carry out its project, or is not making satisfactory progress in carrying out its project.

Section 106. Section 106(a) would direct the Secretary to make grants for New American Schools to agencies, organizations, and institutions selected by the Secretary under section section 105(d). Each such recipient would receive funds in a total amount determined by the Secretary after consultation with the Governor, with a maximum award of $1 million. Finally, the Secretary would consider the expected student enrollment in each New American School in setting award amounts.

Section 106(b) would encourage the recipient of each New American School award to adapt and implement one or more New American School designs developed by research and development teams funded by the New American Schools Development Corporation.

Under section 106(c), program funds could be used only to meet the special start-up costs associated with the creation and establishment of a New American School, including planning, curriculum development, and curriculum adaptation; training of teachers, administrators, and other staff, as well as parents and members of the community who are involved with the school; purchase of equipment and materials; minor renovation and remodeling of facilities; and to obtain the assistance of outside experts, including one or more of the research and development teams referred to in section 106(b) in adopting one or more of the designs developed by those teams to the needs of the individual community and school. Program funds could not be used for construction or for the grantee's general administrative expenses.

Section 106(d) would require that each New American School have obtained State recognition or accreditation, as necessary, and be fully operating by the start of the 1996–1997 school year.

Section 107. Section 107 of the bill would direct the Secretary, within 90 days of the bill's enactment, to convene an expert panel of educators, representatives of private business, and public representatives to advise on the administration of the New American Schools program. Among other topics, the Panel would advise the Secretary on the criteria to be used by the Governors to nominate communities for New American Schools and the approval by the Secretary of communities nominated by Governors to establish New American Schools and of the agencies, institutions, and organizations named to establish those schools.

Section 108. Section 108 of the bill would direct the Secretary to conduct a national evaluation of the impact of the New American Schools program on schools and communities, and on education generally. The Secretary would be required to submit such interim evaluation reports to the President and the Congress as may be appropriate, and a final report by September 30, 1988.

Section 109. Section 109 of the bill would authorize appropriations in the following amounts for the New American Schools program: $180 million for fiscal year 1992, $180 million for fiscal year 1993, and $185 million for fiscal year 1994. These funds would remain available for obligation by the Secretary for two fiscal years beyond the fiscal year for which they are appropriated, so that Governors will have substantial flexibility in deciding when to establish and support New American Schools.

Section 110. Section 110 of the bill would define the term "community" for purposes of the New American Schools program, as: (1) a unit of general purpose local government, such as a city, township, or village; (2) a geographically distinct area, such as a school district, school attendance area, ward, precinct, or neighborhood; or (3) an identifiable group of individuals, such as the members of a service organization, who generally reside in a particular geographic area. "Communities" may include schools that are currently operated by the Bureau of Indian Affairs, or tribally-controlled schools, or groups of parents of Indian or Native American children who reside on Indian lands, and who create an America 2000 community in accord with the Governor's procedures. The Governor would be expected to consider such applicants in the same way he considers all other applicants.

TITLE II—MERIT SCHOOLS

Section 201. Section 201 of the bill would set forth congressional findings and a declaration of purpose for the Merit Schools program, to be authorized by Title II. Subsection (a) would state Congress' findings that: (1) all elementary and secondary schools should seek to attain the National Education Goals by the year 2000; (2) achievable standards of excellence can and should be set for all students and for all schools; (3) schools' progress in meeting those standards should be measured and made public; (4) financial incentives can spur schools to rise to the challenge of meeting those standards; and (5) demonstrated school-wide progress in achieving excellence, particularly in mathematics and science, deserves reward and recognition.

Section (b) would provide that the purpose of the Merit Schools program is to recognize and reward public and private elementary and secondary schools, including their faculty, that make documented progress in attaining the National Education Goals, particularly the goal of increasing students' mastery of the five core academic subjects.

Section 202. Section 202 of the bill would authorize $100 million for fiscal year 1992, and such sums as may be needed for each of the four succeeding fiscal years, to carry out Title II. These funds would remain available for obligation by the Secretary for two fiscal years after the fiscal year for which they were appropriated, to conform to the flexibility afforded Governors under section 205 in determining when to make Merit School awards.

Section 203. Section 203 of the bill would describe how appropriations for Title II would be allocated. Subsection (a) would authorize the Secretary to reserve up to one quarter of one percent of the appropriated amount to make grants to the outlying areas—Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau—for activities under the Act. The Secretary could also reserve up to two percent of each year's appropriation for evaluations and dissemination.

Subsection (b) would direct the allocation among the States of the amount remaining after the Secretary reserves funds for the outlying areas, and for evaluations and dissemination, under subsection (a). Under paragraph (1), this remaining amount would be allocated among the States on the same basis as funds are allocated for that fiscal year for Basic LEA Grants and Concentration Grants under sections 1005 and 1006 of Chapter 1 of Title I of the ESEA. Paragaph (2) would provide that the State allocation provisions apply only to the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Section 204. Section 204(a) of the bill would require the Governor of any State that wishes to receive a Merit Schools grant to submit a three-year application, which could be followed by an application for the succeeding two years.

Subsection (b) would require that each State application contains: (1) the criteria that the Governor will use to select Merit Schools; (2) the criteria the Governor will use to determine the amount of awards; (3) an assurance that the State will carry out the program in accordance with applicable legal requirements; and (4) other information the Secretary may require.

Subsection (c) would make inapplicable certain burdensome and unnecessary application provisions of the General Education Provisions Act. This treatment of those provisions is identical to that afforded under Chapters 1 and 2 of Title I of the ESEA.

Section 205. Section 205(a) of the bill would permit each State to use up to five percent of its annual allocation for the administrative costs of carrying out the program. Subsection (b) would require each State to use at least 95 percent of its State allocation for Merit School awards in accordance with section 207, except that the Governor could, by notifying the Secretary, designate a part or all of any year's allocation to remain available for two additional years. Of the amount used for Merit Schools, the Governor would have to use at least 20 percent for awards to schools that demonstrate exceptional progress in improving students' performance in mathematics and science, in addition to meeting the national and State criteria that apply to all Merit Schools.

Section 206. Section 206(a) of the bill would require the Governor of each participating State to establish a State review panel to assist in the selection of Merit Schools. The review panel would be broadly representative of elementary and secondary school teachers and administrators, college and university faculty and administrators, parents, students, State and local boards of education, State and local governments, labor, business, and the general public.

Subsection (b) would require each Governor, within 60 days of the end of each fiscal year, to submit to the Secretary a report that: (1) identifies the schools chosen as Merit Schools; (2) states the reasons for their selection; and (3) states the amount of the award to each school. Beginning with the second year for which the State makes awards, each Governor's report would also include a brief description of the actual use of awards in the State.

Section 207. Section 207 of the bill would describe how Merit Schools are selected. Under subsection (a)(1), the Governor could designate as Merit Schools public or private elementary or secondary schools in the State that have been nominated through procedures established by the Governor. Subsection (a)(2) would require the Governor to apply the selection criteria uniformly to public and private schools.

Subsection (b) would provide that, in order to be selected as a Merit School, a school must have: (1) demonstrated progress over a period of at least three years in significantly increasing the number or percentage of students who meet the National Education Goal of leaving grades four, eight, and twelve, as applicable, having demonstrated competency in challenging subject matter, including English, mathematics, science, history, and geography; (2) utilized objective measures of progress over the period that are established by the State in its plan and approved by the Secretary; and (3) made public an annual "report card", which includes information about the progress the school is making toward achievement of relevant aspects of the National Education Goals.

Subsection (c)(1) would permit each Governor to use selection criteria in addition to those, described in subsection (b), that would apply throughout the Nation. In setting these additional criteria, the Governor could include other aspects of educational performance, including the school's progress in attaining the other National Education Goals; would have to take into account differences in the composition of the student body of different schools; would have to give special consideration to schools with substantial numbers or proportions of children from low-income families; and could set different criteria for awards for achievement in different grade levels. Subsection (c)(3) would require each Governor to develop State criteria for selecting schools to rceive awards for outstanding progress in student achievement in mathematics and science, in accordance with section 205(b). Subsection (c)(4) would require the Governor, in applying the criteria to a school in which a project is conducted under Part A of Chapter 1, to consider the desired outcomes identified for children in the Chapter 1 application submitted by the local educational agency operating the school. A school that an LEA has identified under section 1021(b) of Chapter 1 during each year of the period covered by a Merit Schools competition would not be eligible for a Merit School Award. Subsection (c)(5) would prohibit a Governor from considering a school's planned use of an award, if it is otherwise permitted by law, in deciding whether to recognize it as a Merit School or in setting the amount of its award.

Subsection (d) would require each Governor to establish criteria, including criteria relating to the size of the school and the economic circumstances of the student body, for determining the amount of Merit School awards.

Subsection (e) would require the Governor of any State that is either prohibited by State law from providing Merit School funds to private schools, or that is unwilling to do so, to notify the Secretary of that prohibition or unwillingness, as well as of the private schools it has designated as Merit Schools and the amount of their awards. The Secretary would then provide those funds, from the State's allocation, to the designated private schools through such arrangements as the Secretary finds suitable. The Secretary would also withhold the administrative costs of making such arrangements from the State's allocation.

Section 208. Section 208 of the bill would allow a Merit School to use its Merit School award for activities, otherwise permitted by law, that further the educational program of the school. These activities could include: (1) development, implementation, or expansion of special programs, such as those focused on dropout prevention or reentry, student transition to college or employment, preschool children, remedial services, or gifted and talented students; (2) the purchase or lease of computers, telecommunications equipment, scientific instruments, instructional materials, library books, and other equipment and materials, except that a public agency would have to have title to, and exercise administrative control of, such equipment and materials; (3) bonus payments for faculty and administrators; (4) college scholarships for secondary school students; (5) parental involvement activities; (6) community outreach activities; and (7) helping other schools replicate its success.

Section 209. Section 209 of the Act would prohibit a Federal, State, or local agency from taking a Merit School award into account in determining whether to award any other assistance from Federal, State, or local resources, or in determining the amount of that assistance, to either the Merit School itself or the LEA, if any, that operates the school.

TITLE III—TEACHERS AND SCHOOL LEADERS

Part A—Governors' academies for teachers

Section 301. Section 301 of the bill would establish the following congressional findings: First, reform and restructuring of American education, and the Nation's ability to attain the National Education Goals, depend heavily on the quality of teaching in elementary and secondary schools, particularly in the core academic disciplines of English, mathematics, science, history, and geography. Second, experienced teachers need access to training of exceptional quality to keep current in the core academic disciplines, participate successfully in curriculum development, and act as master teachers. Third, Governors' efforts to reform elementary and secondary education in the States should include a focus on ensuring that teachers have a firm grasp of, and keep current in, the core academic disciplines. Fourth, Governors' Academies for Teachers can be a principal vehicle for providing the kind of high-level, intensive training essential to education reform and accomplishment of the National Education Goals. Fifth, excellent teachers in the core academic subjects deserve public

recognition and appropriate financial rewards in return for their efforts.

Section 302. Section 302 of the bill would state that the purposes of the program of Governors' Academies for Teachers are to: (1) build the highest quality teaching force for the Nation's schools, by providing start-up funds for Governors' Academies that teachers from public and private elementary and secondary schools may attend to obtain advanced instruction focusing on the core academic disciplines; and (2) establish awards for outstanding teachers in the academic subjects covered by the Academies.

Section 303. Section 303(a) of the bill would direct the Secretary to make a one-time, five-year grant to each State to establish and operate Governors' Academies for Teachers, and to recognize outstanding teachers. The Governor of each State would use the State's grant to make competitive awards to the State educational agency, local educational agencies, institutions of higher education, other public and private agencies and organizations, or consortia of such agencies, institutions, and organizations, to establish and operate Governors' Academies for Teachers. An Academy could be operated in cooperation or consortium with those of other States.

Section 303(b) of the bill would authorize the Secretary to reserve up to $500,000 of each year's program appropriation for evaluations of, and dissemination of information about, program activities, and direct the Secretary to reserve up to $175,000 for Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, to be expended as the Secretary determines will best meet the purpose of this program. The Secretary would proportionately allocate the remainder of such funds to each of the 50 States, the District of Columbia, and Puerto Rico, on the basis of the full-time equivalent number of public elementary and secondary school teachers in the most recent year for which satisfactory data are available. If the Secretary determined that any amount of a State's allotment for any fiscal would not be needed for that year by the State, the Secretary would reallot that amount to other States that need additional funds, in such manner as the Secretary determines is appropriate.

Section 304. Section 304 of the bill would require the Governor of each State wishing to receive a grant under this part to submit an application to the Secretary, for a five-year period. Each application would include: (1) a description of how the Governor's Academies planned for the State will relate to the Governor's overall plan for the reform of elementary secondary education and the attainment of the National Education Goals in the State, including, in particular, improvement of education in the core academic subjects; (2) a description of the competitive process the Governor will use to select applicants to operate the Governors' Academies for Teachers in the State; (3) an assurance that a separate Academy will be established in each of the five course academic subjects (English, mathematics, science, history, and geography), unless the Governor determines that it would be inefficient to use funds in this manner and the application decribes the Governor's reasons for establishing Academies that focus on more than one subject; (4) a description of how Academy participants will be selected; (5) a description of how the State will monitor the implementation of Governors' Academies for Teachers, including awards to teachers, and the performance of teachers who have been trained in those Academies, and an assurance that it will comply with reasonable requests of the Secretary for information on these matters; and (6) a description of how the State will meet the cost-sharing requirements of section 307 and continue to operate the Academies with Federal assistance is no longer available.

Section 305. Section 305(a) of the bill would require each Governor's Academy for Teachers to conduct a program of intensive instruction to elementary and secondary school teachers, focusing on the core academic disciplines of English, mathematics, science, history and geography. In accordance with section 305(b), this instruction would include: (1) renewal and enhancement of participants' knowledge of one of the five core academic disciplines; (2) teaching skills and strategies needed to impart academic subject matter to students, including students who are economically disadvantaged, limited English proficient, or have disabilities, and other students from diverse backgrounds; (3) at the Academy discretion, the use of educational technologies in teaching the core academic disciplines; (4) training needed to become a lead teacher or a master teacher in a core subject, consistent with State policies on teacher career ladders; (5) training needed to participate in curriculum development in a core subject; and (6) training in the development and use of assessment tools.

Section 305(c) would require each Academy to carry out activities consistent with the program's purpose. These activities could include review of existing teacher enhancement programs to identify the most promising approaches, development of a curriculum for use by the Academy; recruitment of teachers within the State to participate in the Academy's program; followup activities for previous participants; dissemination of information about the Academy, including the curricula developed; and evaluation of the impact of the Academy on the teaching practices of participants, and other evaluation activities designated to strengthen the Academy's program.

Section 305(d) would direct the Governor to allocate the State's allocation for teacher recognition under section 308(b) to each Academy in the State in the same proportion as funds to establish and operate the Academies are distributed. Each Academy would use this portion of its grant for a program of cash awards and recognition to outstanding teachers in the core academic subject or subjects covered by the Academy. Academies would select awardees from nominations submitted from a wide variety of sources, including public and private schools, teachers, and teacher associations, parents and parent associations, business, and students. Any full-time teacher of a core academic subject (including an elementary school teacher in the general curriculum) in a public or private elementary or secondary school would be eligible to receive an award. Academies would select recipients in accordance with criteria developed by the Academy and approved by the Governor. Such criteria may include the success of the teacher in educating disadvantaged students; educating gifted and talented students; encouraging students to enroll and succeed in advanced classes; teaching in schools educating large numbers of disadvantaged students, including schools in low-income inner-city or rural areas; introducing a new curriculum in a core academic subject or strengthening an established curriculum in a core academic subject; or acting as a "master teacher." The amount of a teachers award could not exceed $5,000 and would be available for any purpose the recipient chooses.

Section 306. Section 306 of the bill would require each recipient under this program to use funds appropriated to establish and operate Teacher Academies to meet the reasonable start-up and initial operating costs of carrying out the activities described in section 305, which may include stipends and travel and living expenses for teachers who participate in the Academy's program if no other funds are available to pay those costs.

Section 307. Section 307 of the bill would set the maximum percentage of an Academy's cost that could be met with program funds at 75 percent for the first year, 65 percent for the second year, 55 percent for the third year, 45 percent for the fourth year, and 35 percent for the fifth year. The remaining share would have to be provided from non-Federal sources, which could include in-kind contributions, fairly valued.

Section 308. Section 308(a) of the bill would authorize the appropriation, to establish and operate Teacher Academies, of $62.4 million for fiscal year 1992, $54.2 million for fiscal year 1993, $45.9 million for fiscal year 1994, $37.7 million for fiscal year 1995, and $29.5 million for fiscal year 1996.

Section 308(b) of the bill would authorize the appropriation, for the teacher recognition program described in section 305(d), of $7.6 million for each of the fiscal years 1992 through 1996.

Part B—Governors' Academies for School Leaders

Section 311. Section 311 of the bill would set out the following congressional findings to support the creation of a new program of Governors' Academies for School Leaders: First, the role of the school principal and other school leaders is central to school performance, school reform, and achievement of the National Education Goals. Second, school restructuring intensifies the need for effective school leadership as it locates greater authority and responsibility at the school building level. In this context, principals and other administrators need to cultivate strong collegial relationships among teachers and staff. Third, school leaders must be well versed in the core academic disciplines, must provide instructional leadership to the teachers in their schools, and must be able to coordinate school services with those of social service agencies and other organizations in the community, including businesses, affecting students and their families. Fourth, over the next ten years, at least half of those individuals now serving as school principals will be eligible for retirement. Fifth, Governors' efforts to reform elementary and secondary education in the States must include a focus on preparing a new generation of highly effective school leaders. Sixth, the pool of talent from which to draw school leaders can be expanded substantially with well-designed training programs.

Section 312. Section 312 of the bill would provide that the purpose of Part B of Title III of the bill is to improve the training and performance of public and private school principals and other school leaders, and increase the number of persons who are well trained and well qualified to be school leaders, by supporting the development and implementation of programs that offer: (1) for prospective school leaders, recruitment, training, and, as appropriate, internships under experienced school leaders; (2) for experienced school leaders, opportunities for professional renewal and enhancement of

skills; and (3) for all participants, a focus on instructional leadership, school-based management, school reform strategies, and implementation of school-level accountability mechanisms.

Section 313. Section 313(a) of the bill would direct the Secretary to make a one-time, five-year grant to each State to establish a Governor's Academy for School Leaders. The Governor of each State would use the State's grant to make competitive awards to the SEA, LEAs, institutions of higher education, other public and private agencies and organizations, or consortia of such agencies, institutions, and organizations, to establish and operate a Governor's Academy for School Leaders. These Academies could be operated in cooperation or consortium with those of other States.

Under section 313(b) of the bill, the Secretary could reserve up to $500,000 for evaluations of, and dissemination of information about, activities conducted under this program, and would be required to reserve up to $55,000 for Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, to be expended as the Secretary determines will best meet the program's purpose. The Secretary would proportionately allocate the remainder of funds to each of the 50 States, the District of Columbia, and Puerto Rico, on the basis of the number of public elementary and secondary schools in each such jurisdiction in the most recent year for which satisfactory data are available. If the Secretary determines that any amount of a State's allotment for any fiscal year will not be needed for such fiscal year by the State, the Secretary would reallot that amount to other States that need additional funds, in such manner as the Secretary determines is appropriate.

Section 314. Section 314 of the bill would require the Governor of each State wishing to receive a grant under this program to submit an application to the Secretary for a five-year period. Each application would have to include: (1) a description of how the Governor's Academy for School Leaders planned for the State will relate to the Governor's overall plan for the attainment of the National Education Goals and the reform of elementary and secondary education in the State, including, in particular, improvement of school leadership in the State; (2) a description of the competitive process the Governor will use to select the applicant to operate the Governor's Academy; (3) a description of how Academy participants will be selected; (4) a description of how the State will monitor the implementation of the Governor's Academy and the subsequent progrress of individuals trained by the Academy, and an assurance that it will comply with reasoanble requests of the Secretary for information on these matters; (5) a description of how the State will meet the cost-sharign requirements of section 317 and continue to operate the Academy when Federal assistance is no longer available; and (6) such other assurances and information as the Secretary may require.

Section 315. Section 315 of the bill would require each Governor's Academy for School Leaders to: (1) identify models and methods of leadership training and development that are promising or have proven to be successful; (2) develop curricula, which focus on instructional leadership, school-based management, and the design and execution of school improvement strategies and accountability mechanisms, for the development of school leaders; (3) identify candidates, including members of minority groups, individuals with disabilities, and individuals from schools with high numbers or concentrations of disadvantaged students, to be trained as new school leaders; (4) provide intensive training and development programs for persons desiring and demonstrating outstanding promise to become school leaders, and for current school leaders seeking enhanced and up-to-date knowledge needed to perform their jobs effectively; (5) identify districts and schools with principal and other school leader vacancies and work with them to match academy participants with those vacancies; (6) as appropriate, facilitate interships for graduates of the program for new school leaders, under the guidance and supervision of experienced administrators; (7) provide periodic follow-up development activities for school leaders trained through the Academy's programs; (8) disseminate information about the Academy, including the training curricula developed; and (9) evaluate the impact of the Academy on the leadership practices of participants, and other evaluation activities designed to strengthen the Academy's program.

Section 316. Section 316 of the bill would require each recipient under this program to use its grant funds to meet the reasonable start-up and initial operating costs of carrying out the activities described in section 315. These costs could include stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay those costs.

Section 317. Section 317 of the bill would set the maximum percentage of an Academy's cost that could be met with program funds at 75 percent for the first year, 65 percent for the second year, 55 percent for the third year, 45 percent for the fourth year, and 35 percent for the fifth year. The remaining share would have to be provided from non-Federal sources, which could include in-kind contributions, fairly valued.

Section 318. Section 318 of the bill would authorize the appropriation, to carry out this program, of $22.5 million for fiscal year 1992, $19.5 million for fiscal year 1993, $16.5 million for fiscal year 1994, $13.5 million for fiscal year 1995, and $10.5 million for fiscal year 1996.

Part C—Alternative Certification of Teachers and Principals

Section 321. Section 321 of the bill would set out the congressional findings that: (1) effective elementary and secondary schools require competent teachers and strong leadership; (2) school systems would benefit greatly by recruitment pools of well-qualified individuals, such as scientists and engineers, from which to select teachers and principals; (3) talented professionals who have demonstrated a high level of subject area competence or management and leadership qualities outside the education profession and who wish to pursue second careers in education often do not meet traditional certification requirements; and (4) alternative certification requirements that do not exclude such individuals from teaching or school administration solely because they do not meet current certification requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers and principals.

Section 322. Section 322 of the bill would establish the purpose of Part C as improving the supply of well-qualified elementary and secondary school teachers and principals by encouraging and assisting States to develop and implement alternative teacher and principal certification requirements. "Alternative teacher and principal certification requirements" would mean State requirements that permit entry into teacher and principal positions for individuals who have demonstrated a high level of appropriate subject area competence, or management of leadership qualities, in careers in or out of the education field, but who would not otherwise meet existing requirements for teaching or supervisory experience. Such alternative certification requirements could substitute a demonstrated high level of subject area or managerial competence for traditional teacher or principal certification requirements, such as teacher training course work or supervisor experience in the education system.

Section 323. Section 323 of the bill would authorize a one-time appropriation of $25 million for fiscal year 1992.

Section 324. Section 324 of the bill would allot to each State the lesser of either the amount the State applies for or an amount that is proportional to the State's share of the total population of children aged five through seventeen in all the States. States would not be required to apply for their allotments, or the full amount of their allotments, and the Secretary would be authorized to reallocate the excess amounts to other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds. Section 324 would also permit grant funds to be available for expenditure by the States for two calendar years from the date of award.

Section 325. Section 325 of the bill would require States desiring to receive funds under the part to submit an application. Such applications would be required to contain descriptions of the programs, projects, and activities to be undertaken and any necessary assurances, including assurances that grant funds will not be used to supplant State or local funds and that the State has consulted with the State or local agency that certifies teachers and principals, as well as with representatives of elementary and secondary school teachers and principals, local school systems, parents, and other interested organizations and individuals. Section 325 would exempt State applications from certain planning requirements of sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures. Section 325 would require States to submit a final report at such time as the Secretary may specify.

Section 326. Section 326 of the bill would allow States, either directly or through subgrants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies, to use award funds to support programs, projects, or activities that develop and implement new, or expand and improve existing, alternative teacher and principal certification requirements. Section 326 would also list some programs, projects, and activities that may be funded, including design, testing, and evaluation of alternative requirements, establishment of administrative structures, training of staff (including the development of support programs, such as mentor programs), development of recruitment strategies, and development of reciprocity agreements between or among States.

TITLE IV—EDUCATIONAL REFORM AND FLEXIBILITY

Part A—Educational Reform Through Flexibility and Accountability

Section 401. Section 401(a) of the bill would make the following findings demonstrating the need for this part: Historically, Federal education programs have addressed the Nation's most pressing educational problems by providing categorical assistance with detailed requirements relating to the use of funds. While this approach has been generally successful, some program requirements may inadvertently impede educational achievement. The Nation's schools are being asked to deal effectively with increasingly diverse educational needs that current program structures may not be flexible enough to address. In an era when educational change and reform must prevail, it is more important than ever to provide programs that improve educational and related services that benefit children and their families; respond flexibly to the needs of a diverse student population; stop the proliferation of unnecessary Federal, State, and local regulation; and place less emphasis on measuring resources and reviewing procedures and more emphasis on achieving program results.

Section 401(b) would state that the purpose of Part A of Title IV is to promote educational reform that leads to improved educational outcomes for participants in affected programs. Under this approach, the schools and other recipients of Federal funds would be held accountable for achieving specific educational improvement goals in exchange for increased flexibility in the use of their resources. This more flexible approach is intended to enable school and program administrators, teachers, parents, local agencies, and community groups to work together to develop effective education programs that lead to improved achievement and meet the needs for all participants, particularly those who are disadvantaged.

Section 402. Section 402 of the bill would carry out the purpose of Title IV-A by adding a new section 421B to the General Education Provisions Act ("GEPA"; 20 U.S.C. 1221 *et seq*).

Section 421B(a)(1) of GEPA would direct the Secretary of Education ("the Secretary") to assist elementary and secondary schools and other service providers to improve the achievement of all students and other participants, but particularly disadvantaged individuals, by authorizing waivers by which the Governors, SEAs, LEAs, and other service providers improve the performance of schools and programs by increasing their flexibility in the use of their resources, while holding them accountable for achieving educational gains. In support of these projects, the Secretary would be authorized to waive any statutory or regulatory requirement (except as provided in subsection (e), described below) applicable to a program administered by the Department of Education that the Secretary determines may impede the ability of a school or other service provider to meet the special needs of those students and other individuals in the most effective manner possible. The head of any other Federal agency would similarly be authorized to waive such requirements that apply to that agency's programs if the agency head and the Secretary agree that such a waiver would promote the purpose of this title.

Section 421B(a)(2) would provide that projects under this new authority, and any waivers associated with such projects, could last no longer than three years, except that the Secretary could extend a project and any associated waivers for an additional two years if the Secretary determines the project is making substantial progress toward meeting its goals. The Secretary would be required to terminate a project and its associated waivers if the Secretary, at any time, determines that it is not making acceptable progress toward meeting its goals. The head of any other agency who has granted a waiver under section 421B would determine whether to extend or terminate those waivers, but the Secretary would have exclusive authority to extend or terminate the project itself.

Subsection (b) of the new section 421B would describe the participants in eligible projects, and would impose certain restrictions on those projects. Subsection (b)(1) would require that each project that involves elementary or secondary schools include the participation of an SEA and, to ensure that it is of a meaningful size, at least one LEA and two schools. Subsection (b)(2) would require that, to the extent possible, the project involve each grade and academic program in a participating school, including programs for educationally deprived children under Part A of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965. Under subsection (b)(3), if fewer than all of an LEA's schools participate in a project, available resources, including available Federal assistance, could not be concentrated unreasonably in the participating schools. This prohibition would help ensure that the outcomes of these projects are attributable to the removal of regulatory or statutory barriers, not to the excessive concentration of resources. Finally, subsection (b)(4) would require that each project that does not involve elementary or secondary schools involve at least two programs, including at least one program administered by the Secretary.

Subsection (c) of the new section 421B would require that an application for an experimental project be submitted by the Governor of the Secretary. Each application would have to include a plan that: (1) describes the purposes and overall expected outcomes of the project; (2) identifies, for each school or site participating in the project, those impediments to improved educational outcomes that would be removed by the proposed waivers; (3) identifies the Federal programs to be included in the project, the Federal statutory or regulatory requirements to be waived, and the purpose and duration of the requested waivers; (4) describes the State and local requirements that will be waived, the purpose of such waivers, and, if such requirements will not have been waived before the project begins, when those waivers will be obtained and take effect; and (5) describes specific, measurable, educational improvement goals for each school or other site in the project and for each year of the project. Each application for a project involving elementary or secondary schools would also identify the schools to be included in the project and describe the student population at each school; describe specific goals for enhancing coordination between the regular education program and programs serving disadvantaged students; describe the expected educational outcomes for disadvantaged students in schools that do not participate (if any), and how those outcomes will be assessed; and describe how school administrators, teachers, staff, and parents have been, or will be, involved in the planning, development, and implementation of the goals and program for each participating school.

Subsection (d)(1) of the new section 421B would direct the Secretary to approve proposed projects that have substantial promise of achieving this section's purpose, after considering (1) the comprehensiveness of the project, including the types of students, schools, programs, and activities to include; (2) the extent to which the provisions for which waivers are sought impede educational improvement; (3) the State and local requirements that will be waived for the project; (4) the significance and feasibility of the proposed project's goals for each participating school or site; and (5) the quality of the plan for ensuring accountability for the proposed plan's activities and goals.

Subsection (d)(2) would direct the Secretary to consult with the heads of other appropriate Federal agencies, if any, in determining whether to approve a project. Each such agency head would notify the Secretary of any waivers granted by that agency.

Subsection (e) of the new section 421B would describe the allocation of Federal program funds to participating SEAs and LEAs and prohibit the Secretary from waiving certain statutory or regulatory requirements. Subsection (e)(1) would provide that Federal funds under any program that are used to support an approved project shall be allocated to the appropriate SEAs and LEAs in accordance with the statutory and regulatory requirements, such as applicable funding formulas, that govern the operation of that program, except that, for the purpose of a project under section 421B, the Secretary could extend the duration of, and provide continuation funding to, any project of that participating agency that had been chosen on a competitive basis and that the participating agency was conducting before the project under section 421B begins. Subsection (e)(2) would prohibit the Secretary from waiving statutory or regulatory requirements in awarding new competitive grants to SEAs, LEAs, or other applicants that participate in a project under section 421B. These provisions are designed to promote local flexibility in the design and operation of projects under section 421B, while ensuring that grant competitions involving participating agencies are conducted fairly and do not disadvantage applicants who are not seeking waivers under this section.

Subsection (e)(3) would prohibit the Secretary and, where applicable, the head of any other Federal agency from waiving any statutory or regulatory requirement: (1) relating to maintenance of effort, comparability, or the equitable participation of students attending private schools; (2) under section 438 (the Family Educational Rights and Privacy Act of 1974) or section 439 (protection of pupil rights) of GEPA; (3) under the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, or the Age Discrimination Act of 1975; or (4) under the Individuals With Disabilities Education Act (formerly the Education of the Handicapped Act) relating to the availability of a free appropriate public education to children with disabilities, or of early intervention services to infants and toddlers with disabilities, under Parts B and H, or the procedural safeguards afforded those children and their parents under those parts. This will ensure that the substantive rights and procedural productions afforded these children and their parents remain in force.

Subsection (f) of the new section 421B would require various program reports and

evaluations. Subsection (f)(1) would require each project to submit, no later than 90 days after the end of each year of the project, an annual report to the Secretary that summarizes the principal activities of the project; contains school-by-school and other data, as described in the project plan, that show the extent to which the project is meeting its goals; describes the impact of the project on disadvantaged children in schools, if any, that are not participating in the project; and describes the effectiveness of efforts to coordinate programs and services for children and their families, as appropriate. Subsection (f)(2) would require the Secretary to submit a report to the Congress every two years that summarizes and analyzes the reports submitted by the individual projects. Subsection (f)(3) would require the Secretary to report to Congress on the evaluation of the new section 421B by the Department of Education and other affected Federal agencies after the 5-year period described in this section.

Subsection (g) of the new section 421B would define "disadvantaged students" to include students of limited English proficiency, children with disabilities, students who are currently or formerly migratory, and students who are educationally deprived.

Subsection (h) of the new section 421B would require that the new section 421B be carried out in a way that does not increase total obligations or outlays of covered programs in any fiscal year.

Part B—Amendments to Chapter 2

Part B of Title IV of the bill would amend Part A of Chapter 2 of Title I of the ESEA, which supports State and local efforts at educational improvement and reform, to foster reform projects of significant size and scope, and to promote the implementation of educational choice programs, as follows:

Section 411. Section 411 of the bill would amend section 1512(a) of the ESEA to increase from not more than 20 percent to exactly 50 percent the amount of a State's Chapter 2, Part A allocation that is to be available at the State level. This will increase the likelihood that Chapter 2 funds are used on projects of sufficient size and scope to bring about meaningful reform and improvement.

Section 412. Section 412 of the bill would amend provisions regarding the use of State-level funds under Chapter 2 by: (1) reducing, from 25 percent to 10 percent, the amount of those funds that may be used for State administration; and (2) reducing, from 20 percent to 8 percent, the proportion of those funds that must be used for effective schools programs. These revisions would mean that the percentages of the State's total allocation devoted to these purposes would remain constant, in light of the increased share of that allocation to be held at the State level under section 411 of the bill.

Section 413. Section 413 of the bill would amend the State application requirements of section 1522 of the ESEA to require the Governor's approval of each State's application and to conform to the amendments made by section 412.

Section 414. Section 414 of the bill would add educational choice programs to the categories of "targeted assistance programs" listed in section 1531(b) of the ESEA. Chapter 2 grant funds may be spent only on these types of programs.

Section 415. Section 415 of the bill would amend section 1532 of the ESEA, which describes, and gives examples of, activities that are authorized in carrying out the targeted assisted programs, to explicitly authorize any activities or expenses directly related to planning, implementing, operating, evaluating, and disseminating information about, the LEA's educational choice program. This could include expenses incurred by parents and children resulting from their participation in the program, to the extent permitted by the Establishment Clause of the First Amendment to the U.S. Constitution and other law.

TITLE V—PARENTAL CHOICE OF SCHOOLS

Part A—Findings

Section 501. Section 501 of the bill would make the following congressional findings in support of Title V of the bill: (1) parental choice in education creates market-based accountability, encourages school diversity and competition, and provides parents and their children with a sense of investment in their schools; (2) economically disadvantaged children deserve the same educational choices, both public and private, as their more advantaged peers; (3) educational choice programs and programs of compensatory education assisted under Part A of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 ("ESEA") should be coordinated with, and be carried out so as to enhance, each other; (4) local implementation of programs that enhance student and parental choice deserves national support and encouragement; and (5) different methods for expanding educational choice should be tested and evaluated.

Part B—Parental Choice and Chapter 1

Part B of Title V of the bill would amend Chapter 1 of Title I of the ESEA, under which supplemental compensatory education services are provided to educationally deprived children, so that local Chapter 1 projects and educational choice programs will be coordinated with, and enhance, each other as follows:

Section 511. Section 511(a) of the bill would add a new section 1022 to Chapter 1, to ensure that children receiving Chapter 1 services do not lose those services when they participate in an educational choice program. Specifically, section 1022(a) would require an LEA to provide Chapter 1 services to each child residing in the LEA who is afforded the opportunity to participate in the LEA's choice program and who would have received Chapter 1 services in the absence of the choice program. The LEA could meet this "follow-the-child" requirement by providing services itself or through arrangements with other service providers.

If the LEA determines that it is not feasible or efficient to make these services available to a child, section 1022(b) would require the LEA to provide a per-child share of its Chapter 1 funds to the child's parents, in an amount equal to the total funds received by the LEA under its Basic Grant under section 1005 and its Concentration Grant, if any, under section 1006 (less amounts spent on administrative expenses), divided by the number of children selected by the LEA to receive Chapter 1 services. The parents could use these funds only to purchase supplementary compensatory education services for their child from any service provider that the LEA determines is able to provide appropriate and effective services to the child, or to meet the costs of transportation related to the child's participation in the LEA's choice program, or both. Finally, these payments would not constitute income to the parents for Federal income tax purposes.

Section 1022(c) would require each LEA carrying out a choice program to include in its Chapter 1 application, filed with the SEA under section 1012: (1) a description of its policies and procedures for carrying out the new section 1022; (2) an assurance that it will keep such records and provide the SEA such information relating to the provision of Chapter 1 funds to parents as may be required for fiscal audit and program compliance; and (3) an assurance that it will exercise due diligence to ensure that parents use those funds only for the purposes authorized by section 1022(b)(3), and to recover any payments that are misused.

Section 511(b) of the bill would clarify that Chapter 1 funds can be used to pay the additional transportation costs of Chapter 1 children participating in an educational choice program. As with other Chapter 1 services, use of program funds for this program would be subject to the Chapter 1 prohibition against supplanting State and local funds.

Section 512. Section 512 of the bill would add two requirements to the Chapter 1 provisions on parental involvement, which would apply to each LEA carrying out an educational choice program. First, at the annual meeting of parents currently required by section 1016(c)(2) of the ESEA, representatives of the LEA would have to explain the availability of compensatory education services under the various options of the choice program. Second, the LEA would be required to provide to the parents of each child selected for Chapter 1 services an explanation in writing, and in such other manner as may be appropriate, of the options available to them under the choice program and under Chapter 1.

Section 513. Section 513 of the bill would define an "educational choice program" as a program, including a desegregation plan, adopted by an SEA or LEA, under which parents select the school or educational program in which their children will be enrolled. The definition would be added to those in section 1471 of the ESEA.

Part C—Assistance for Parental Choice Programs

Section 521. Section 521 of the bill would direct the Secretary of Education ("the Secretary") to make grants, in accordance with Part C, to local educational agencies (LEAs) that carry out educational choice programs.

Section 522. Section 522 of the bill would authorize the appropriation of $200 million for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years, for this new program.

Section 523. Section 523(a) of the bill would make an LEA eligible for a grant if it will carry out an educational choice program during the year for which assistance is sought and carried out such a program during the preceding year.

Section 523(b) would describe the elements of an educational choice program that would qualify for assistance under this part. An eligible educational choice program would be a program adopted by a State or by an LEA under which (1) parents select the school, including private schools, in which their children will be enrolled; and (2) sufficient financial support is provided to enable a significant number or percentage of parents to enroll their children in a variety of schools and educational programs, including private schools.

Section 524. Section 524 of the bill would describe how each year's appropriations would be distributed among qualifying LEAs. Under section 524(a), each LEA whose application is approved would be allotted a portion of the program's appropriations in proportion to the amount it was allocated in the previous fiscal year for Chapter 1 Basic

Grants and Concentration Grants under sections 1005 and 1006 of the ESEA, compared to the amounts allocated under sections 1005 and 1006 to all qualifying LEAs whose applications have been approved.

Section 524(b) would set the maximum amount of an LEA's allotment at (1) the average per-pupil expenditure of all LEAs in the State for the most recent fiscal year for which satisfactory data are available to the Secretary, multiplied by (2) the number of children afforded the opportunity to participate in the educational choice program in the year preceding the year for which assistance is sought. Subsection (c) would provide that excess funds would be returned to the Treasury.

Section 525. Section 525 of the bill would authorize an LEA to use program funds for any educational services provided to the LEA's students and for parental involvement activities, so long as these services and activities are in addition to services and activities that would otherwise be provided from State or local funds. Program funds could not be used for general administrative expenses.

Section 526. Section 526(a) of the bill would require an LEA wishing to receive a grant to submit an annual application to the Secretary, at such time and in such manner as the Secretary prescribes. Under section 526(b), each application would be required to contain: (1) a description of the educational choice program in sufficient detail for the Secretary to determine whether the LEA is eligible for a grant; and (2) such other assurances and information as the Secretary may require. Section 526(c) would require the Secretary, before finally deciding not to approve an LEA's application, to provide a written explanation to the LEA and provide it a reasonable opportunity to respond.

Part D—Parental Choice Programs of National Significance

Section 531. Section 531 of the bill would authorize the Secretary to make grants to SEAs, LEAs, and other agencies, institutions, and organizations to conduct and demonstrate nationally significant model programs of educational choice.

Section 532. Section 532(a) of the bill would authorize the appropriation of $30 million for fiscal year 1992, and such sums as may be needed for each of the four succeeding fiscal years, to carry out this new program. Section 532(b) would permit the Secretary to set aside up to five percent of each year's program appropriation to evaluate and disseminate information about educational choice programs assisted under this program.

Section 533. Section 533 of the bill would direct the Secretary to announce, each year, the approaches to educational choice that will be considered for funding. An application would be considered only if it complies with that announcement. The purpose of this part is not to finance any choice plan that an SEA or LEA may wish to implement. Rather, this part is designed to permit the Secretary to test and evaluate programs of educational choice that appear to have promise of substantial applicability to LEAs across the Nation.

Section 534. Section 534(a) of the bill would require a prospective grantee to submit an application to the Secretary, at such time, in such manner, and containing such assurances and information as the Secretary prescribes. Section 534(b) would authorize project periods of up to five years.

Section 535. Section 535 of the bill would allow SEAs and LEAs to use program funds for activities directly related to planning, implementing, operating, and evaluating, as well as disseminating information about, the educational choice demonstration program receiving assistance under this part. These funds could be used, to the extent otherwise permitted by law, to meet expenses of parents and children resulting from their participation in the choice program. These expenses could include tuition and fees at private schools or costs incurred for transportation.

Section 536. Section 536 of the bill would require the Secretary to consult with educational practitioners with experience with educational choice programs, individuals with expert knowledge and experience in the area of educational choice, and other interested individuals, including parents, in determining which approaches to educational choice to support under, and in otherwise carrying out, Part D.

Section 537. Section 537 of the bill would define an educational choice program, for purposes of Part D, as a program adopted by a State or by an LEA under which parents select the school in which their children will be enrolled, and that complies with the annual announcement under section 533.

TITLE VI—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

Section 601. Section 601(1) of the bill would amend section 406(f)(1) of the General Education Provisions Act ("GEPA") to authorize appropriations for section 406 activities, including the National Assessment of Educational Progress ("NAEP"), at $86,160,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years. This amendment would extend the funding authority for NAEP through 1996.

Section 601(2)(A)(i) of the bill would amend section 406(i)(2)(A) of GEPA to require that NAEP collect national and State-representative data, for those States that choose to participate, and to eliminate the requirement that NAEP collect regionally-representative data and references to subparagraphs (C) (i) and (ii), which require State assessments on a trial basis only. Regional data can be compiled by combining State data, if all States participate, and, for that reason, no longer needs to be a separate requirement for the NAEP design.

Section 601(2)(A)(ii) of the bill would amend section 406(i)(2)(A)(i) to replace the requirement that core subject-area assessments be conducted every certain number of years with a requirement that core subject-area assessments be conducted at least every four years. This amendment ensures that the five core subject areas specified in AMERICA 2000 are covered, but allows for the frequency of coverage to be determined on the basis of factors that cannot be predicted, such as: (1) certain opportunities, as in years that international studies are to be carried out in the same subject-area and when opportunities arise to join with other organizations in surveying fields such as arts, foreign languages, economics, or workplace skills; (2) the need to consider the relationship of the reading-writing test that the NAEP has traditionally used to the "English" test called for in AMERICA 2000; and (3) the availability of funds.

Section 601(2)(A)(iii) of the bill would amend section 406(i)(2)(A)(ii) of GEPA to require that data on students at specified ages be collected and reported on an annual basis, rather than only every two years. This would permit expansion in coverage so that the five core-subjects described in the AMERICA 2000 and the National Education Goals could all be resurveyed at least once every four years.

Section 610(2)(B) of the bill would eliminate section 406(i)(2)(B) of GEPA, requiring the Secretary and the National Assessment Governing Board to ensure that specific subject matter will be included in each 2-year NAEP cycle. Current section 406(i)(2)(B) of GEPA conflicts with the amendments made in section 601(2)(A)(ii) of the bill to provide more flexibility in determining schedule of subjects to be assessed, and for that reason should be eliminated.

Sections 601(2) (C) and (D) of the bill would amend sections 401(i)(4)(B)(i) and (C) of GEPA to remove, respectively, the restriction on confidentiality of information on schools and the prohibition on the use of NAEP items and data to compare schools and districts. These changes would allow States to use NAEP tests to collect data on schools and districts that could be compared with State and national data. States have requested removal of this prohibition in order to promote accountability for student achievement.

Section 601(2)(E) of the bill would amend sections 406(i)(8) (B) and (C) of GEPA to eliminate the requirement that the State pay the non-Federal share of participation in State-based assessments. Rather, States would be required to pay a minimum State contribution of $100,000 each fiscal year and carry out the functions of conducting the assessment at the school level for all schools in the State sample and coordinating within the State, subject to payment by the Secretary to offset the costs. Section 406(i)(8)(C) of GEPA would be amended to require the Secretary to pay the State for the cost, in excess of the minimum State contribution, of carrying out such functions an amount that would be identified in the agreement reached under section 406(i)(8)(B), and which would be the product of the total number of hours of work and training of school staff the Secretary estimates is required to conduct the assessment at the school level and the total number of hours of work of State staff the Secretary estimates is required to coordinate the assessment within the State, multiplied by a daily rate of pay, as determined by the Secretary. The changes made by section 601(2)(E) of the bill should greatly encourage voluntary participation in State assessments, while ensuring that States continue to have a stake in the administration of a national assessment.

TITLE VII—NATIONAL COMMISSION ON TIME, STUDY, LEARNING, AND TEACHING

Section 701. Section 701(a) of the bill would establish a National Commission on Time, Study, Learning, and Teaching.

Section 701(b) of the bill would provide for membership of the Commission. It would consist of 15 members appointed by the President; taking into account three recommendations by the Speaker of the House of Representatives and three by the President *pro tempore* of the Senate. Members would be appointed on the basis of exceptional education, training, or experience from among the Nation's Governors, individuals from the business community, representatives of nonprofit organizations or foundations committed to the improvement of American education; individuals engaged in the profession of teaching; individuals engaged in school administration; members of school boards, and parents or representatives of parents or parent organizations; State officials directly responsible for education; Federal officials responsible for education policy; and educational researchers with experience relevant to the Commission's work. The Commission members would serve with-

out compensation. The Commission could begin to operate as soon as seven members have been appointed. Any vacancy would be filled in the same manner as the original appointment was made.

Section 701(c)(1) of the bill would direct the Commission to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States in an era when World Class Standards of achievement need to be met including issues regarding the length of the school day and year, the extent and role of homework, how time is currently being used for academic subjects, year-round professional opportunities for teachers, and the use of school facilities for extended learning programs. Section 701(c)(2) of the bill would require the Commission to prepare a final report, including an analysis and recommendations concerning: (1) the length of the academic day and the academic year in elementary and secondary schools throughout the United States and in schools of other nations; (2) the time children spend in school learning the five core subjects of English, mathematics, science, history, and geography; (3) the use of incentives for students to increase their educational achievement in available instructional time; (4) how children spend the 91 percent of their time that is outside school, with particular attention to how much of that time can be considered "learning time" and how out-of-school activities affect intellectual development; (5) the time children spend on homework, how much of that time is spent on the core curriculum subjects, the importance that parents and teachers attach to homework, and the extent to which homework contributes to student learning; (6) year-round professional opportunities for teachers and how teachers can use their time to acquire knowledge and skills that will permit them to improve their performance and help raise the status of the profession; (7) how school facilities are used for extended learning programs; (8) the appropriate number of hours per day and days per year of instruction for United States elementary and secondary schools; and (9) if appropriate, a model plan for adopting a longer academic day and academic year for use by United States public elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in making the transition from the current academic day and year to an academic day and year of a longer duration.

Section 701(d) would require the Commission to submit the report described in section 701(c)(2) to the President and the Congress within a year of its first meeting.

Section 701(e) would authorize the Commission to conduct hearings, receive testimony and evidence, obtain information from Federal agencies, accept gifts, and use the U.S. mails under the same terms and conditions as do those agencies. The Secretary of Education would be directed to provide reasonable administrative and support services to the Commission on a reimbursable basis.

Section 701(f) would: (1) direct the Commission to meet on a regular basis, as necessary; (2) establish a majority of Commission members as a quorum for the transaction of business; (3) provide for election of a Chairman and Vice Chairman by, and from, the Commission members, and direct the Commission to appoint a staff director and professional and clerical personnel; and (4) authorize the head of any Federal agency to detail personnel to the Commission.

Section 701(g) would provide for termination of the Commission 90 days after it submits its report as required under section 601(d).

Section 701(h) would authorize a total of $1 million to be appropriated for fiscal years 1991 and 1992 for the Commission.

TITLE VIII—REGIONAL LITERACY RESOURCE CENTERS

Section 801. Section 801 of the bill would amend Part B (State Programs) of the Adult Education Act to add a new Subpart 7 relating to regional literacy resource centers. Subpart 7 would assist State and local public and private nonprofit efforts to improve literacy through the award of grants or contracts to State and local educational agencies, State offices on literacy, volunteer organizations, community-based organizations, institutions of higher education, and other nonprofit entities to operate regional literacy resource centers. Funds awarded to operate such centers could be used for a broad range of activities designed to improve illiteracy on a regional basis, including improving the dissemination and adoption of testing methods and technologies; enhancing coordination of literacy services among the States and between public and private agencies; encouraging government and industry partnerships; encouraging innovation and experimentation in literacy activities; and providing technical assistance to State and local governments and service providers. Awards would be authorized for five years with a Federal share that declines from 80 percent for the first two fiscal years of assistance, to 70 percent for the third and fourth years, and to 60 percent for the fifth and final year. Finally, $5 million would be authorized for regional literacy resource centers for fiscal year 1992 and such sums for each of the next four fiscal years.

TITLE IX—GENERAL PROVISIONS

Section 901. Section 901 of the bill would define the terms "Governor", "State", and "Secretary", as used in the bill, and would incorporate the definitions of "elementary school", "local educational agency", "secondary school", and "State educational agency" set out in section 1471 of the Elementary and Secondary Education Act of 1965.

Section 902. Section 902 of the bill would make Public Law 95-134, which permits the consolidation of certain grants to the Insular Areas, inapplicable to funds provided under the bill. The programs to be established by the bill are sufficiently important to require that funds under each program be spent on that program's objectives and in accordance with its requirements.

Section 903. Section 903 of the bill would provide that the bill would take effect on enactment.

Mr. KENNEDY. I reserve the remainder of my time.

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

THE ADMINISTRATION'S EDUCATION PLAN

Mr. HATCH. Mr. President, I thank my colleague for his comments.

Mr. President, I want to congratulate President Bush and Secretary Alexander on the excellent strategy they have developed to help reform the schools of this Nation.

Just over 1 month ago, the President released a bold and innovative plan that will have a major positive impact on the lives of all Americans today and for generations to come.

This strategy is both a revolution and a crusade. It is a challenge to each of us who is concerned about children and the future of this Nation. America 2000 is exactly the kind of challenge that Americans have successfully met throughout our history.

Today we have before us an opportunity similar to the one our forebears had more than 200 years ago. Two centuries ago Americans had an opportunity to form an unparalleled system of government where all persons were treated equally. Now we have an opportunity to develop an educational system which is radically different from what we know today—an educational system that builds on the principle that each individual has the opportunity to develop his or her mind to the fullest extent possible, regardless of race, religion, sex, or mental ability.

America 2000 will touch all of us—today's students, tomorrow's students, members of the work force, and residents of every State, city, town, and neighborhood in the Nation. This program not only requires our support, but also our involvement.

The President asks that each of us assist him as education President by pledging to be an educated, concerned, and involved citizen. Transforming and improving education in our country cannot be done by one person. I pledge to help the President in his crusade to transform the schools.

I ask each of my colleagues to join together with us, the President, and other members of the community to help transform neighborhoods into America 2000 communities—communities where friends and neighbors care about each other, where every child can grow up in an environment which is drug-free, and can attend schools where all children can explore ideas and develop individual strengths and talents to their fullest potential.

This strategy is also a challenge to each of us as a Member of Congress. I, for one, have confidence that we can meet this challenge if we work together. This land can truly become a land of opportunity for each of us if we join with the President in reforming our schools and our neighborhoods. I ask for your support in working with the President to pass this legislation quickly.

Senator KENNEDY has outlined the basic programs contained in this bill. He and I and other members of the Labor Committee are going to work very hard to help the President bring about these effective changes in our society today.

I believe this is a very, very important step forward for our country, and, above all, for the young people of this country who are going to be our future leaders. They are going to carry on the mandate given to this country through

the Constitution and the work of our Founding Fathers. These young people will continue to make this country the bulwark of freedom, strength, knowledge, innovation, technology, power, and goodness throughout the rest of the world.

I am grateful to be a cosponsor of this legislation. I am honored to be a prime cosponsor, along with my distinguished friend from Massachusetts, the distinguished chairman of the Education Subcommittee, Senator PELL from Rhode Island, and the distinguished ranking leader on the Education Subcommittee, Senator KASSEBAUM from Kansas, and other members of the Labor and Human Resources Committee.

I feel particularly pleased to work together, in a bipartisan way, to support the President and the new Secretary of Education, who have really worked hard to get us to work in a bipartisan way. I know they will work hard in the future and listen to any good ideas that we share with them. They deserve our support.

I thank the Chair for this time, and I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the chairman of the Education Subcommittee, my friend and colleague, the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I am pleased to join in submitting, by request, the administration's education package. As I said in a speech on the Senate floor just over a month ago, we in the Senate, Republicans and Democrats, stand ready to work with this administration to build the kind of educational system that will keep America in the forefront of competition in the world economy.

As the chairman of the Education Subcommittee, I can assure the administration and my colleagues that we are going to give the President's proposal careful and thoughtful consideration. Where they are good, solid proposals, we will take favorable action. Where we believe modifications can improve them, we will take such action. And, where we disagree, we will agree to disagree on substance, and not simply because of party affiliation.

I am impressed with the administration's proposals for a National Commission on Time, Study, Learning, and Teaching. They build upon my own advocacy of lengthening the school year. In addition to that area, the Commission would examine the length of the school day, the use of time during the day, and the extent and role of homework.

The proposals regarding merit schools and alternative certification were included in the President's education package last year. We modified them somewhat and passed them as part of S. 695. Unfortunately, when that legislation came back from the House, some objections prevented us from taking it up, passing it, and sending it on to the President. This year, I hope we will be more successful in our efforts.

The New American Schools proposal is one that I also view in a favorable light. In fact, the only major drawback may well be that the administration is simply not being bold enough with its proposal, and that this is something we should strengthen.

The choice proposals, of course, are the most controversial. We must look at them very carefully. From the outset, however, I must make clear my own concern that any action we take must not place our system of public schools in jeopardy and must not harm the highly effective and successful Chapter 1 Program.

The proposed Governors' academies have similarities to the national and congressional district academies which I proposed as a part of the National Teacher Act last year. I believe we can work to meld those approaches and to fold in others as well.

There are also a series of proposals in addition to the President's package that merit consideration. Several of these are in S. 2, which is now pending before the Senate. These include initiatives that focus upon the need to upgrade instruction in math and science, to promote greater innovation and flexibility in local support programs, to extend the Dropout Prevention Program, to encourage school-based management, and to reauthorize the Star Schools Program.

Further, there are programs that were included in S. 695 last year and in the National Teacher Act that we should also consider. These include legislation to improve the foreign language competence of American students, the national writing project to improve the quality of writing in our schools, the We the People Program to improve the understanding of our Constitution and the democratic principles that underlie our system of Government, the Class Size Demonstration Program to examine the relationship between class size and the quality of instruction, and quite possibly the National Board for Professional Teaching Standards to help upgrade the quality of instruction in our Nation's schools.

I understand that later this year the President will flesh out his proposals on national testing and assessment. I very much look forward to that proposals. I recently introduced legislation to require the Secretary to develop a national test or a series of tests on academic excellence. It is my intention that we address this issue during consideration of the reauthorization of the Office of Educational Research and Improvement.

Mr. President, I look forward to working with the administration, and particularly with Secretary of Education Lamar Alexander, in fashioning comprehensive legislation that truly addresses shortcomings in American education and puts us on the road to achieving an education of excellence in every school in our Nation.

The PRESIDING OFFICER (Mr. KENNEDY). Who yields time?

Does the Senator from Utah yield time?

Mr. HATCH. I am delighted to yield whatever time the Senator from Kansas needs.

AMERICA 2000

Mrs. KASSEBAUM. Mr. President, I am pleased to be joining with the Presiding Officer, Senator KENNEDY, and Senators HATCH and PELL as a primary cosponsor of the America 2000 legislation, along with other members of the Labor Committee who are here to speak as supporters—Senators COCHRAN, JEFFORDS, and DURENBERGER, among others.

This is legislation that will implement several features of the national education strategy that has been put forward by President Bush.

This strategy sets forth an aggressive agenda for fundamental improvement in America's schools. Noting that the time for reports and studies is over, the President is using the "bully pulpit" of the Presidency to call upon all Americans to work in their respective capacities toward educational reform.

I think that is what is important, Mr. President. It is all Americans working in their respective capacities, because we cannot just legislate discipline; we cannot legislate a respect for education. We can, however, provide a framework for progress through support of the strategies which the President has presented. He is right when he says the time for studies is over. We do not need more reports and studies.

Unfortunately, we already have an ample supply of data demonstrating that our school system is not living up to the standards that we need and that we expect. The legislation we are introducing today will not singlehandedly raise education achievement. Undoubtedly, modifications and refinements will be made along the way in devising a final product. It does, however, offer a set of tools, the effectiveness of which will rely on the skill and the motivation of those who set out to use them.

Perhaps just as important as the specifics of that final product is the energy and vitality which the President and his Secretary of Education, Lamar Alexander, have injected into the national debate over education. It has been a valuable contribution.

Fundamentally, I believe we all know what it takes to produce quality education. Final solutions are what they always have been: Hard work, dis-

cipline, respect for learning, high standards, self-confidence, and effective instruction. Whether one is working the "3 R's" or studying advanced electronics, these elements must be in place or no progress will be made.

These critical themes are echoed in the President's strategy and in this legislation. We must all take them to heart if we are to meet our goals in education and for education.

This strategy stresses the need to raise our standards and expectations for student performance. Students, I believe, are ready and willing to rise to this challenge. It calls for strengthening our Nation's teaching force and providing teachers and administrators with the training and support they need. It recognizes that progress should be recognized and rewarded, and it calls for a concerted examination of what each community wants for its schools.

President Bush has made it clear that he will provide vigorous and energetic leadership which will focus on the importance of education. He has already done so. He has also made it clear that fundamental reform will be accomplished only by strengthening the connection between communities and their schools and in renewing the absolutely vital partnership among parents, teachers, and students. Our vision for education must be national in scope, but its delivery rests squarely in hands at the local level.

There is no way that we in Washington can wave a magic wand or a huge bag of Federal dollars and cure these problems overnight. We also cannot and should not displace local and State control over schools, but we can provide leadership and support for innovative thinking and experimentation. I believe the President has started that process, and the rest of us must now bring a similar energy and enthusiasm to the challenge ahead. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota. How much time does the Senator need?

Mr. WELLSTONE. Five minutes.

Mr. PELL. I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator is recognized.

EDUCATION

Mr. WELLSTONE. I thank the Senator. Mr. President, yesterday, President Bush visited the State of Minnesota. He visited Saturn School, where good things are happening for children. As a Senator from Minnesota, I am proud the President visited our State and highlighted that work. But I also know as a Senator from Minnesota, since I visit many other schools, that for every Saturn School in our country there is a universe of schools and children that do not receive any real attention and do not have adequate resources.

Mr. President, I am concerned about the rhetoric not backed up by the resources. It seems to me, in this day and age, politicians are talking about education and children just as we kiss babies, but when it comes to digging into our pockets to provide the resources that make sure we make a commitment to children and education, I do not see it. I certainly do not see it in this administration's budget.

Mr. President, this administration has proposed an education budget only 2 percent of the overall Federal budget. This administration has sent us a budget not even keeping up with inflation last year. This President says he wants to be the education President, but for this President to call himself the education President without making a commitment of resources is like PAUL WELLSTONE, 5 foot, 5½-inch Senator from Minnesota, claiming to be a 7-foot center for the Los Angeles Lakers.

If children are going to do well in our schools, then we are going to have to make sure every woman expecting a child has a diet rich in vitamins, minerals and protein—I know as a teacher that is the most important educational program—so that child to be will have a chance.

There is nothing in the administration's budget that calls for full funding of the Women, Infants, and Children Program, and there must be full funding for the Head Start Program. That is not there yet. And there must be a commitment to children before they go into our school system. That is not there yet.

I see the distinguished Senator from Rhode Island, and I have to say to the distinguished Senator from Rhode Island—and he will appreciate these words, given his commitment in the U.S. Senate—that when I held education subcommittee hearings in Minnesota, I met student after student after student who told me they cannot afford their higher education any longer.

The Pell Grant Program does not reach into the middle class. Low-interest loans are not available. Students are selling plasma to buy text books at the beginning of the semester. Students are working two and three minimum wage jobs.

I do not see the commitment to education on the part of this administration.

These words are, I suppose, tough words. But I think it is important to be very honest about the budget that has been presented to us and the work we have cut out for us here in the U.S. Senate.

Mr. President, the President of the United States came to Minnesota to focus on the Saturn School to make the point that the choice program is a cornerstone of his educational program. But I want to point out a very critical difference between Minnesota's choice program and the choice program outlined by this administration.

Minnesota's choice program is almost entirely public education; very, very little for private. The administration's choice program includes private schools. And we have yet to see the clear guarantees to make sure there are resources that will enable all kids to purchase vouchers or to be able to go to those private schools.

I fear this choice plan is nothing more than a stone soup philosophy. You boil the stone in the water, you get no new nutrients, no new flavor; you shuffle the debt; the kids with the high incomes get to go to the schools they want. But the poor children, the low-income children, the children in rural cities, the children in small towns, do not benefit.

I fear without the commitment of resources, this choice program will widen inequalities.

Mr. President, I have to say in the spirit of honesty that there is only one choice if we are going to talk about a choice program in a democracy, and that choice is to make sure every single child has a choice and we establish an educational program which will give every child a choice. That is not in this administration's budget. Those resources are not there in this budget.

I insist, Mr. President, if there is one thing we in the U.S. Senate must come to terms with, must speak honestly about, and must match our words with deeds, it is this: There will be no real national security for the United States of America, a country we all love, until we invest in the health and skills and character and intellect of our children. That commitment to the children and to the young and to education is not in this administration's budget. Let us not have empty words on the floor of the Senate. Let us back up the rhetoric with resources and make a commitment to young people. That is our task. That is the challenge we have to beat right now in this session.

I thank the Chair.

Mr. COCHRAN. Mr. President, will the distinguished Senator from Utah yield to me?

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Utah.

Mr. HATCH. Mr. President, I yield such time as he needs to the Senator from Mississippi.

Mr. COCHRAN. I thank the distinguished Senator from Utah for yielding time to me.

Mr. President, I am very pleased to join with others this morning in introducing legislation to implement President Bush's education strategy.

The America 2000 Excellence in Education Act we are introducing today will provide legal authority for the reforms that require Federal action.

The legislation includes the new American schools program to provide

seed money for the startup of "break-the-mold schools" in each congressional district in every State; the merit schools program to reward schools that make notable progress toward achievement of the national education goals; education reform through flexibility and accountability which would loosen Federal restrictions on the use of education funds in order to foster innovation and encourage educational excellence; educational Choice programs to give parents more flexibility in choosing the school their child attends; a mechanism for the collection of data assessing the progress of schoolchildren in grades 4, 8, and 12; a study to determine if American children should spend more time learning; and establishment of literacy resource centers to help local communities bring an end to illiteracy by the year 2000.

Mr. President, I think it is a very good sign, indeed, that the chairman of the Labor and Human Resources Committee, Mr. KENNEDY, and the ranking Republican member, Mr. HATCH, have joined together with the chairman of the Education Subcommittee, the distinguished Senator from Rhode Island [Mr. PELL] and the ranking Republican member, the distinguished Senator from Kansas [Mrs. KASSEBAUM] in introducing this bill. I hope this means we can expect a concerted effort in the Senate to get a bipartisan bill reported out of the committee and passed on the floor of the Senate before the Fourth of July recess so that our Appropriations Committee will have an opportunity to fund these programs this year.

I challenge those who assume that the Federal Government has the total responsibility for achieving all these goals to look carefully at the America 2000 strategy set before us by President Bush and the Nation's Governors working in concert with our new Secretary of Education. It is not just a Federal responsibility that we are all assuming. It is an individual responsibility that touches parents, students themselves, teachers, administrators, local communities, local governments, State governments, as well as the Federal Government.

This legislation does not seek to do it all, to solve every problem in education, because we cannot at the Federal level and we should not attempt that. But we can target the resources of our Federal Government to encourage innovation, to reward excellence, to stimulate the reforms that are absolutely essential in every community, in every school if we are to achieve these national goals that have been set for us by the President and the Nation's Governors.

I am optimistic that we can achieve success this year, Mr. President, and I am happy to be a part of the effort.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. I thank my colleague from Massachusetts for his leadership, as well as Senator PELL for his leadership, and I thank my colleague from Montana for his courtesy.

The new Secretary of Education got off to a good start with the naming of his Deputy Secretary, David Kearns. That is most encouraging.

Education policy should be bipartisan, and one of the encouraging things is that today we seem to be inching in that direction. I hope that can continue.

In the higher education area, for example, former Senator Stafford was the ranking member of the Education Subcommittee and worked very closely with Senator PELL. Senator KASSEBAUM is following in that same tradition, and I hope we can continue on that line.

But the point that was made by my colleague from Minnesota, Senator WELLSTONE, that we have to have resources, not just speeches, I think is extremely important. In fiscal year 1949 we spent 9 percent of the Federal budget for education. If you exclude school lunches, today we are spending 3 percent of the Federal budget on education.

We clearly have to do better. I hope, frankly, at some point, in additional to an educational summit with the Governors, the President might sit down with those of us who are speaking today on both sides of the aisle and have an education summit right here in Washington, DC, on the education issue, obviously, with the Secretary of Education and with other key people who might be brought in.

What do we need? We need to recognize that education has to be a priority in this Nation. Up to this point—and I am not just talking about this administration; I am talking about States; I am talking about across the board—there has not been the attention there should be. Preschool education clearly has to receive much greater attention. We know from tests in Ypsilanti, MI, and other places that where we have intensive preschool education, we have a dramatic change in the dropout rate, school violence, and the teenage pregnancy rate. We know it. We are not doing that much about it.

Head Start, one-fifth of the people who ought to be reached by Head Start are being reached by Head Start. Almost every Head Start Program has a waiting list. I visited the Rock Island, IL, Head Start Program in an impoverished area of the city. They have a waiting list. On Monday one group comes in, Tuesday morning a second group, Wednesday morning a third group, and so forth. I asked the woman in charge, "What would it mean to these children if you could have them in every day of the week?" She smiled and she said, "You could not believe what a difference it would make in their lives."

Now, we are saving money by not providing that, but what a shortsighted way to save money.

When the superintendent of schools of Philadelphia testified before us, I remember she told about the preschool program and the great benefits of it. Then I asked her: "What percentage of the young people are you reaching that really need to be reached?" She said, "About 20 percent." Eighty percent are falling through the cracks. That is a devastating loss for this country.

We are going to have to demand higher standards for teachers and pay teachers more. The average teacher in this country teaches 6½ years. It is not that teacher which my colleague from Vermont may remember from his grade school days. Teachers in Japan are paid approximately the same as physicians and lawyers, and not surprisingly. In Japan, those going into teaching test at the very highest in college entrance exams. I regret to tell you that is not the case in the United States. I do not say that to demean many marvelous, dedicated people who, despite the barriers, are sticking to teaching.

Higher education. We have slept in the last 10 years, and the question we are going to have to face as we reauthorize higher education is: Are we going to just tinker at the education or are we really going to do something significant? I hope we will do something significant.

Then, finally, the hidden question, that of illiteracy. We have massive illiteracy in our country. I think we are going to be addressing that shortly. I hope so. I applaud the interest in education that is shown in this Chamber.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I yield 3 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, first I want to commend the Senator from Illinois, who preceded me, for his comments and also join in accolades for the administration for this effort to have a cooperative effort in improving our educational system. This is exactly how reforms in our educational system must be undertaken, in a cooperative, bipartisan effort.

I am pleased to be a cosponsor of legislation which examines and reevaluates our Nation's schools and proposes solutions to reinvigorate them.

We are at a unique juncture in time—democracies are emerging in Eastern Europe and we are fast approaching 1992 in which the European Economic Community will be opening its doors to new regions. These events will have ramifications for America also.

The America 2000 Act recognizes that to remain competitive in the new world

economy we must be able to outproduce our foreign counterparts. We must be able to educate all of our citizens and place them in the labor force ready and able to work.

This means that our schools must be able to take on this task. But they cannot do it alone. Schools are increasingly burdened by growing numbers of disadvantaged and at-risk students. We, at the Federal level, must reinforce their hard work by devoting time and money to their efforts.

We must encourage new methods of teaching in the classroom—from satellite hookups to interactive television to videos and computers. We must teach our children and our teachers that they are important by rewarding those individuals and schools that stand out above the rest. We must encourage our teachers by providing them with incentives and opportunities to upgrade their skills.

It is spring and a good housecleaning is due in our schools today. Much of this effort must come from within, at the local and State level, but the reinforcements must come from the Federal level.

I want to commend Secretary Alexander for his leadership in this effort. It is time that we have an administration which takes the lead on educational reform, not in lip service alone, but with proposals and commitments to actual changes and improvements.

Congress may not agree on the process but certainly we agree on the outcome—better schools for better students. We owe it to ourselves and to our future generation.

I look forward to working with members of the Labor and Human Resources Committee to craft a bipartisan bill for true education reform.

Thank you, Mr. President, I yield back my time.

Mr. DURENBERGER. Mr. President, I yield 2½ minutes to the Senator from South Carolina.

AMERICA 2000 EXCELLENCE IN EDUCATION ACT

Mr. THURMOND. Mr. President, I am pleased to rise today as an original cosponsor of America 2000 Excellence in Education Act, the new education initiative of President Bush. This bill represents the administration blueprint for the reform of education in this country. It is exciting, innovative, and far reaching. As we have read and heard over the past few weeks, the framework for this legislation involves four broad themes:

First, creating better and more accountable schools for today's students;

Second, creating a new generation of American schools for tomorrow's students;

Third, transforming America into a nation of students; and

Fourth, making our communities places where learning will happen.

Mr. President, as a member of the Subcommittee on Education of the Labor and Human Resources Committee, and as a former teacher, coach, and county superintendent of education, I look forward to working with the administration and my colleagues to help ensure enactment of this important legislation.

President Bush and Secretary of Education Lamar Alexander have worked long and hard in developing this bill, and are to be commended for their fine efforts. In developing this bill, many individuals in the education and business communities have contributed their thoughts and ideas.

Mr. President, this bill sets the Nation on a course of major change in the field of education. Briefly, this legislation will: First, provide seed money for the establishment of a "New American School" in each congressional district; second, establish a Merit Schools Program which rewards schools that make notable progress toward achievement of the national education goals; third, establish Governors' Academies for the continuing training and development of teachers and principals; fourth, allow parents free choice in deciding where their children go to school; and fifth, permit the use of national assessment tests at district and school levels by States that wish to do so.

Mr. President, this broad-based reform strategy is already bringing renewed vitality to education in this country. As mentioned previously, it is a pleasure to be an original cosponsor, and I look forward to working with my colleagues on this measure.

I yield the floor.

Mr. DURENBERGER. Mr. President, I yield 2 minutes to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I, too, serve as a cosponsor for this bill. I want to pay tribute to the leaders who will guide this legislation for us: Senator HATCH, Senator KENNEDY, Senator PELL, Senator SIMON, Senator KASSEBAUM, Senator COCHRAN, Senator DOLE, and our fine floor leader today, DAVID DURENBERGER.

This is a very critical national issue, and it is very important, not just for appearance purposes, that we have a bipartisan flavor to this legislation. I hope that we can continue that.

I praise those who give so much of their time to these issues of education. We almost passed it last Congress, except for something called a "revolving hold," which I never fully understood.

Remember that only 8 percent of the national education funding comes from the Federal Government. The rest of it comes from the States and local communities. So I hope we will not hear too much lashing out at the administration and George Bush, when the Federal role here is not primary.

I was a little surprised at the comments of the junior Senator from Minnesota. It will be a long haul around here if the attitude is that each time a rock is turned over some Republican comes slithering out from underneath. The system here works on the oil of comity, and the engine surges with that type of effort. The engine fails without trust. It cannot run on suspicion and blind, numbing partisanship.

I want to commend those who I have worked so hard with in a bipartisan manner. I see Senator SIMON on the floor. He and I have certainly worked well together in that fashion. I did not spend much time here in my first 2 years whacking on Jimmy Carter. He had enough problems without a freshman Senator from Wyoming larruping up the water with regard to his efforts. I think it is time that we look at how the system best works, and that is compromise, and certainly bipartisanship in its finest form.

If ever there was an issue or an action which required strong bipartisan support, this is it. I doubt that there is a Senator in this body who does not believe that the education of our children is among the most crucial tasks facing our society. I doubt, too, that there is a Senator here who does not believe that our educational system is in dire need of reform.

We do often manage on this floor to delay the enactment of many similarly "vital" pieces of legislation—from sensible campaign finance reform to deficit-reduction efforts. Even when it is universally agreed upon that something needs to be done, we often cannot agree among ourselves on how. A majority and a minority party are going to sincerely differ on how to properly reform campaign financing, for example, as conservatives and liberals will disagree on the proper path to deficit reduction.

We ought to have none of that sort of infighting on this issue. We agree on what the problems in education are. We also agree for the most part on what needs to be done. Excellence in teaching and in scholarship needs to be rewarded. Communities must be made "safe for learning." Parents must be able to extend to their children the best education available to them.

There may be differences between us concerning issues on the periphery—the role of private schools in choice initiatives, or the net impact of increasing Federal funding contributions to education. This must not deter us from going forward where we do agree, and acting decisively where we can act. This we do agree on: The Federal Government can provide many incentives to States and localities to improve their educational initiatives. The Federal Government can make available the most current knowledge concerning education reform, to those local en-

tities who wish to make use of it. Let's begin work on passing this legislation and take a step forward toward accomplishing those reforms.

The package before us couples Federal resources with State and local knowledge of what works. That is what we need to do. The New American School System will provide Federal dollars to local communities so that they may create a new generation of schools—at least one in each congressional district—making full use of the latest knowledge in educational research. The Governors of our States will nominate the communities where these schools are to be created, and the Federal Government will provide the startup funding and the access to research findings which will enable those schools to operate.

The plan would facilitate the improved training of teachers and of principals, by creating Governor's academies—again, making Federal dollars available for States to use as they find best. These academies will train and equip and instruct teachers in the way that the States find most useful for their purposes and succeed.

This plan would everywhere improve the flexibility of parents in providing for their children's education, and by doing so improve the accountability of our schools. Commonsense reforms would be enacted; for example, chapter 1 funding would follow the child whenever he or she is enrolled in a new school district under a local choice program. This is eminently sensible. Remember, it is the child, not the school district, that must remain the focus of our attention in education.

The list of reforms which this package would enact goes on. Every one of them is important, and every one of them stands to improve our educational system. By passing this legislation we will establish higher standards for our students, our teachers, and our educational system as a whole, and we will also provide ample incentives to far exceed those standards and to strive for educational excellence. I am pleased to hear that the chairman and ranking member intend to set this process in motion and to help to enact the President's plan.

ADDITIONAL COSPONSOR

Mr. DURENBERGER. Mr. President, I ask unanimous consent that Senator SPECTER be added as a cosponsor.

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

INTRODUCTION OF AMERICA 2000: EXCELLENCE IN EDUCATION ACT

Mr. DURENBERGER. Mr. President, yesterday, President George Bush chose Minnesota and the capital city of St. Paul as the site to christen his America 2000 initiative. He made a wise choice because the Minnesota experience over the last several years shows what can be done when people of vision work together toward a common goal. The cooperation in Minnesota, across political lines, between levels of government, throughout the spectrum from children to employers, has been extraordinary. It should be a model for how we can achieve national education reform.

Historically, the Federal Government's role has focused on assuring equal access to educational opportunity through various programs aimed at low income and students with special needs. But with the introduction of America 2000, we are seeing a much broader commitment—a commitment to provide national leadership and stimulus to improve the quality of education for all Americans.

We can create access to schools for all Americans, we can create programs that guarantee a college education for all Americans, but if these programs and these schools do not produce graduates who can think for themselves and get a job in today's global marketplace, then they are of little value to anyone.

To improve quality, we must not only measure performance but reward achievement. America 2000 takes the first step in moving our Federal educational system from one that funds services to one that funds and rewards quality and achievement. The President's proposal for a Merit School Program would reward schools for making notable progress toward achievement of the national education goals, thus providing a powerful incentive for all schools to improve their educational performance. The proposal also includes new flexibility in Federal funding to focus and reward outcomes in education.

America 2000 challenges schools to think differently and provide greater opportunities to students by expanding choices in education. The most innovative of its approaches is what the President calls his New American Schools Program, which would provide seed money for "break the mold" schools in every district in the country. The Saturn School in St. Paul which the President visited yesterday is such a school, but there are many other pioneering ideas and schools out there.

For example, Mr. President, there are two such ideas on the horizon in Minnesota that are redefining how we think about education. The first of these new ideas is legislation that passed the Minnesota House and Senate just this week. It would allow for new schools started by parents and teachers to be chartered by local school districts or school boards. Once chartered, these new schools would get the same Federal, State, and local funding as any other public school. They must meet certain standards of public education in that they may not teach religion, charge tuition, or discriminate on the basis of race, disability, income, or previous academic achievement. But once chartered, they will be free of most of the rules and regulations that stifle creativity among both teachers and kids.

The second idea is a new emphasis on outcomes as a way of holding schools accountable, measuring accomplishments, and rewarding success. Over the next several years, all school districts in Minnesota will be required to begin implementing a new outcomes-based education policy adopted by the State board of education. This new policy gets at the heart of the President's call for both new schools and accountable outcomes in education.

With some of these experiments in Minnesota, questions have arisen over how these programs fit into current Federal funding. I am encouraged by the administration's efforts to address some of these problems by looking at changes to the chapter 1 and chapter 2 programs. The details of the administration's programs will need to be fully analyzed, and we need to ensure continued service to at-risk students. But I believe it is important to take a look at these programs and how current law may be unnecessarily blocking progress of new choice programs.

The other major component of America 2000 is the creation of a new voluntary nationwide examination system and expands reporting of how our kids and how our schools are doing. The role of the Congress is quite small: providing the authority for the National Assessment of Educational Progress to report State-level data in English, mathematics, science, history, and geography and allowing States to use National Assessment tests at district and school levels. This nonetheless is a vital component of this reform process.

Everyone agrees that we are failing in education in this country, but then we turn around and say, "its not my school that is the problem." Well, Mr. President, I think it is time to see which schools are not measuring up. Parents have the right to know how their kids will compare to other kids across the country when they go out into the job market for the first time and compete for a limited number of jobs. And I would challenge States to take advantage of this new authority.

The tasks before us are great. Whenever we talk about sweeping change, both political and cultural, there is always resistance. The voices of the defenders of the status quo always seem louder than those who advocate the future benefits of change. But I am encouraged, Mr. President, by the example I have seen in my own State. Over the last 10 years, educational reform in Minnesota has won bipartisan support from both Republican and Democratic Governors, from a state legislature that is largely Democratic, and from

many others interested in education. I hope that America 2000 will receive this same type of cooperative spirit as we move forward today.

Challenging our communities, our schools, our children, our parents, and our business leaders to think for the future is what this Nation has always been about. For decades, we have continued to provide education in this country the same way.

We now have an initiative before us that not only dares to stir things up, but also provides a bold new direction. Setting standards, measuring progress and holding schools accountable.

I look forward to working closely with the administration and with my colleagues in the Congress as we begin to move ahead—to properly position American education for both the tough challenges and the exciting opportunities we face together as a nation.

In the spirit of bipartisanship offered by the President yesterday, and with confidence in the power of people of vision to change the society we live in, I urge my colleagues to support America 2000.

Mr. President, I ask unanimous consent that an article by Joe Nathan be printed in the RECORD at this point.

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

[From the Pioneer Press]

BUSH'S SCHOOL MESSAGE SENDS RIGHT SIGNALS TO PARENTS, EDUCATORS

(By Joe Nathan)

Cut to its core, President Bush had a great message Wednesday for committed educators and concerned parents.

First, he wants the country to set clear, high standards for all students. And then he wants to give flexibility, encouragement and opportunity to creative, innovative educators.

A person does not have to agree with all of the president's views on educaiton to be delighted by his words Wednesday.

Part of the reason the president came to Minnesota—and to St. Paul—is our community's record of valuing, not just tolerating, thoughtful school innovation:

Almost 20 years ago, Wayne Jennings and a small group of visionary parents persuaded the school board to offer a different kind of program, the St. Paul Open School. In this school, each student in kindergarten through 12th grade has an individual education plan, uses the whole continent as a place to learn and combines classroom work and community service. It's a program that requires demonstration of skills, rather than accumulation of credits, prior to graduation.

Fifteen years ago the St. Paul School Board and then-superintendent George Young encouraged establishment of another innovative—but more conservative—option, the Benjamin E. Mays Fundamental School, along with an enriched magnet program at Webster.

Over the last five years, the district has created Expo, Montessori, continuous-progress and Spanish-immersion programs. St. Paul continues to provide new options for educators to create distinctive programs and opportunity for students to develop basic and applied skills.

As the district established new options—with the support of the local Federation of Teachers—it tried hard to keep strong neighborhood schools. Unlike many cities, St. Paul did not establish a number of elitist options available only to those who could pass standardized tests.

And the creation of the attractive options prevented St. Paul from going through the enormous agony of forced busing. While there have been—and continue to be—disagreements between community members and the school district, we have been able to avoid the confrontation and pain many urban communities experienced over the past 20 years.

Some of our most important improvements involve higher expectations for students. Several years ago, for example, Superintendent David Bennett suggested—and the school board approved—making St. Paul one of the first districts in the country to require prospective high school graduates to demonstrate reading, mathematics and writing skills.

While complimenting St. Paul, the president included the whole state in his remarks: "Here in Minnesota, from St. Paul and Minneapolis to Cyrus and Miltona, you are sailing the country into the future." While visiting our metropolitan area, he urged rural, urban and suburban communities to listen to—and learn from—each other.

Minnesota's progress is due to the courage and openness of many people. At the state level, Education Commissioner Gene Mammenga and his predecessors Ruth Randall and Tom Nelson have pushed hard for flexibility and creativity. Each commission and the State Board of Education have encouraged school districts to experiment in big ways, offering waivers from rules and regulations to districts willing to measure the impact of change.

Legislators, too, have been willing to make changes. Between 1985 and 1991, the state adopted new approaches that have attracted educators, journalists and scholars from around the world. Such legislators as Ember Reichgott, Ron Dicklich, Tom Nelson, Becky Kelso, Greg Dahl, Connie Levi, Jim Pehler, Ken Nelson, Randy Peterson and Gary Schafer took risks and made difficult political choices for innovation, for youngsters.

Just this week, legislators took the first step toward creation of a charter school option, in which educators would apply directly to a local or state board of education for authority to create a distinctive public school.

Al Shanker, president of the American Federation of Teachers, pointed out to both the president and Secretary of Education Lamar Alexander that exciting, important things are happening in Minnesota schools. And the president and secretary of education are not alone in recognizing major school innovation in Minnesota. The word is spreading.

Two weeks ago, more than 100 local teacher-federation and school-board officials came to St. Paul to look at a number of innovative schools. Next week, officials from National Education Association state affilitates will be coming to Minnesota.

One of the president's most encouraging comments Wednesday established both opportunity and challenge for educators and parents: "When we break the mold, we've got to give communities the power to experiment, think anew and be daring."

The president agreed with Saturn staff and parents that there are many models for educational excellence and that not every school should be like Saturn. He understands that there is not one best kind of school for all students or families or educators.

It is possible to be cynical about the president's proposals. Will there be money to support innovation? Will school districts allocate part of their funds for creation of new kinds of schools, especially when they are receiving less than 2 percent increases from the state? How will we measure the impact of new schools? These questions are important. We should help to create—rather than just wait for—the answers.

One insightful assessment of the president's visit came from Sen. Roger Moe, who said: "It's always good to get visibility. People like to be acknowledged for their efforts."

But Moe saw more in the president's words: "He's encouraging me to keep going . . . He understands that more learning and better schools are an ongoing process."

Dreamers and visionaries got a lot of encouragement Wednesday from President Bush. But, as Karen Ristau, a University of St. Thomas education professor, points out, we need "practical visionaries in education."

Our students and our communities need people with big ideas, great commitment and enormous energy—people ready to accept challenges, people who acknowledge that there are many obstacles but believe that they can make a difference in the lives of youngsters.

Wednesday was far more than an exciting day for Saturn and St. Paul. For the entire state, it was acknowledgment and affirmation for what we've accomplished and anticipation for what is yet to come.

Joe Nathan is director of the Center for School Change at the University of Minnesota's Humphrey Institute of Public Affairs and is a member of a special presidential advisory committee on improving U.S. schools.

Mr. SPECTER. Mr. President, I join my distinguished colleagues on the Committee on Labor and Human Resources as a cosponsor of the America 2000 Excellence in Education Act to provide national leadership for educational reform throughout the United States. I am hopeful that this bill will be the spark for reform within all sectors of society, combining expertise and creating partnerships between educators, business, and community leaders, parents, and elected officials.

As a Senator with a longstanding interest in education, I feel that this bill makes great strides toward the long-range transformation of our education system. I fully support the concept of transforming our schools by utilizing innovative and creative approaches to learning. In addition, I believe the business-school partnerships created in the bill will provide opportunities to better train our young people to be productive members of the work force.

I am hopeful that America 2000 will be the starting point for a progressive and comprehensive plan which will instill a more disciplined attitude and a greater love of learning in our students, and will inspire teachers, administrators, and others in the community to enable our schools to achieve world-class educational standards. In addition, I see this legislation as an initial

step toward parental choice in communities that wish to pursue this option, while still maintaining as our top priority the strength and stability of our public schools.

I urge my colleagues to join me in support of this essential legislation that seeks to enable us to achieve America's education goals by the year 2000. The innovative initiatives established by this education strategy has the potential to produce a new generation of students, who will receive the world-class education necessary to keep America competitive in the highly technological world economy of the coming century.

Mr. KENNEDY. Mr. President, our hour has just expired, but I want to express my appreciation to the Members on both sides of the aisle for taking the time and making the comments. I think any fair reading of the record would indicate that this is an issue where there is a broad interest, a deep concern, and a very strong willingness to work in a collaborative way in the interest of the young people of this country.

I very much appreciate all those that have participated in this brief but important dialog this morning, and now is the time to get back to the committees, get moving on the hearings and the consideration of the various proposals and move to more extensive debate, when the legislation comes before the Senate.

Again, I express my appreciation to all those who participated. I also express my appreciation to the leadership for permitting us to take this time to talk about the President's legislation and the issue of education.

I yield the floor.

RESOURCE RECYCLING

Mr. BAUCUS. Mr. President, it is no news that we live today in a throwaway society. On average, we each toss out about 1,500 pounds of trash each year. In some areas, even more. Half is paper and paper products. But also it includes an assortment of plastics, organic matter, metals, and other materials.

More disturbing than the total amount is the trend in waste generation. Thirty years ago, the per capita figure was half what it is today. And the future projections are worse. Unless we change our ways, in 10 years we Americans will throw away some 300 more pounds each year. At the turn of the century, we each will throw away about 1 ton of garbage a year.

The real tragedy is not only the overflowing landfills; it is also the waste of valuable resources and energy that accompanies our throwaway society.

Most of my colleagues are familiar with the recycling success of aluminum cans. Using recyclable aluminum means that 20 new cans can be made using the same energy as we needed to fashion one can from bauxite ore. Furthermore, bauxite is imported. That means the more we can recycle aluminum, the better our balance of trade. It also applies to other products.

I would like now to show my colleagues a copy of an annual report from a major company. This is very important, because this annual report is made on 100 percent recycled paper. It is glossy; it is fancy. And you would never know it was recycled paper. It does not have the smudges or the specks that other recycled paper used to have. This shows that paper products can be made from, 100-percent recyclable products.

I will leave a copy of this on my desk so Senators who wish to can stop by and look at it, and get a sense of what recycled paper looks like.

In addition, Mr. President, we can now recycle plastics much more easily that we could in the past. We are developing the technology. What I am driving at is this: We now have an opportunity in the Congress to help take advantage of Americans' desire to recycle more and waste less.

This year, the Congress will be reauthorizing the Resource Conservation Recovery Act. It is legislation before a subcommittee which I chair. We are going to be pushing the edge of the envelope to find incentives so that Americans waste less, and recycle more, and to find ways to minimize the production of waste in the first place.

It is my hope that we will develop some creative, innovative ideas. We will bring them to the floor, and I very much hope that the Senate can adopt them when they are brought before the floor before the end of this year.

Using recycled paper saves natural resources. It consumes less energy. And it produces less air and water pollution.

Until recently, one of the large gaps in paper recycling was the inability to recycle glossy magazines because the paper contains clay. But we now have the technology to recycle this kind of paper. In fact, some recycling mills now seek out magazines because the quality of the paper is so high.

Another major advance has been achieved in the past few weeks. It used to be that plastic soda bottles could not be recycled back to their original use because of health concerns by the Food and Drug Administration.

But with some new processes, the FDA now believes that such recycling can be done safely. And it is being done in neighboring Virginia.

While some communities are ahead of the curve, others are beset with mounds of paper, plastics, tires, used cars, batteries, and other discards that can be recycled, but are not.

We have the technology to do the job. In fact, exporting some of that expertise to assist other countries is an industry in itself. And one that also helps our international trading position.

We need to seize on the desire to protect our environment, husband our resources, and export environmentally sound technologies to encourage the transition from a throw-away society to one that emphasizes recycling, recovery, and reuse.

The time has come to recycle more than the 13 percent of our wastes that we currently do. It is not only right. But it pays.

Mr. President, last month, Senators CHAFEE and BURDICK joined me in introducing legislation that would alter our current waste disposal regime by emphasizing recycling and providing the tools and incentives to make it happen.

As I said when I introduced the bill, it is a starting point for the hearings that will begin next month. One of the things that makes this area so exciting is the opportunity to try new ideas, to experiment, to innovate. We are dealing with issues that I believe lend themselves to new approaches.

During the hearings, the first of which will be June 5, I will encourage my colleagues, and challenge the witnesses, to expand their thinking beyond traditional avenues in a joint search for the best solutions to the solid waste challenges before us. And I look forward to presenting to the Senate the fruits of this search later this year.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1142 are located in today's RECORD under "Statements on introduction Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I join my colleagues today in reinforcing the strong commitment that this Congress and this Senator have to the education of our Nation's youth. I would also like to welcome the President's education proposal from his America 2000 strategy which are being introduced today.

Since 1965, the Congress has helped this Nation to build a solid education foundation to ensure quality teaching, quality schools and access to education for all students. While the Federal financial contribution has always been small in comparison to that of the States and local governments, it has served a vital purpose.

Unfortunately, while we have watched the condition of children and the quality of education erode over the last decade, the last two administrations have hidden behind the veil of rhetoric. Today, President Bush has stepped behind the veil to offer his legislative proposals and educational reform. And, I welcome his leadership.

Across the political and social spectrums, Democrats and Republicans, the

public and private sector alike, have come to realize the need for a more active partnership between Federal, State and local government to make our Nation's schools the best they can be. A year ago, the Nation's Governors helped the administration and Congress define education goals. States are working with local communities to provide more flexibility for school-based management. And, Congress continues to provide demonstration grants for model partnerships between schools and the private sector for the development of innovative programs.

The problems have been identified—and many of the programs are already in place to regain the ground lost in the 1980's and to ensure each child in this Nation a quality education. Early intervention programs—such as head start, chapter 1 and school dropout initiatives—work, but only serve a percentage of eligible youth. Innovative teacher training programs—for reading and math instruction—work, but are only available to a small number of teachers. The ideas and structures for reform exist. We must now put them to work.

The challenge for us this year is to turn rhetoric into reality. We must set priorities and translate or legislative blueprints into actual dollars for key programs which we all know work well.

And, we are facing the challenge head on. The Senate Budget Committee and the Senate Committee on Labor and Human Resources took two important steps for reduction this month. Yesterday we passed the conference report on the budget resolution which set funding priorities—and education is one of them.

On April 17, the Labor and Human Resources Committee, favorably reported out the strengthening education for American Families Act of 1991, S. 2. And, yesterday, Senator KENNEDY introduced five bills further aimed at meeting the education goals.

As the Congress has advanced its work on improving elementary and secondary education, the Labor and Human Resources Committee is also working to reauthorize the Higher Education Act which provides more than 6 million students with some form of Federal students and aid for post-secondary education opportunity each year.

Mr. President, we know which programs work and which programs save us many times their initial cost over the long term. These are the programs in which we should be prepared to invest.

The condition of our Nation's children and schools demands action and strong Federal leadership now. President, Bush has defined his strategy, and there is little disagreement that stronger Federal leadership and support are needed to bring about change in our schools. While I do not believe that the President's proposals go far enough, it is now time for the Congress and the administration to work together to determine the solutions. If we are serious about making education a national priority, it is vital that the administration and Congress work with and not against each other to do what is best for children and the schools.

PRESENT AT THE CREATION

Mr. MOYNIHAN. Mr. President, during the conflict in the Persian Gulf the United Nations and international law achieved a prominence which would have been unthinkable during the cold war. The President has invoked the rule of law repeatedly in discussing the New World Order.

As the Senate considers the aftermath of the gulf war, the plight of the Kurds and the content of this New World Order it is fortunate—privileged—to have among its members a man who was, as they say, present at the creation. CLAIBORNE PELL, the most distinguished senior Senator from Rhode Island, was deeply involved with creating the United Nations. And throughout his Senate career, few if any have done more to encourage respect for the law of nations in the conduct of our affairs. I dare say that no one did more to alert the international community about Saddam Hussein's lawlessness. When few others cared, Senator PELL was urging that we eliminate subsidies to Iraq. Likewise, he has been one of if not the leading voice on the subject of China's illegal subjugation of the people of Tibet. These are but a few examples of his tireless efforts in the cause of international law and human rights.

Mr. President, Senator PELL has written a most thoughtful article on the subject of war crimes trials for Iraqi leaders. This issue is critical. It goes to the heart of whether the international community is serious about the concept of personal responsibility for war crimes which was the fundamental meaning of the Nuremberg trials. I urge my colleagues to read the article with care. It is filled with the wisdom garnered in a lifetime of distinguished service to the United States and involvement with international affairs.

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

[From the Providence Journal, May 10, 1991]

ACT NOW BEFORE THE WORLD FORGETS THE CRIMES AND THE VICTIMS

(By Claiborne Pell)

Saddam Hussein and other culpable Iraqi leaders should be prosecuted by an international tribunal for crimes against humanity, crimes against peace, and war crimes.

On April 18, the Senate approved legislation recommending that the United States join with other governments in the UN Security Council to establish such a court. The legislation would also create in our own government an Office for the Prosecution of Persian Gulf War Criminals to support such actions.

There is nothing unusual or unprecedented in this approach. There are a number of examples of war crimes tribunals for dealing with persons responsible for committing acts of brutality and horror condemned by international law such as we have seen over the last several months in the Persian Gulf.

The best known war crimes proceedings were at the Nuremberg trials following World War II. An International Tribunal sat in Germany from October 1945 through August 1946, with Supreme Court Justice Robert H. Jackson serving as the chief US prosecutor. Twenty-two top-level defendants were tried, including one—Martin Bormann—who was tried in absentia. Three were acquitted, 12 received death sentences, and seven were sentenced to varying periods of imprisonment. A similar International Tribunal was established in Tokyo, where 22 defendants were tried and none was acquitted. Seven were sentenced to death, 13 to imprisonment for life and two to imprisonment for speciified terms.

Following the Nuremberg and Tokyo trials, the Allies established war crimes tribunals in their respective zones of occupation in Germany and tried over 20,000 war criminals. Thereafter, Adolph Eichmann was convicted in 1961 under Israel's Nazi and Nazi Collaborators Law, and Klaus Barbie was convicted in France in 1989. The Justice Department has continued to seek out, and where appropriate, prosecute or deport surviving German war criminals.

A legal framework is available to undertake war crimes prosecutions of the responsible Iraqi leaders. On Oct. 29, 1990, the Security Council passed Resolution 674, inviting countries to compile evidence of "grave breaches by Iraq" of various provisions of international law. The United States and other allied governments have begun collecting this kind of evidence. Saudi Arabia and Kuwait reportedly have individuals in custody who should be charged with war crimes.

The State Department has said it has no plans to join with our coalition partners in pursuing this subject. In doing so, we are parting from our allies, many of whom have announced their support for a war crimes tribunal. At the initiative of German Foreign Minister Hans-Dietrich Genscher, the European Community nations unanimously recommended last month that war crimes proceedings be undertaken. The UN Secretary General is reported to be considering that approach.

I hope the United States will join in this effort. Our country led the way in creating the coalition that forced Saddam Hussein from Kuwait. We took the lead in calling for a new world order, involving compliance with the rules of international law—in particular, the 1949 Geneva Conventions and other humanitarian rules applying to armed conflict. Saddam Hussein and other Iraqi commanders and soldiers flagrantly and brutally violated those rules.

There are several ways a tribunal could be constituted: Within the United Nations, by the Persians Gulf allies, or independently, with judges drawn from a range of countries including those in the region. Proceedings could deal with those in custody as well as persons in absentia. Either way, a central purpose would be to establish the truth of what took place, of brutality and torture perpetrated, of war crimes committed.

This should be done even if it is not possible to bring Iraqi leaders personally before

a tribunal. A legal indictment and documented evidence can create an essential record while memories are fresh, before the victims are forgotten—whether they are Kuwaitis killed or tortured in September, or Kurds attacked and abused in April.

On April 16, author Elie Wiesel told the Senate Foreign Relations committee: "Let history record our determination that whenever an aggressor will launch war against defenseless countries, history will inexorably lead him before an international court of justice. His sentence will almost be irrelevant. His personal future will matter little. What will matter is the exposure of his criminal deeds. What will matter is that he will remain in the annals of history as an example of what human beings, driven by fanaticism or ambition, can do to one another."

May I add a personal note. In 1943, President Franklin Roosevelt appointed my father, Herbert C. Pell, a former congressman from New York and a former minister to Portugal and Hungary, as the US member on an international War Crimes Commission established in London to determine whether the Nuremberg trials should take place. In his book, The Abandonment of the Jews, David Wyman writes that my father wanted the commission to be "as tough as possible," but that the State Department at first refused to back him. My father was confident of President Roosevelt's support, and in 1944, launched a public campaign calling for war crimes proceedings. On Feb. 1, 1945, the State Department announced that war crimes, including crimes against Jews and other minorities, would be punished.

I hope this history will repeat itself, and that what appears to be State Department reluctance now will change to a policy of full support with our allies for the necessary measures to bring Iraqi war criminals to justice.

TRIBUTE TO AUGUSTANA COLLEGE WOMEN'S SOFTBALL TEAM

Mr. PRESSLER. Mr. President, I rise today to pay tribute to the Augustana College women's softball team. Last weekend, Augustana College, which is located in Sioux Falls, SD, won the National Collegiate Athletic Association [NCAA] Division II women's softball championship.

On May 19, 1991, Augustana defeated Bloomsburg University of Pennsylvania 3 to 2 in a 10-inning championship game held a Midland, MI. The magnitude of this victory is underscored by the fact that Augustana College is the first non-California school ever to win the NCAA Division II title.

Augustana's NCAA championship tops an impressive 61–4–1 season record, which also included the North Central Conference title and the Midwest Regional title.

Coach Sandy Jerstad led Augustana to their first national championship ever with the help of five all-tournament players: Ferris Grund, Kim Kouri, Kim Sudbeck, Julie Krauth, and Kathy Orstad. Additionally, Julie Krauth, a sophomore from Sioux Falls, was named most valuable player of the tournament.

Mr. President, I am pleased that Augustana's success has focused national attention on South Dakota's collegiate athletics programs. Having a relatively small college like Augustana win a national championship proves that not all the best athletic teams are located on the two coasts.

Again, I congratulate the Augustana College women's softball team for an extremely successful season. I hope to give this same speech next year to recognize their back-to-back championships.

Mr. President, I ask unanimous consent that two articles describing the Augustana College women's softball team victory be printed in the RECORD.

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

[From the Argus Leader, May 20, 1991]

AUGUSTANA WINS SOFTBALL TITLE

(By Tom Waske)

MIDLAND, MI.—Sophomore Julie Krauth turned in an MVP performance and carried Augustana College to its first-ever national title as the Vikings won the National Collegiate Athletic Association Division II softball championship Sunday.

Krauth was named most valuable player of the tournament after playing key offensive and defensive roles in a 3–2, 10-inning victory over Bloomsburg (Pa.) University.

"I can't describe it. It's total excitement," Krauth said after the team was greeted by about 200 well-wishers at Sioux Falls Airport Sunday night. "My arm is extremely sore. I need a week's rest. My adrenalin was pumping hard and it took over. I knew something good was going to happen with this team."

But things almost went bad, even with Augustana scoring two runs in the third inning to take the early lead after a single by Ferris Grund and a double by Krauth.

The Vikings stranded nine runners in the first four innings and came close to allowing Bloomsburg to steal the title.

The Huskies had managed only three hits off Krauth through the first five innings, but they threatened in the sixth and seventh. They stranded two runners in the sixth.

Facing elimination in the seventh, Bloomsburg scored a pair of runs off two Augustana errors.

Julie Wolfe was safe on a one-out error. Jean Buskirk got an infield single and a throwing error allowed Wolfe to score. With two outs, Denise Miller singled to tie the game.

Krauth (28–2) retired the minimum nine batters over the last three innings, thanks to a double play in the eighth, and wound up scoring the winning run in the 10th.

She walked to lead off the inning and moved to third when Janelle Tieken's sacrifice bunt was thrown wildly past first.

Kim Kouri ended the game with a two-out line single off the leg of Wolfe, the Bloomsburg second baseman.

Coach Sandy Jerstad said: "This is absolutely the biggest thrill of my life, careerwise. We all felt a realistic degree of confidence, but there's always a fear of the unknown."

Augustana, the first non-California school ever to win the title, finished the season with a 61–4–1 record after sweeping through the championship. Bloomsburg, which came through the losers bracket, finished 41–7.

There will be a celebration held in the student forum at the Elmen Center at noon today.

[From the Argus Leader, May 21, 1991]

GOAL MET, CELEBRATION CONTINUES FOR SOFTBALL VIKINGS

(By Mike Schirmer)

The Augustana College softball team reached its goal Sunday, and the celebration hasn't stopped yet.

The Vikings, fresh from a 3–2, 10-inning victory over Bloomsburg (Pa.) University in the championship game of the National Collegiate Athletic Association Division II national tournament in Midland, Mich., were met at the airport Sunday night by almost 200 jubilant fans, armed with "congratulations" signs and balloons and chanting "Augie, Augie."

On Monday afternoon a celebration was held in the student forum at the Elmen Center on campus. And at 7 tonight there will be a reception for the team at Champp's. For information call 331–4386.

Augustana beat Bloomsburg 3–1 in their first-round game on Saturday before outlasting top-ranked Portland State 3–2 in 16 innings in the semifinals.

This was the first-ever national title by any Augustana athletic team. The Vikings finish their season with 61 wins, four losses and one tie.

"I couldn't ask for anything else," senior shortstop Kim Kouri, who drove in the winning run in the final game, said. "We went there to win because we had come this far. This has been our goal all year. This is the biggest thrill of my life. This was a fun team. I'm going to miss it."

The Vikings went through the regional and the national tournament unbeaten in six games. Pitching every inning of every game for the Vikings was sophomore Julie Krauth, who finishes the year 31–2.

"This is my biggest thrill," Krauth, who shared pitching duties with Chris Hartman during the regular season, said. "This is it. There was no doubt about it (winning the tournament) after I saw the other teams there. They were all different so we just kept plodding along. We were confident."

Another senior playing her final game was first baseman Ferris Grund.

"It's stimulating," she said. "It's a sad-happy feeling. We didn't end on a loss."

Coach Sandy Jerstad, who made the decision to go strictly with Krauth as her pitcher before the regional, finally realized her dream of a national championship.

"Julie had been throwing so well," she said. "And, she's such a good fielder against the slap-type (hitting) teams. It worked out well. This is the most incredible feeling I've ever had."

Among those well-wishers at the airport was Augustana athletic director Bill Gross. "It's a great accomplishment for the athletic program," Gross said. "It's an honor for the school. These are good gals who were good representatives of the school. I'm proud of them."

Besides Kouri and Grund, left fielder Kim Sudbeck, who drove in the winning run against Portland State, was the only other senior starter.

PRESIDENTIAL STAMP SELECTION COMMITTEE

Mr. STEVENS. Mr. President, on April 23, 1991, I introduced S. 901, a bill to establish a Presidential Stamp Selection Committee. The purpose of bill is threefold: First, to bring about a better coordination and selection of U.S.

postage stamps; second, to ensure more accurate depictions on U.S. postage stamps; and third, to require the printing of all U.S. stamps and philatelic items in the United States.

Pursuant to the introduction of this legislation, I received a copy of an article written by a U.S. Senate staff member who is, like myself, a stamp collector. Mr. President, I ask unanimous consent to print at the end of my remarks, the Des Moines Register article written by Jim Currie, a philatelist and a staff member of the Senate Committee on Intelligence.

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

DINOSAUR-STAMP ERROR AND OTHER MAIL LAPSES

(By Jim Currie)

A spokesman for the U.S. Postal Service recently proclaimed that the name "Brontosaurus," rather than the correct name "Apatosaurus," was chosen for a new commemorative stamp because the former was "more familiar to the general public." That the Postal Service deliberately chose the wrong name for a dinosaur is no surprise to many of us who have followed the shenanigans of this organization over the past few years.

Take the Virginia statehood stamp of 1988, for example. The stamp design proudly proclaims "June 25, 1788," which was the date on which Virginia ratified the U.S. Constitution.

It was indeed an important date in the history of the Commonwealth and the history of this country.

The stamp's design, however, pictures a building in colonial Williamsburg. There is one major thing wrong with this choice: By 1788, the capital of Virginia was no longer in Williamsburg.

It was moved to Richmond in 1779, and it was in Richmond that the Constitution was ratified.

Or one might look at the Bill of Rights stamp. Good design, but its first-day-of-issue ceremony was in Philadelphia. Nice enough city, W.C. Fields notwithstanding.

But the fact is that the Bill of Rights was proposed to and adopted by the U.S. Congress meeting in New York City in 1789.

Philadephia played no role in the process. It's bad enough that the Postal Service continues to issue stamps commemorating marginal characters in our nation's history—like the 1988 stamp picturing an obscure golf champion—while continuing to ignore great Americans like Senators Robert LaFollette and John C. Calhoun.

At least these are choices that were apparently made with some reason—no matter how bad—behind them.

Unforgivable, though, are the outright errors, which the Postal Service then proceeds to defend quite proudly.

It makes one wonder just what the U.S. Postal Service and the Citizens Adivsory Committee (which selects the topics for our postage stamps) have been doing at their meetings and whether they should not have a panel of scientists and historians to which stamp designs should be submitted for an accuracy check.

RAJIV GANDHI

Mr. LUGAR. Mr. President, the world is once again saddened by the senseless assassination of an esteemed world leader, Rajiv Gandhi. I had the privilege of meeting and chatting with Mr. Gandhi on two different occasions and was impressed by his intellect, his strong sense of public service, the love he had for his country, his energy, and the relentless effort to move India and his countrymen from the depths of poverty.

India is a country beset with difficult social, economic, and communal challenges. It will cope with them in a pluralistic political system of give and take, dialog, and debate. India is a democratic society. Democracy has deep roots in India and the democratic tradition will persevere despite this senseless act of violence. Democrats like Rajiv Gandhi may perish, but democracy will survive in India. Mr. Gandhi was a friend of democracy. He leaves behind a positive legacy for his country and for future generations of Indians who aspire to public service.

THE DEATH OF WILLIAM E. CURRY, SR.

Mr. DODD. Mr. President, the recent death of William E. Curry, Sr., a major force in Connecticut's Democractic Party for many decades, represents a grievous loss to those, like myself and my family, who knew him well and were fortunate to call him friend and adviser. Bill Curry's example helped to forge within me, and no doubt countless others, a lasting commitment and dedication to public service, and a conviction in the wisdom and efficacy of our system of government.

Through his many years in the arena that we all call politics, Bill Curry stood center stage. Though the limelight did not shine directly upon him and the luster did not quite embrace him, Bill inspired and encouraged would-be candidates, and helped organize, indeed orchestrate, the campaigns for public office of these same men, dubbed by many as long shots, into astonishing victories. Among the campaigns to which Bill lent his expertise and remarkable people-sense was that of my father, U.S. Senator Thomas Dodd, as well as U.S. President James Earl Carter who later appointed him to serve as the Regional Director of the Farmer's Home Administration.

Born, raised, and educated in Hartford, William Curry trod the path of many of his generation. He fought along side his peers in the U.S. Army in World War II, serving in the 106th Infantry Division in Europe. He was active in the Democratic Party and became a member of the Hartford Democratic Town Committee. He was a delegate to the 1976 Democratic National Convention. As his level of involvement in the party increased, Bill added to the great symphony of Connecticut democratic politics the tunes of social justice and idealism. He supported unlikely "long shot" candidates, like Wilfred X. "Spike" Johnson, the first black man to be elected to the Connecticut General Assembly. Bill backed these men not only because they advanced principles of equality and fairness, but because Bill, ever with his ears pitched to the tenor and needs of the community, recognized their leadership potential.

Bill's politics did not evoke images of backroom wheeling and dealing. Rather, his politics took the form of street-corner discussions with the locals of the community, the barber, the bus driver, the neighbor hanging her laundry out to dry. These were the people for whom Bill held such a fondness that their welfare became for him an abiding, paramount concern. Indeed, the relationship between the people and Bill was a magical, uncanny sympathy. Bill seemed to be the bellweather of public sentiment and opinion. He divined what was uppermost on the minds of people and what motivated them to believe as they did. He understood the notion that one's personal experiences cannot be severed from his public views. Therefore, Bill traveled the highways and byways, as he so often said, to converse with the crowds, one person at a time.

William E. Curry, Sr., stood literally in that oft-cited "marketplace of ideas" plying his wears and exchanging the currency of opinion, thoughts, argument, and debate with the common man and woman. And for it all, we are immeasurably enriched. That discourse which characterizes our society as unique, of which Bill, during his sojourn among us, was so much a part, may madden and frustrate, but it continues. Thankfully, it thrives. And perhaps because it does, because of the legacies of politicans like Bill Curry who considered politics, of all things, somehow connected with the hopes, dreams, needs, and concerns of the body politic—the people, social justice, the long shot, for which we as a nation properly aspire, may yet be within our grasp.

RESIGNATION OF ARNAUD DE BORCHGRAVE

Mr. WALLOP. Mr. President, the Washington Times announced last Friday the resignation of Arnaud de Borchgrave as its editor in chief, a position he has held since 1985. It would be a disservice both to the Times and to Mr. de Borchgrave if his departure as editor in chief were allowed to go unremarked. I rise today to ensure that Arnaud's contribution to journalism in general and to news reporting in Washington, DC, is acknowledged as he moves on to the next stage in his writing career.

In announcing his resignation, the Times described Arnaud de Borchgrave as a "legendary foreign correspondent." As often as not, use of adjectives such as "legendary" is hyperbole at best. In this instance, the superlative barely does its subject justice.

Before joining the Times in 1985, Arnaud de Borchgrave spent almost 30 years as a foreign correspondent for Newsweek magazine, earning the descriptive "legendary" along with an interesting assortment of other adjectives.

A Washington Post reporter wrote in a 1985 story:

De Borchgrave, * * * in his 25 years at Newsweek became known as one of the world's most flamboyant and controversial correspondents.

In a July 3, 1985, Chicago Tribune story, Lea Donosky said that Arnaud:

Who covered 17 wars in 30 years, is fighting a war of his own, a battle against what he views as the Communist menace and the "terminal naivete" of the American press. "It's a never-ending battle, a war of words, a war of ideas," he says.

There were few publications that wouldn't have liked to have had him or someone like him. Nobody ever had a correspondent who worked harder than Arnaud. He worked incredible hours. He had a single-mindedness of purpose getting to a source for an interview.

The same Chicago Tribune story quoted Newsweek's former Saigon and Beirut Bureau Chief Nicholas Proffitt as saying about Arnaud.

The "War of words, * * * of ideas" that Arnaud described is a war he has fought tirelessly and not without personal sacrifice. In 1980, in a dispute over ideological and editorial differences, Arnaud left Newsweek. but his single-mindedness of purpose and his hard work did not abate. He coauthored with Robert Moss the best-selling noval "the Spike," a not-very-flattering picture of Soviet influence on the media. He has served as a senior associate at the Georgetown University Center for Strategic and International Studies. He published a monthly intelligence newsletter "Early Warning." He serves on the advisory committee of the American Foundation for Resistance International.

In 1985, he brought his energies to the Washington Times. A number of stories about Arnaud were written or told during his tenure as the Times' editor—not all of them entirely complementary, but often reflecting the zeal with which he performs his professional duties. He is described as working 18-hour days, of living in his office, which is complete with private bath and sofa bed. [He admits to sleeping there several nights a week.] It has been reported that he prowls the paper's offices late at night as ideas for stories occur to him, that he sometimes demands rewrites of stories in the middle of the night.

A June 15, 1987, story in Time magazine reported:

It should not be said that Arnaud de Borchgrave never sleeps. True, he puts in 18-hour days at the Washington Times, showering his staff with "Arnaud-Grams," notes scrawled on yellow paper suggesting stories and sources. He bounces around the newsroom nagging, second-guessing or just plain giving orders. But he does sleep.

The Time magazine story went on to say that the Washington Times "has gained a place at some of the Capital's most powerful breakfast tables, and is among the few newspapers that are regularly excerpted for Ronald Reagan's daily news briefing book. * * * 'The paper you see now is not the paper we saw 5 years ago,' says press critic Stephen Hess of the Brookings Institute. Much of the credit belongs to de Borchgrave".

In a story repeated more than once, Arnaud displays his inimitable flair. The Chicago Tribune's July 1985 story:

When a recent interviewer asked him about printed reports that he has startled the staff by running out onto the mezzanine wearing blue silk pajamas during a late-breaking story, de Borchgrave insisted, "I don't know how this kind of thing happens. They're cotton and a good reporter would have checked."

And Arnaud is a good reporter, and has been an excellent editor. In talking of his resignation as editor in Chief of the Times, Arnaud said:

If you fail to plan, you plan to fail. My plan was quite simple: Change and continuity with staff second to none. * * * our ship [is] now ship-shape and ready for a new skipper.

Arnaud de Borchgrave will continue with the Washington Times as editor at large, pursuing stories and interviews around the world. William Hazlitt wrote that "you know more of a road by having traveled it than by all the conjectures and descriptions in the world." Arnaud is uniquely qualified for his new responsibilities, to which he will no doubt unselfishly contribute his vast energies and experience and in which he will continue fighting his war of words, of ideas.

Congratulations to Arnaud on his success at the Times, best wishes for success in his new assignment. This Senator has known Arnaud long and well, and is pleased to call him friend. He will be missed.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. REID). Morning business is now closed.

SENATE ELECTION ETHICS ACT

The PRESIDING OFFICER. The Senate will now resume the consideration of S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Boren amendment No. 242, in the nature of a substitute.

(2) Roth amendment No. 262 (to amendment No. 242), to provide television broadcast time without charge to Senate candidates.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

We are under controlled time, as I understand it, of 15 minutes equally divided. I reserve for myself 5 minutes at this time.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. EXON. Mr. President, the amendment that I am about to send to the desk is the first clear, straightforward chance for the Senate to express itself on whether or not it favors taxpayer financing of the vouchers which are a part of the reform bill that is before us.

This Senator happens to feel that no campaign bill that we could enact here would have any real meaning unless it has a cap on the amount of expenditures that can be expended and because of the Supreme Court decision that has to include some kind of a voluntary limit. But this Senator for one has been firmly against taxpayer financing of campaigns.

The President of the United States has made it very clear that he will not sign any piece of campaign reform legislation that involves taxpayer financing of campaigns. In that regard I agree with the President.

The President has also said, in my view unfortunately, that he is also opposed to any kind of campaign spending limits. But at least the amendment that I am offering will certainly take away half of the strong objections that the President of the United States has expressed on the bill that we are considering.

Mr. President, it seems to me then that the wording of the amendment that I am about to offer is very straightforward. It makes it very clear that none of the vouchers that are going to be offered as an inducement in the bill can be financed by the American taxpayer. It is my view, Mr. President, that substantially over one-half of the Members of the U.S. Senate are opposed to taxpayer financing of campaigns and by this straightforward amendment I am offering the Senate the first chance it has had to express itself up or down on the matter that is at hand.

AMENDMENT NO. 263 TO AMENDMENT NO. 242

(Purpose: Relating to the funding of voter communication vouchers)

Mr. EXON. Mr. President, I now send an amendment to the desk and the amendment is offered by myself, Sen-

ator LEVIN from the State of Michigan, and Senator KERREY from the State of Nebraska.

I send the amendment to the desk at this time and ask that the clerk report.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. LEVIN, and Mr. KERREY, proposes an amendment numbered 263.

On page 21, line 10, before the end period insert: ", except that no vouchers shall be issued to any eligible candidate unless Congress provides that the amounts in the Fund to pay for such vouchers are derived solely from—

"(A) voluntary contributions or tax checkoff contributions that are not from any tax liability owed by the person to the Treasury; or

"(B) sources which do not affect individual taxpayers, corporate taxpayers, partnerships, and estates and trusts, other than with respect to their campaign activities or other activities with respect to influencing Federal legislation."

Mr. EXON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who now yields time?

Under the order, the time will run equally if we do not have any request for time.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I wanted to pose a couple of questions to my friend from Nebraska on my time. I would ask my friend from Nebraska if the amendment does anything about the taxpayer funding that is provided to penalize or to reward the opponents of candidates who decide to express themselves above the arbitrary campaign limit in a State?

Mr. EXON. If I understand the question from my friend from Kentucky it has to do with above the spending limit. The amendment that I am offering does not change in any way any other part of S. 3, as amended. It simply says directly that no voucher that is given or accepted by a candidate for the Senate office can be financed with taxpayer funds and that is, in essence, the amendment.

I would simply point out that I have not at this time yet asked for the yeas and nays. I am hopeful that this amendment, which expresses a significant majority of the Members of the U.S. Senate, might be accepted without the necessity of a rollcall vote and therefore we could save that much time. But I would certainly be pleased to answer any further questions raised by the manager of the bill on that side of the aisle.

Mr. MCCONNELL. I thank my friend from Nebraska.

This is the critical question. We may well end up accepting the amendment, but I do want our colleagues to know what the amendment does and what it does not do. What it does not do is eliminate taxpayer financing from S. 3. Under S. 3, 20 percent of the spending limit comes from food stamps that politicians can get from the Treasury to purchase television advertising. That is one source of Federal funds for political campaigns.

But, Mr. President, there are other avenues to Federal funds. If a candidate decided to express himself as much as he chose, which he has a right to do under the first amendment to the Constitution, and thereby went above the arbitrary spending limit in his State, under S. 3 public funds would be triggered out of the Treasury for his opponent. In addition, that person would lose a broadcast discount and lose a direct mail subsidy.

And there is another avenue for public funding untouched by the Exon amendment and that is if an independent citizen or group of citizens, let us say a civil rights group decided to engage in independent expenditures in Louisiana against the candidacy of David Duke, then David Duke would get money from the Treasury to combat that speech carried on in Louisiana by the out-of-State civil rights group. So as you can see, Mr. President, this amendment does not really go to the heart of the question which is whether taxpayer financing should be provided in any way whatsoever in races for the U.S. Senate.

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

The PRESIDING OFFICER. Ten minutes.

Mr. MCCONNELL. I reserve the remainder of my time.

Mr. EXON. Mr. President, I yield myself 1 minute.

The amendment speaks for itself. The amendment eliminates taxpayer financing for the subject of providing vouchers. Certainly I suspect that it could be criticized along the lines that have been advanced by the Senator from Kentucky. But the main expenditure of taxpayer funds directly would be eliminated if this amendment becomes law.

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

The PRESIDING OFFICER. Ten minutes.

Mr. EXON. I yield 5 minutes to a cosponsor of the amendment who played a key part in putting it together, the Senator from Michigan.

The PRESIDING OFFICER. Senator LEVIN is recognized for 5 minutes.

Mr. LEVIN. I thank the Chair and my good friend from Nebraska, who has been leading a very important effort to make a significant change in this bill which I think will bring it some additional support.

There has been a lot of eloquent debate on the subject of campaign finance reform during the past few days, and the sponsors of this legislation should be complimented for their efforts to diagnose the ailment in our body politic and prescribe a cure. To put it plainly, we spend too much money on campaigns and we spend too much time raising it. The public looks at this system and senses that it is not serving their interest and they see right.

The average cost of a Senate campaign has almost tripled in 10 years, from $1.2 million to $3.3 million. The American people think that is wrong, and they are right. The heart of reforming the system is to limit spending. From a contender's standpoint, a limit on spending would be far better than the status quo, where, with unlimited spending, contenders are almost always vastly outspent.

If the heart of election finance reform is limiting spending—and it is—the soul of reform is the incentives needed to persuade candidates to accept those limits voluntarily. The Supreme Court has ruled that these limits must be voluntarily accepted if they are to be constitutional.

The point of our effort must be to restore faith in the institutions of democracy. I am afraid that, however unintentionally, the voucher provision of this bill does just the opposite. In a piece of legislation that is designed to raise the level of public confidence and trust, a voucher system which could be funded by the general taxpayer will be characterized as a benefit that we are voting for ourselves. It will be so characterized by the President and he is likely to succeed in that characterization.

Like it or not, the voucher provision, as provided in this bill and without limits, will be perceived by a large percentage of Americans as feathering our own nests. It will serve as the point of attack to sink this bill because a general taxpayer-funded voucher unconditionally and without precedent puts the general taxpayer money in our own campaign coffers.

For direct, unconditional, general fund financing to produce trust and confidence, I am convinced that it must have wide support. Without bipartisan and Presidential leadership, a voucher system which could be paid for by general tax dollars will undermine the very public confidence that we are struggling so hard to achieve in this bill.

The Exon-Levin amendment provides that general taxpayer funds will not be used to finance any voucher. Adoption of this amendment will eliminate the public financing provision which makes the bill most vulnerable to attack. It thereby also makes it more likely that we will pass a bill which can lead to a law actually being enacted instead of just another debate being held. That is the effective way of promoting public trust—getting a good

bill enacted which will help promote that trust.

I again compliment and congratulate Senator BOREN for his leadership in trying to get this bill passed in the Senate.

If I could comment on the question of my friend from Kentucky.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Mr. President, I yield 2 minutes to the manager of the bill.

Mr. BOREN. Mr. President, I thank my colleague from Nebraska, and I want to commend my colleague from Nebraska and my colleague and friend from Michigan for offering this particular amendment.

The amendment makes it clear that the voucher portion of the bill would not take effect until we have found a means of financing this proposal that would not result in tax increases of a general nature on the average individual taxpayer.

There are several options that are set forth in the amendment, including the use of a voluntary checkoff over and above tax liability. Obviously, cuts in other programs would not be ruled out by the language of the amendment.

For example, mass mailing costs and newsletter costs of the Senate alone are in the neighborhood of $25 million, which would be sufficient to fund the voucher portion of this bill, according to CBO.

There are other options. Some have proposed taxing political action committees. Some have proposed putting some kind of limit, perhaps at very high levels, on people who are spending over a certain level, maybe millions of dollars a year, on lobbying expenses. That is something that could be trimmed back in terms of the tax subsidy that is now being provided.

I personally share the concerns that have been raised by the Senator from Nebraska, the Senator from Michigan, and several people on the other side of the aisle that we should find a way to finance this voucher system, if it is enacted into law, in a way that does not put additional burdens on the average taxpayer or increase the burden on individual taxpayers or tax paying entities.

So I enthusiastically support this amendment. I think it makes it clear that, for the voucher portion of this bill, there would not be an additional burden placed on the average taxpayer, the average American taxpayer, in order to fund it.

I hope that it will be something that can be accepted because this is a concern that has been expressed on both sides of the aisle.

The PRESIDING OFFICER. The Senator's time has expired.

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

The PRESIDING OFFICER. Ten minutes.

Mr. MCCONNELL. Mr. President, with all due respect to my friend from Nebraska, this is only the most recent effort to obscure the truth, and the truth is that S. 3 is a public funding bill.

The Kerry amendment yesterday was very revealing, Mr. President. The Kerry amendment, in effect, provided 90 percent public funding for Senate races. Thirty-six of the 56 Democrats who voted on that amendment yesterday voted for 90 percent public funding.

Let there be no mistake about it, Mr. President, which party is in favor of having the taxpayers pay for our Senate campaigns. It is the Democratic Party that is four-square in favor of taxpayer funding.

Mr. President, there are a few on the other side who were nervous about that and who voted for the underlying bill who have been looking for a way to somehow argue that an apple is an orange. The Exon amendment is one of those apple and orange amendments. But, Mr. President, it is not very good cover.

The Republican Policy Committee has estimated taxpayer-financed payment to candidates, to opponents who exceeded the spending limit, would total up to $58 million in 1994 if one candidate in every race chose to engage in unlimited speech. The Exon amendment does not touch that kind of public funding. In other words, the Federal Treasury funded by the taxpayers would take a $58 million hit in 1 year alone.

This amendment, as I just indicated, leaves this form of taxpayer financing in S. 3 completely alone. It is still in the bill.

The amendment of my friend from Nebraska also leaves untouched all the taxpayer-financed payments to candidates for independent expenditures. That would add up to an additional $3 million in 1994.

The amendment also protects the mail subsidy provided to candidates under S. 3 at a time when taxpayers are forced to pay higher and higher rates for mail service. This amendment would give $8.7 million of mail subsidies to Senate candidates in 1 year alone.

In sum, Mr. President, the amendment of the Senator from Nebraska is a sieve for all the taxpayer financing in the bill; it is an illusion. It leaves untouched $58 million for excess expenditure penalties, $3 million for independent expenditures, $8.7 million for mail subsidies, a total of nearly $70 million in taxpayer-financed subsidies in 1 year alone left completely untouched by this amendment.

So, Mr. President, let me sum it up one more time. It is pretty clear to even the most casual observer which party is arguing here in the U.S. Senate that the taxpayers ought to fund political races for the U.S. Senate. Thirty-six of the fifty-six Democrats who voted yesterday on that issue said 90 percent of the public money should finance candidates for the U.S. Senate, up to the limit, 90 percent of the limit.

There have been a number of votes on the critical issue. The real vote on the question of taxpayer subsidies for Senate campaigns was yesterday morning on the McConnell amendment, which stripped all taxpayer subsidies out of S. 3. On that vote, Mr. President, it was straight party line. Not a single Republican voted for public funding, not a single Democrat voted against it.

All of these other amendments, Mr. President, are, in a sense, an illusion, an effort to look for cover, someplace to hide from the taxpayers who are going to become increasingly enraged, I would predict, as soon as the fall 1992 election, that we would have the audacity, in a time of exploding deficits, to add an entitlement program for us to run for the U.S. Senate.

So, Mr. President, I do not have any particular problem with the Exon amendment. It might save a little bit of a whole lot of money that is going to be spent on our races.

My friend from Nebraska, had indicated earlier he hoped it would be accepted. I do not have any problem accepting it. But I do not think it solves the problem. The one way we could have solved the problem was to vote for the McConnell amendment yesterday morning. It was a straight party line vote on the issue of stripping all Federal money, all taxpayer money, out of Senate races. Unfortunately, Mr. President, that amendment did not prevail.

Let me make one other point. If we are serious about campaign finance reform, a couple of things have to be done.

The President of the United States said again this year, in a letter to me dated yesterday, which I put in the RECORD yesterday, that three things are not going to become law: Spending limits, public finance, and a different set of rules between the House and the Senate. Any one of those three things, Mr. President, guarantees no campaign finance reform.

Having worked on this issue for years, even before I came to the Senate, I do not want to see that result.

There are some important things that need doing, and I hope we will not waste this opportunity, after weeks of debate, to lose our chance for campaign finance reform. Hopefully we will get that chance in conference with the House.

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

The PRESIDING OFFICER. The Senator has 4½ minutes.

Mr. MCCONNELL. I reserve the remainder of my time.

Mr. EXON. How much time is remaining on this side, Mr. President?

The PRESIDING OFFICER. Three minutes.

Mr. EXON. I yield 1 minute to my colleague from Michigan.

Mr. LEVIN. Mr. President, the voucher which is provided for in this bill, if financed through general taxpayer money, would be the direct taxpayer payment for elections.

My friend from Kentucky talks about, "Well, what about that standby taxpayer payment, in the event one's opponent goes over the limit?" The answer to that is hopefully all candidates will accept those limits. That is the purpose of this bill, to get all candidates to voluntarily accept the limits. We believe they will succeed, those incentives. There is every reason to believe they will succeed.

So when the Republican Policy Committee comes up with a $58 million assessment to the taxpayers, that is their imagination which is involved here. Because we believe the incentives in this bill will succeed in getting candidates to accept voluntary limits and, if they do so, as intended by this bill, those payments referred to by the Senator from Kentucky will not occur.

The PRESIDING OFFICER. The minute of the Senator has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask the Senator from Kentucky to yield me 4 minutes.

Mr. McCONNELL. I yield my colleague 3 minutes. I want to reserve 1 minute.

Mr. NICKLES. Mr. President, I want to respond to my friend and colleague from Michigan. In the Republican Policy Committee, we have two charts. One chart is if both candidates participate. In other words, there would be no excuse expenditure amount; there would be no heavy hitter, the hammer against a candidate if he elected not to participate voluntarily.

This bill is not a voluntary bill. It has a heavy penalty for somebody who elects to avoid taxpayer subsidies because his opponent is going to get millions of dollars.

Basically I knew that charge was going to be made, so we put figures in the RECORD yesterday to consider both. If both major party candidates participate, if that is the case, the taxpayer subsidy is $46 million. If one candidate participates and one major party candidate does not participate, the cost to the taxpayers is $81 million. This is not calculating the cost for minor party candidates, which we estimate in 1994 would be about an additional $20 million.

The amendment of the Senator from Nebraska, which I support, is a small step in the right direction.

Last night we had a vote to eliminate all taxpayer subsidies. Unfortunately, the Senator from Nebraska did not vote with us. The vote on the Democratic side was 54 in favor of continuing subsidies, and one Democratic Member, Senator HOLLINGS, voted with us to eliminate all taxpayer subsidies.

It is unfortunate that amendment was not agreed to because, if my figures are correct, the amendment of the Senator from Nebraska will save taxpayers $11 million, if you have one major party candidate participant. But taxpayers will still end up paying $90-some million a year. That is not a good deal. That is not good enough. We have not gone far enough toward eliminating the taxpayer subsidies.

Why do we not eliminate the mail subsidy as well? Why do we not eliminate the subsidy the Senator from Kentucky was talking about, the excess expenditure amount? Why do we not eliminate the independent expenditure amount? Why do we not eliminate minor party candidates so we do not have taxpayers subsidizing races like David Duke's and other races?

I congratulate the Senator from Nebraska. It is going to pass. It is going to make a small step in the right direction. But also, yesterday, the amendment by Senator McCONNELL, and my amendment, those were the real efforts we had to eliminate taxpayer subsidies.

Mr. EXON. Mr. President, I yield 1 minute to my colleague from Oklahoma.

Mr. BOREN. Mr. President, I will not take the full minute. I will yield back whatever time is left to Senator EXON. But let me say a lot of figures have been thrown around. We, of course, in the Congress use the estimates of CBO. CBO says the entire cost of the bill as introduced, S. 3, is $25 million a year. The voucher portion of that is somewhat less than $20 million a year.

So the idea we are talking here about a billion dollars or $90 million, estimates from one political party committee or another, or other sources, are really not binding upon Congress. The best estimate, official estimate we use in Congress, is from CBO. That is $25 million.

The amendment of the Senator from Nebraska makes a very significant step in terms of making sure that cost will not be borne by general taxpayers with a tax increase.

Mr. NICKLES. Will the Senator from Kentucky yield to me?

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

The PRESIDING OFFICER. The Senator from Kentucky has a minute and a half remaining.

Mr. McCONNELL. Mr. President, under the Exon-Levin amendment—let us be perfectly clear what happens. David Duke can get taxpayer subsidies to combat independent expenditures against him by organizations such as, say, B'nai B'rith. The Exon-Levin amendment does nothing to prohibit David Duke from getting taxpayer funds to combat independent expenditures by concerned citizens against him around the country. This amendment is a small step in the right direction, but it goes not nearly far enough.

I yield the remainder of my time to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend from Kentucky. I will just make a couple of comments concerning the cost of the bill and also the estimates that were put together by the Republican Policy Committee.

Our original estimates were less than that by CBO. CBO came up with estimates. We came up with estimates. Our estimates were less than CBO's. When the bill was introduced, it was rolled back.

But, what my friends and colleagues on the other side kind of ignore are a couple of costs. They ignore the cost of mail subsidies. They ignore the cost of independent expenditure amounts. Tht is in the bill. But it was not estimated. They ignore the amount of cost for excess expenditure penalties, for those assessments. But those are real. Those will be expensive. They also ignore the broadcast subsidies which are enormous, and which we will debate very soon.

The PRESIDING OFFICER. The time of the Senator has expired. All time has expired.

Mr. EXON. Mr. President, I do not believe my time has expired——

The PRESIDING OFFICER. If the Senator will withhold, I was indicating all time expired on the side of the Senator from Kentucky. The Senator from Nebraska has 1 minute remaining.

Mr. EXON. I thank the Chair. I have listened to the debate. Evidently the amendment is going to be accepted. I think it is a giant step in the right direction. I just wish we could get away from partisanship. I have not cited examples of how Democrats or Republicans voted in the past.

The people of the United States look at us and say, "Why don't you quit fighting political battles and trying to take credit?" I do not think it is fair for those on the other side to say this Senator voted one way or the other. I voted my conscience. I want a campaign finance reform bill to pass.

We are not going to pass a perfect bill. We never have in this body. I hope we can stay away from the partisanship and get on with the business of trying to clean up the campaigns in the United States of America which, above everything else, are costing too much money.

I hope that the amendment will be accepted, and I hope that we can continue in a nonpartisan fashion to come up with a bill that may not satisfy the Democratic Party or the Republican Party, but maybe the people of the United States as a whole, regardless of their registration.

I assume that my time is up. I thank the Senate for its courtesy in listening

to this argument, and I hope the amendment will be adopted.

The PRESIDING OFFICER. The time has expired. The question is on agreeing to the amendment.

The amendment (No. 263) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the next amendment is by the Senator from Oklahoma [Mr. NICKLES].

Mr. McCONNELL. Parliamentary inquiry. Under the unanimous-consent agreement we entered into last night, I do not think I object to what we just did, but it was my understanding we were stacking votes until 1:30.

The PRESIDING OFFICER. That would apply to those with rollcall votes.

Mr. McCONNELL. Fine. I have no objection.

The PRESIDING OFFICER. Also, under the unanimous consent agreement, the time has already started to run on the Nickles amendment.

AMENDMENT NO. 264 TO AMENDMENT NO. 242

(Purpose: To eliminate the 50 percent subsidy to politicians to be provided by the broadcast industry)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 264 to amendment No. 242.

On page 44, line 4, strike "50 percent" and insert in lieu thereof "100 percent".

Mr. NICKLES. Mr. President, the amendment that I am offering today would strike the so-called broadcasters subsidy, which is presently in the bill on page 44. This amendment evidently has no cost, but it would mandate to broadcasters that they have to give politicians one-half the rate of anybody else; one-half the lowest rate. I personally think that is a serious mistake.

I think it is a real infringement on broadcasters, and when we think of broadcasters, I think too many times we are thinking about the major networks: ABC, NBC, and the major cable companies, maybe Time-Warner. Maybe we are thinking about Ted Turner and the big boys on the block. But I am thinking about my broadcasters in Oklahoma. I am thinking about the small radio stations. I am thinking about a lot of these businesses that are struggling to survive and, frankly, will not survive. This amendment may make it more difficult for them to be survivors in the future.

When I hear this bill only costs $24 million a year, we know they are only talking about the broadcast vouchers. That is where the Federal Government is going to pay the broadcasters. But this provision I am striking today does not deal with that.

Senator EXON'S amendment just took out the broadcast vouchers, and I complimented him for it. I think that is a small step in the right direction.

The language I am seeking to strike is language that would dictate that broadcasters have to offer rates at one-half the rate of anybody else to politicians. That is political welfare. That is welfare for politicians. I think it is a serious mistake. Not only that, it is enormously expensive. We are talking about millions of dollars.

Most of us know, who are candidates, that we spend at least half—if not more—of our campaign funds on broadcasting. But why should we be entitled to rates lower than any other commercial buyer in the system?

With the Danforth amendment, we will be putting language in that will be dictating the lowest rate of anybody will be charged to politicians. We are even going to go a step further: We are going to say we will give you fixed time; we will guarantee you your time, and we will only charge you preemptible rates.

In other words, we are going to get a good deal on the rates. We are going to get a better deal than anybody in the rates. But that is before we take the provisions that is in S. 3 that says on top of that, you are going to get an additional 50-percent reduction.

I think the Danforth substitute, to be agreed upon, I believe, by Senator BOREN, is a fine step. That is a good step. The broadcasting industry has said—or I think most people have indicated—they can live with that. But that is before they would go an additional step and say whatever that rate is, we want only half of that. Certainly, I think that goes too far. Again, I say it will be enormously expensive.

We tried to estimate, just guessing that people participate in the elections and that they spend half of their general election expenditure limit on broadcasting, how much of a subsidy it is. If one candidate participates, it would cost the broadcasters $29 million. If both candidates participate, it would cost $58 million.

Mr. President, I think those are very conservation estimates. I said that it would cost broadcasters, and I might mention I think that may be in dispute. Some broadcasters have the capability to pass that on. They will pass it on the other people who are buying time.

So while our rates are going down, and we get rates at one-half the rate of anybody else, other commercial buyers are going to be paying more to help make up the slack, to pay the difference for the fact we are going to get a free ride, or we are going to get to ride at half the rate of anybody else.

Mr. President, while we are at it, why do we not talk about equity? If we are going to mandate one-half the rate on broadcasters, why do we not mandate one-half the rate on newspapers? That is another medium. If we are going to mandate one-half the cost of broadcasters—we are talking about TV time, radio time, cable time—why not one-half the rate on phones, on airlines? Where are we going to stop?

This bill already gives mail, at one-fourth the rate that our constituents pay, for politicians. I think that is welfare for politicians. Now we are going to say, "Broadcasting industry, you have to give political time at one-half the lowest rate of anybody else," even after they have already agreed to give us fixed time at preemptible rates, which is a very good discount in itself.

I think it is a serious mistake. In my State of Oklahoma, we have something like 170 radio stations. I happened to talk with the Director of Oklahoma Broadcasters, and I said, "How big are those stations?" He said, "We have a few stations that have sales of $3 million or $4 million." But he said for the most part, most of our radio stations in Oklahoma have sales in the $200,000 category; maybe $250,000 category. That is not per month; that is per year. They are small stations.

I said, "How many of them are profitable?" He said, "Probably three-fourths of them are just getting by." They are just barely getting by. They are in small towns. The economy is soft. They do not need this kind of hit.

We say, "Wait a minute; it cannot be too bad." We only have Senate races, I guess, 2 out of 6 years. But, Mr. President, if we are going to do this for Senators; if we are going to tell candidates who are running for the U.S. Senate that they get one-half the lowest rate of anybody, surely if we are going to do that for U.S. Senate candidates, we are going to do it for gubernatorial candidates, for congressional candidates; we are going to do it for State legislative offices, and do it for the county offices.

We may not do it in S. 3, but how in the world can a broadcaster charge a U.S. Senate candidate less than what he charges a county commissioner? Basically, what we are going to be doing is mandating on the broadcasting industry that they offer subsidized rates to politicians at one-half the lowest rate they charge anybody, anytime, anywhere. So this is going to be enormously expensive to them and a lot of them, frankly, will not be able to handle it.

This is a very punitive provision to the broadcasting industry. I think it is a very serious intrusion. Some people ignore it, and they say it has no cost. We heard today the cost of S. 3 is only

$24 million. That means the cost to broadcasters and consumers in this provision is zero.

Frankly, I encourage my colleagues to talk to the broadcasters, and they will find out this provision has a very real cost, and that they will be very upset about this provision. It is in the millions of dollars.

Again, I think it is a serious, serious mistake.

Mr. President, I ask unanimous consent that a letter by the Oklahoma Association of Broadcasters, and a letter by the National Association of Broadcasters be printed in the RECORD.

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

OKLAHOMA ASSOCIATION OF BROADCASTERS,
Oklahoma City, OK, May 23, 1991.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

SENATOR NICKLES: The Oklahoma Association of Broadcasters wholeheartedly endorse your efforts to delete the "50% of low unit rate" provision of S. 3 "Campaign Reform."

The fight for survival of Oklahoma broadcasters is a continuous one. It is difficult for our industry to understand how the United States Senate can consider placing a major portion of campaign financing on an already depressed industry.

We're appreciative of your efforts.

Sincerely,

CARL C. SMITH,
Executive Director.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, May 23, 1991.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: In a May 16th letter to all Members of the Senate, I expressed NAB's strong opposition to the broadcast provisions in S. 3. We firmly believe that the provisions of this bill, as well as the free time provisions offered by Senator Roth as an amendment to S. 3, would impose purely punitive obligations on broadcasters. By attempting to cure the problems of modern compaign costs by focusing only on broadcasting, these provisions would have a devastating effect on our nation's radio and television stations.

S. 3 would impose a devastating double "hit" on broadcasters. First, the bill already provides candidates with substantial discounts by ensuring them fixed time at stations' lowest preemptible rates. It goes further, however, to provide an additional 50% discount off of that new lower rate to eligible Senate candidates. Finally, this fire sale rate is available to candidates during an even longer campaign cycle than today's law provides.

It is clear that this bill would have an inequitable impact on broadcasters' advertising revenues—our sole means of supporting the service we provide to our local communities. Moreover, these provisions raise serious constitutional "takings" and equal protection questions. NAB's objections to these provisions were provided in detail in our testimony before the Senate Rules Committee in its campaign reform hearings.

NAB strongly supports your efforts to strike these provisions from S. 3, and we have urged all Senators to vote in favor of your amendment. NAB and the nation's radio and television stations sincerely thank you for your leadership in this important matter.

Sincerely,

EDWARD O. FRITTS.

Mr. NICKLES. Mr. President, I reserve the remainder of my time. How much time do I have remaining?

The PRESIDING OFFICER. Eleven minutes.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I yield myself 6 minutes.

Mr. President, it is not usual that I find myself in disagreement with my good friend and colleague from the State of Oklahoma. I am privileged, indeed, to have him as a colleague. I do not think there is any better relationship between any two Senators who serve in this body from any State. I am particularly proud of that. It is a relationship which obviously is a bipartisan relationship and, beyond that, it is a very sincere personal friendship. So I have the utmost respect for my colleague and certainly for any idea which he advances.

I have to say that in this case, however, I must respectfully disagree with my colleague. We are, by offering in our bill a proposal to discount the broadcast rates during political campaigns for a limited period of time for the nominees of parties for the Senate, really adopting, at least in part, a proposal that has been offered from the other side of the aisle. It is a proposal that was made to me in discussions in the past by the distinguished Senator from New Hampshire [Mr. RUDMAN] who very much favors this proposal.

As is known, the distinguished minority leader, Senator DOLE, from Kansas, has introduced a bill which would require broadcasters to not give 50 percent discounted rate time but totally free time to candidates, the nominees of the parties for the Senate. That is also a proposal which was offered last night by the Senator from Delaware, Mr. Roth, who favors that all candidates, not just those who accept spending limits but all candidates, for the Senate be given totally free time by the broadcasters.

Mr. President, what we have attempted to do is strike a fair balance. Like my colleague, I am certainly sensitive to the fact that broadcast facilities are not nonprofit organizations. They cannot stay in business without making a profit. In certain portions of the country, as is true in my home State and home area where we have gone through difficult economic times, broadcasting is not as profitable as it is in other parts of the country.

So we have tried to strike a fair balance in our proposal, being sensitive to the economic problems that some broadcasters face, while at the same time understanding that the airways belong to the public. This is a principle that has been set down for a long time. That is why it is necessary to get a license to have a radio station or television station, to have access to the airways. There are public responsibilities which come from the granting of these licenses and, in essence, monopolies to reach certain geographical areas of the country through either the medium of television or radio. This is long established. What we have tried to do is strike a fair balance in the economic situation facing broadcasters.

I point out that political advertising, when you look at the entire earnings of broadcasters in terms of a year in length, total political advertising revenues are a very small proportion of their total income for the year. Even so, we have tried to strike that balance, being fair to broadcasters, not going as far as some proposals on the other side of aisle like the proposals by Senator DOLE and Senator ROTH to give totally free time, but saying let us strike a fair balance, a 50-percent discount on certain time available to the candidates so the public will have a fair opportunity to hear the issues discussed.

I point out that we have also made it clear we are not applying the provisions of vouchers, for example, in our bill to 30-second spots, so that we will encourage longer periods of time to be used in the broadcast media for more serious and substantial discussion of the issues of the campaign and the problems confronting our Nation.

I think what we have here is a fair balance. We have had the principles in place for a long time. We recognized, by providing the lowest unit rate, that these public licensees who are granted a right to serve the public by use of the airways have a responsibility. The courts have upheld again and again that it is the right of viewers and listeners which must be paramount. It is the need of the viewing audience which must be the most essential concern in terms of granting licenses in the operating of the broadcast media.

I have heard my good friend and colleague, the Senator from Kentucky, on many occasions talk about the need to have broadcasters do more to make the airways available at lower cost so that we can have meaningful discussion of the issues. We are dealing with the single largest cost item in most political campaigns.

As my colleague from Oklahoma has indicated, while revenue to broadcasters from political advertising is a very small part of their total income, it is a very large part of campaign costs. Well over 50 percent of most campaign costs are spent buying broadcast time. So if we want to do something about reducing the costs of campaigns and do something that is meaningful, as I have heard my colleague from Kentucky say on many occasions, we need to do something about the

broadcast costs which are faced by candidates.

So, with all due respect, I think we have struck that balance. I think it is a responsible proposal to ask the broadcasters of the Nation to help us hold down campaign costs by making available a limited amount of time at a reduced broadcast rate of 50 percent.

We go back to the essential point, Mr. President, and I go back to it again and again, that what we are dealing with in terms of the main problem—I yield myself 3 additional minutes—what we are dealing with in terms of what is wrong with the way campaigns are being conducted today is that too much money is pouring into the system. We have talked about this again and again, as I have said. It is simply not good for this country. All of us know it. It is not good for this country that the cost of campaigns continues to skyrocket. It is not good that the average cost to successfully run for the Senate has gone from $600,000 when I first came to the Senate 13 years ago all the way to $4 million. It is not good. It is not good that in the last 2 years the cost of running successfully for the Senate jumped from $1.40 to $1.80 per voter. That is what has happened in 2 years.

Where is it all going to end, Mr. President? Is the sky the limit? Is this upward spiral going to continue forever with more and more money being pumped into American politics, squeezing out an opportunity for the average citizen with new ideas to get involved and become a challenger in a political race? Already, with no spending limits, we know exactly what happens. Incumbents who are the targets of special interests who want access to them are able to raise far more money. Why would not a special interest give to someone who is already here, who already has the power to determine their own economic interests? Of course they do. That is why 8 times as much money is given to those who are already here sitting as incumbents as is given to challengers. It is not good. It is not wholesome. We know ourselves it is not good and wholesome that to run for office candidates have to go out and raise this massive amount of money. As someone said, in terms of trying to get that money raised, the implication is often given to those who are giving the money that you are not only going to get good government if you give a large financial contribution, you are going to get a whole lot more. You are going to get access and favoritism to your point of view.

It is just human nature, Mr. President. If you have a limited amount of time, and you are sitting in your office and you have three or four people wanting to see you and you have only one person you have time to see, who are you going to see? Are you going to see someone who hosted a $100,000 fundraiser for you or someone who just walked in off the street, an average citizen? As long as there is pressure to raise all that money, you are going to see the person who held the $100,000 fundraiser and not the average citizen from back home who happens to walk in off the street with an idea they want to discuss with you about how to make this country better.

That is wrong, Mr. President, and that is why the American people, seeing the influence of money in campaigns, and when they notice that 99 percent of the candidates that have the most money end up winning the election, get disillusioned.

I give myself 2 additional minutes. That is why they get disillusioned. That is why they say, does this Government belong to us anymore or does it belong to the people who can pour all this money into it? That is why they look at us and say, what is wrong up there? When they read that people who have given people running for the Senate a lot of money or helped them raise a lot of money end up getting in trouble or having a cloud cast over them, no wonder they lose confidence in this institution. We are victimized by it; the people back home are victimized by it, because half the money is not coming from them anymore; it is coming from the special interests here and other money centers of the Nation. Time that ought to be spent back home talking with constituents has to be spent running around the country raising money from those people who have the money to give to you. That is not right. Time that ought to be spent solving the Nation's problems has to be spent raising more and more money.

Let us get back to politics the way it ought to be, a competition based upon ideas and ideals and solving the Nation's problems and the qualifications of the candidates. We ought to elect people to office based upon their qualifications, not based primarily upon which candidate can raise the most money. That is what ought to happen. Let us put the Government back in the hands of people. To do it, Mr. President, you have to have spending limits.

If we do not stop this money chase, we are never going to clean up our political system; we are never going to restore public confidence back in this institution and the institutions of Government. It is too precious, Mr. President.

Think about what has been given to us. Think about what was handed to us by our parents and our grandparents; a great institution, the greatest political institution in the world, the greatest democracy in the world. What a shame it is we have allowed so much money to pour into the system, that we have undermined the confidence of our own people in the millions, who do not participate in elections anymore because they wonder if their votes count or if those dollars do not count for more, when they look at the facts that the people with the most money end up winning.

No wonder there is a 97-percent reelection rate in the House and 96-percent reelection rate in the Senate. No wonder people in frustration start to talk about term limitations or some other way to get control of their own Government back. That is what this is all about. That is what term limitations and other discussions like that is all about. People want to get control of their own Government again.

The way they could do it is to put spending limits on campaigns, get the competition back where it should be and get the people campaigning back at the grassroots.

To do that under the Supreme Court decision, you have to have incentives that will cause candidates to accept voluntary spending limits. The Supreme Court has said you cannot have mandatory spending limits. You have to have voluntary spending limits. Therefore, you have to have inducements to get candidates to accept those spending limits.

One of the important inducements in this bill is to say that those candidates who are willing to compete, as they should compete, on ideas and ideals in campaigns, and accept spending limits, will get the benefit of a reduced broadcast rate of 50 percent, if they do it. If this is stripped out of the bill, as proposed by my good friend and colleague, that incentive will be gone.

My fear is that fewer and fewer of the candidates would accept the voluntary spending limits. This arms race of money, in essence, this upward spiral of the money chase, and more and more money pumped into the system, will go on and on and on.

Mr. President, 80 percent of the American people—in some cases 90 percent in some polls—have said we want it stopped. We want some kind of system put in place that will put a limit on how much we can spend in campaigns. We do not think it is good for the country.

You go out to talk to high school seniors at graduation. You say I hope you will be involved in Government. You say someday I hope some of you will have the ambition to run for the U.S. Senate as I did and try to serve the public. Then you go to them and say, at the rate of increase in the cost of campaigns, by the time you are old enough under the Constitution to run, it will probably cost $15 million to run for the Senate in a State the size of Oklahoma.

How disillusioning is that? You have to say to them, all right, have you started to figure out how you are going to raise the $15 million? It was $600,000 when I first ran, I say, a little over 12 years ago. Now it is $4 million.

Look at it yourself. Look at the rate of increase. Look at that rate of increase per cost per voter in the last election. You will see what I am talking about is not far-fetched. We are the trustees of the system. If we do not do something to clean up the campaign process, who will?

I have been working on this now for 9 years. The first bill I introduced was with my good friend and colleague, the Senator for Arizona, Barry Goldwater. It was not a partisan matter. It was a matter that we saw something was wrong for America. We needed to reclaim for all Americans, Democrats and Republicans, the political process once more and to open it up to competition.

That is what we have to do, find an American way to solve this problem. We have to work together on a bipartisan basis.

My hope is—and I understand that when the roll is called in this bill we are likely to have mainly a party line vote—not a strictly party line vote, but more from one party than another. I heard the distinguished minority leader say on the floor yesterday, to me privately also, that he hopes when it comes time for the conference committee—he will be on the conference, the majority leader, the Senator from Maine will be on the conference committee, perhaps Speaker FOLEY and Leader MICHEL in the House, along with the others who have participated on the bill—that we can fashion a bipartisan agreement in the conference committee itself. To me, the fact that the Senator from Kansas wants to serve on the conference committee is a very hopeful sign.

I have had discussions with the President, myself, and with the President's legal counsel, about this bill. I want to see a bill enacted into law. I am not interested in building a political issue. As important as this issue is, I want to see us do something to save this system. Every day we are seeing it erode.

So, Mr. President, we have a responsibility. If we do not solve this problem, who will? If we do not do it now, are we going to wait until it takes $10 million, $15 million, $50 million in States like California and New York to run for the U.S. Senate? How much is enough? How much is enough? How long are we going to wait?

Let us not wait another day. Let us do something about it. The people have sent us here to preserve this system. Let us not pass on something to diminish the next generation. Let us keep that heritage alive and vital, and pass it on enhanced by what we have given to it with our own public service for the next generation. The people have a right to expect that.

That is why at the appropriate time I will move to table the Nickles amendment and keep in this bill a very important incentive to reduce broadcast rates which will encourage candidates to accept spending limits and to begin to squeeze some of this excess money out of the political process.

The PRESIDING OFFICER. The senior Senator from Oklahoma has 3 minutes remaining; the junior Senator, 11 minutes.

Mr. NICKLES. Mr. President, if anyone is getting squeezed as a result of S. 3, it is the taxpayers and it is the broadcasters. The taxpayers are being asked to pony up millions of dollars, maybe over a 6-year cycle up to $1 billion.

I tried to strike that last night. The Senator from Kentucky tried to strike it yesterday, unsuccessfully. Now I am trying to strike the other side of it where broadcasters are being squeezed out of millions of dollars. I do not think it is fair.

I want people to know what we already have in the bill or what has been agreed to in the bill for broadcasters. They have agreed to give politicians fixed time at preemptible rates. What that means—I will give you an example. If you are in a market, a large market, where in radio time the fixed spot would cost you $225, the lowest unit rate or the preemptible rate would be $135. It is about a 40 percent savings, where that cost is about 60 percent of the fixed rate.

Those of us that have bought time both ways know that. In a small radio market, like in Nevada, a lot of places in Oklahoma, a nonpreemptible or a fixed-rate spot is $35. But in the preemptible rate it is $21—again, about 60 percent of the cost, or a savings of about 40 percent.

The broadcasters have agreed to do that. They are going to give us fixed times, and yet they are going to charge us only the preemptible rate. That is a better deal than anybody else has, any of the commercial groups. That is what we are going to get as politicians. I think they have gone a long ways to give us a significant benefit.

But yet, S. 3 says even after that reduction, we want 50 percent off. We want 50 percent off the lowest deal that you give anybody. We want 50 percent of that.

Maybe they have the money to do it. Maybe they do not. I just happen to think a lot of small stations do not have the money. As a matter of fact, my colleagues might be interested in knowing there are 9,356 licensed radio stations in the country and 1,115 TV stations. Maybe some of those are making a lot of money. My guess is a significant number of them, at least in the rural areas, are not making money. Yet we are going to dictate to them. Not only do they give us the lowest rate that they charge anybody but they will actually give us fixed guaranteed times so we can buy the guarantee. We get our spot next to cost by program, but we get to pay preemptible rates. That is a pretty good deal.

So we already have a good deal you might say. Politicians have come out well under this bill particularly after the Danforth amendment is agreed to. But the S. 3 goes that much further and says we want to be able to have the guarantee, be able to buy time on cost, but pay preemptible rates, and we want it at half the rate in addition.

I think that is outrageous. I think it is outlandish. I do not think it should be part of this bill.

It is going to cost broadcasters millions of dollars. It is going to cost the other advertisers and ultimately the consumers millions of dollars because they will be paying for it.

It may have the net result of putting some people out of business. Because, again, this is not just for U.S. Senate candidates. S. 3 may deal with U.S. Senate candidates, but there is no way a broadcaster is going to be able to tell a county commissioner, we gave Senator Joe Blow a rate of so many dollars for that 30-second spot, but you are going to have to pay twice as much. I do not think that will sell. I do not think that will work. I do not think that is fair.

I do not think it is fair for us to have an advantage over every other person purchasing advertising. I do not think that makes sense. Why should we be putting this squeeze on the broadcasters. If we are going to do it for broadcasters—and we have done it for mail. We get to pay one-fourth of what anybody else pays. We lost on that yesterday.

I think it is wrong for us to get broadcasting at one-half the rate of anybody else. If this amendment makes sense, why do we not do the same thing on newspapers? Why do we not pass a law that says we get to pay at one-half of the rate as anybody else for newspaper. I do not agree with that. That is two wrongs trying to make a right. But that is what we are doing today on the broadcasters, and that is another reason why this amendment should pass, and we should reject this enormous subsidy that we would be giving ourselves in this bill.

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

Mr. MCCONNELL. Mr. President, I rise in support of the amendment of the Senator from Oklahoma [Mr. NICKLES]. Let me just make a couple of brief observations about some of Senator BOREN's comments a few moments ago. I frankly think that——

The PRESIDING OFFICER (Mr. ROBB). If the Senator will withhold. The Senator from Kentucky has reserved his time. He is speaking under the time of the junior Senator from Oklahoma, is that right?

Mr. MCCONNELL. Will the Senator yield me 3 minutes?

Mr. NICKLES. Certainly.

Mr. MCCONNELL. Mr. President, I want to make a couple of observations about some of Senator BOREN's comments.

I think any Senator who only sees those who contribute to him ought to be run out of town, ought to be taken before the Ethics Committee, and at very least ought to be defeated. I do not think any Senators in this body refuse to see people that do not contribute to them.

Further, this observation about Senators running around the country raising money, I think we ought to quit it. If they find the practice offensive, they ought to just cure the problem by discontinuing it.

With regard to the amendment that is currently before us, I am of the view that a broadcast discount, possibly a significant broadcast discount, is not too much to ask of the broadcasting industry. After all, unlike newspapers, they are granted a license to operate in the public interest. These are very lucrative licenses. Some have even suggested that they ought to be sold, rather than just granted, as a revenue raiser for the Government.

Without addressing those particular issues, I do not think, however, that a candidate ought to be held hostage to spending limits with reference to a broadcast discount. I do not think we ought to say to a candidate, only if you limit your speech do you get a broadcast discount. I think Senator NICKLES' amendment should be approved. I do not think that this kind of hostage taking in order to snuff out first amendment rights is a good idea.

But beyond the Nickles amendment, the question of a broadcast discount is something that will be discussed extensively today. My own view is that it is the one stand-alone thing we can do in the area of campaign finance reform that does not tilt the playing field either way; that it is not too much to ask of the broadcasters to give us a little bit of a break.

As Senator NICKLES points out, they have agreed to go a little further than they have under existing law. Political advertising is only about three-fourths of 1 percent of overall broadcasting advertising revenue. At least, that is what broadcasters testified to on a bill of mine before the Commerce Committee. This year they said it was from 2 to 5 percent of their total advertising revenue. If we ask the broadcasting industry to give us some break—and we are asking for a break in a very small percentage of their overall advertising revenue—this would, of course, help mostly challengers. One of the most significant things we can do for challengers is to make the cost of broadcasting, particularly toward the end of the campaign, more affordable.

But the Nickles amendment should be approved, because under S. 3, in order to benefit from what is indeed a very significant broadcast discount, a candidate would have to agree to limit his speech—to limit his speech. That goes to the very heart of the debate that we have been engaged in over the last 4 or 5 days. I commend the Senator for his amendment. I think it is a good one, and I certainly hope it will be adopted.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma [Mr. NICKLES] controls 2 minutes, 13 seconds.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator MCCONNELL from Kentucky, not only for the statement he just made but also for the leadership which he has shown, and his commitment and perseverance. He has fought quite a battle.

Unfortunately, we do not have the votes on many of these provisions. I hope we have the votes on this provision.

This may not be a purely partisan issue. I expect that we will have some Democrats that will vote for this, and maybe some Republicans will vote against it. I think it is an amendment that deserves to be adopted.

Again, I thank my friend, Senator MCCONNELL, for his leadership, because he has been fighting the battle for many years and, needless to say, I think it is an important battle for taxpayers and an important battle for constituents that wish to express themselves in elections.

I think freedom of speech, the ability to participate, and ability to contribute to campaigns is virtually important. We do not want to sacrifice those freedoms. We do not want to give up competitive elections. We want to actually increase that. I think Senator MCCONNELL helped that in his leadership on this difficult issue.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. Mr. President, I yield myself just 1 minute.

A moment ago, a comment was made by me that I think people were tempted very often, as they are faced with tight time situations, to see people who would raise money and make contributions because people were so pressed to raise money. I think that is a temptation. I want to say, and make it clear, that that is not a policy which I follow individually, nor is it a policy that I would say that all of my colleagues follow.

I think what it points out, what I was trying to point out, however, is that the temptation is there for Members when they are faced with the need to raise a lot of money. If we were not faced with that problem of raising so much money, more time could be spent on dealing with the Nation's problems. Look at the record; more than half of the money raised in successful campaigns of more than half of the Members of Congress is raised not from the home States or districts of the Member, but from other places. This means they are having to travel to other places.

The Senator from Kentucky says he wishes that were not true. So do I. That is the reason I want to put spending limits in place, so people will not have to travel all around the country raising money, taking away time. There are only so many hours in a day. That time could be spent dealing with problems or could be spent back home speaking to one's own constituents, and listening to the average people up and down the main streets, and on the farms, and in the rural areas, and in the cities across your States and district. That is what ought to be done.

I certainly do not want to imply that an average Member of the Senate has given in to the temptation not to see an average citizen. I certainly have not. Most of my day is spent doing exactly that. That is why I am here. Those are the people I am sent to represent, and to represent all of them equally.

But the presence of money in the system really runs the grave risk—massive amounts of money that have to be raised—that precious time will be spent in the fundraising process, and speaking and dealing with people who have the capacity to raise that money, rather than dealing with the Nation's problems and the individuals who need to be seen. That illustrates the point I was trying to make. It is a perverse, corrosive, influence that unconsciously begins to eat away at the political process of this country, and we must do something to guard against that.

I reserve the remainder of my time.

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

The PRESIDING OFFICER. The Senator has 54 seconds remaining.

Mr. NICKLES. Mr. President, I will summarize.

I have already entered into the RECORD a letter by the National Association of Broadcasters, but I will read this one paragraph. It says:

> S. 3 would impose a devastating double "hit" on broadcasters. First, the bill already provides candidates with substantial discounts by ensuring them fixed time at stations' lowest preemptible rates. It goes further, however, to provide an additional 50 percent discount off of that new lower rate to eligible Senate candidates. Finally, this fire sale rate is available to candidates during an even longer campaign cycle than today's law provides.

Mr. President, the bill we have already basically agreed to with the Danforth amendment gives us the lowest unit rate, that is about 60 percent of the regular rate. If we adopt S. 3 that means we are going to get rates at 30 percent of what the normal commercial customers pay. I think that is wrong.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BOREN. I yield 15 minutes to my colleague to complete.

Mr. NICKLES. I ask unanimous consent to print a list of radio and television stations for the RECORD and a State-by-State breakdown.

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

Commercial Radio and Television Stations

Alabama:	
Radio	275
TV	28
Alaska:	
Radio	72
TV	11
Arizona:	
Radio	162
TV	19
Arkansas:	
Radio	227
TV	13
California:	
Radio	599
TV	77
Colorado:	
Radio	175
TV	19
Connecticut:	
Radio	70
TV	8
District of Columbia:	
Radio	18
TV	6
Delaware:	
Radio	18
TV	1
Florida:	
Radio	411
TV	56
Georgia:	
Radio	346
TV	29
Hawaii:	
Radio	63
TV	19
Idaho:	
Radio	101
TV	10
Illinois:	
Radio	313
TV	35
Indiana:	
Radio	219
TV	28
Iowa:	
Radio	185
TV	18
Kansas:	
Radio	153
TV	17
Kentucky:	
Radio	264
TV	16
Louisiana:	
Radio	204
TV	24
Maine:	
Radio	195
TV	8
Maryland:	
Radio	101
TV	10
Massachusetts:	
Radio	131
TV	14
Michigan:	
Radio	310
TV	33
Minnesota:	
Radio	229
TV	18
Mississippi:	
Radio	230
TV	16
Missouri:	
Radio	257
TV	29
Montana:	
Radio	109
TV	15
Nebraska:	
Radio	123
TV	15
Nevada:	
Radio	62
TV	12
New Hampshire:	
Radio	61
TV	3
New Jersey:	
Radio	78
TV	3
New Mexico:	
Radio	137
TV	17
New York:	
Radio	356
TV	43
North Carolina:	
Radio	351
TV	30
North Dakota:	
Radio	64
TV	17
Ohio:	
Radio	304
TV	38
Oklahoma:	
Radio	172
TV	19
Oregon:	
Radio	168
TV	18
Pennsylvania:	
Radio	376
TV	34
Puerto Rico:	
Radio	103
TV	19
Rhode Island:	
Radio	27
TV	4
South Carolina:	
Radio	206
TV	17
South Dakota:	
Radio	79
TV	13
Tennessee:	
Radio	308
TV	28
Texas:	
Radio	682
TV	86
Utah:	
Radio	86
TV	7
Vermont:	
Radio	50
TV	3
Virginia:	
Radio	268
TV	21
Washington:	
Radio	190
TV	21
West Virginia:	
Radio	142
TV	11
Wisconsin:	
Radio	232
TV	27
Wyoming:	
Radio	70
TV	8

The PRESIDING OFFICER. The Senator from Oklahoma controls 19 seconds.

Mr. BOREN. All time having expired on the other side, I move to table the Nickles amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

In accordance with the previous order, the vote will occur in sequence following the 1:30 time set for all votes to take place.

The Chair recognizes the Senator from Oklahoma.

Mr. BOREN. Mr. President, as far as the unanimous-consent request, last night, as we were trying to complete and Members were trying to go home, I did not indicate my intention to make a tabling motion of the Roth amendment. But so our colleagues will be on notice, there will be a rollcall vote on the Roth amendment, and that it would be a tabling motion. When 1:30 arrives, I ask unanimous consent that it be in order for me at this time to make a tabling motion on the Roth amendment offered last night and ask for the yeas and nays.

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

The motion is in order.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the next amendment to be considered is the amendment to be offered by the Senator from Utah [Mr. HATCH].

AMENDMENT NO. 265 TO AMENDMENT NO. 242

(Purpose: To require disclosure of certain information concerning the expenditure of union dues, fees, and assessments on political activities)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 265 to amendment No. 242.

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

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

The amendment is as follows:

On page 88, between lines 12 and 13, insert the following:

SEC. 232. LABOR ORGANIZATIONS.

Title III of FECA, as amended by section 106, is amended by adding after section 304A the following new section:

"DISCLOSURE OF INFORMATION CONCERNING EXPENDITURE OF UNION DUES, FEES, AND ASSESSMENTS FOR POLITICAL ACTIVITIES

"SEC. 304B. (a) IN GENERAL.—Each labor organization shall, not later than January 30 of the year following the end of each Federal election cycle, provide to the Commission and to each employee within the labor organization's bargaining unit or units a written report disclosing the portion of the labor organization's income from dues, fees, and assessments that was expended directly or indirectly with respect to activities that, in whole or in part, were in connection with an election for Federal office during that election cycle.

"(b) CONTENTS.—(1) The report under subsection (a) shall disclose information on the dues, fees, and assessments spent at each level of the labor organization and by each international, national, State, and local component or council and each affiliate of the labor organization showing the amount of dues, fees, and assessments spent—

"(A) on direct activities, such as cash contributions, to candidates, and committees of political parties;

"(B) on internal and external communications relating to specific candidates, political causes, and political parties;

"(C) internally by the labor organization to maintain, operate, and solicit contributions for a separate segregated fund; and

"(D) on voter registration drives, State and precinct organizing on behalf of candidates, and political parties, and get-out-the-vote campaigns.

"(2) For each of the categories of information described in paragraph (1) (A), (B), (C), and (D), the report shall identify the candidate for public office on whose behalf expenditures were made or the political cause or purpose for which expenditures were made.

"(3) The report under subsection (a) shall also list all contributions or expenditures made by separated segregated funds established and maintained by each labor organization.

"(c) DEFINITION.—For the purposes of this section, the term 'in connection with an election for Federal office' has the meaning that it has under section 325(b)."

Mr. HATCH. Mr. President, this amendment is simple and straightforward. It does not attempt to codify the Beck case that we discussed last year. There is nothing complex or legalistic about it.

This is a modest measure of fundamental fairness. It is a simple right-to-know amendment, the right of American workers who pay dues and fees to unions that represent them to know how their money is being spent for certain political purposes, causes, and activities. It does nothing more than require a report by labor organizations to be filed with the Federal Election Commission and given to workers represented by unions, showing how much of their union dues and fees are being spent on the political process.

As we all know, part of the debate here has been the use of these types of money that never have to, because of the loophole in the Federal election laws, be seen on the reports, or to be reported by those who receive the benefits from the union expenditures.

I have to say that this amendment does not impose overly burdensome or onerous requirements on the unions. This is basic information, and it should be freely provided. I cannot believe that the union leaderships have a legitimate interest in keeping secret what political causes and activities employee dues and fees are being spent to support. If employees learn how their money is being spent in the political process, unions will enjoy an even greater confidence level in their decisionmaking.

On the other hand, if employees might not like what they see, is that any reason they should not see it? Is it too onerous? No. After the numerous paperwork burdens that this Congress has freely imposed not only on small businesses but also on all tax-paying citizens, how can any of us object to ensuring that workers are informed about how their dues moneys are being spent on the most fundamental of all American activities, the political process?

I doubt that anyone would suggest that unions, even at the local level, do not keep these records anyway. How else can an organization that represents employees be effective and accountable if it does not even know how the dues and fees collected from the employees it represents are being expended?

Should we have the same requirements also be applied to corporations, to give this type of information to their shareholders? There is not the same problem there. But why not? If my colleagues agree, I can certainly modify my amendment right here and now to do just that—both publicly held corporations, and nonprofit corporations who receive donations. I can have them report. I am prepared to require disclosure by corporations also, as my amendment currently does for labor organizations.

This amendment represents only one simple, straightforward question: Should an employee be left in the dark on how his or her union dues and fees are being spent in the political process? This amendment, which I am prepared to modify to also cover corporations and nonprofit entities, is the most modest of beginning steps that we can take to bring commonsense reform to our campaign laws.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I ask unanimous consent that the time in opposition to this amendment be controlled by the distinguished Senator from Massachusetts [Mr. KENNEDY].

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

The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, the author of this amendment calls it a right-to-know amendment but it does not provide a right to know about the expenditures of the Right-to-Work Committee or the Right-to-Life Committee or the various Chambers of Commerce or the various other membership organizations. All the amendment is applicable to are workers and their representatives in the unions of this country. It is a one-sided amendment and grossly unfair on its face.

The Federal election laws were carefully crafted to ensure that corporations, labor organizations, and other membership organizations were treated equally with respect to Federal campaign spending. Under current law, all these organizations are generally prohibited from making contributions to candidates or parties or engaging in other partisan activities in connection with Federal elections except through separately established political action committees funded by voluntary contributions.

One exception allows corporations and unions to spend general treasury money on communications to members or to shareholders and their families urging them to support or oppose a particular candidate. But if a corporation or union or any other membership organization spends more than $2,000 in any election period on such communications, those expenditures have to be reported to the Federal Elections Commission.

This is a single, uniform disclosure standard applicable equally to all and that is the way it should be.

The Senator from Utah now proposes to destroy that careful balance by requiring unions—and only unions—to account for and report every dollar they spend either directly or indirectly not just on internal communications relating to candidates, but on a range of activities that corporations and other membership organizations would not have to report.

The expenditures required to be reported under this amendment would include not just expenditures in connection with Federal elections but also expenditures for communications relating to and I quote, "political causes." Written reports detailing these expenditures would have to be provided not just to the FEC but to every single employee whom the union represents. And let me point out that there are 16 million union-represented employees in the country.

Meanwhile, corporations and other membership organizations like the Right-to-Work Committee, the Right-to-Life Committee or the various Chambers of Commerce would continue to be subject only to the more limited disclosure requirements under current law—the $2,000 figure to which I just referred.

It should be obvious from the blatantly one-sided nature of this amendment that the real intent here is to advantage certain groups in the political process at the expense of others.

Why should we require unions to assume costly burdens of accounting and recordkeeping when corporations do not have to do the same? Why should we require down-to-the-penny accounting of expenditures by unions when the threshold for reporting by corporations is $2,000? Why should unions be required to report the political causes they support when we do not require corporations to do the same? Why should unions have to spend large sums of money to provide this kind of information to employees when corporations do not have to spend a dime to make that information available to their stockholders?

If my friend from Utah was proposing new reporting requirements that applied equally to corporations, unions, and other membership organization and that did not unduly infringe on the normal activities of non-organizations. I would not be expressing the concern I am stating here today.

Instead we are presented with an amendment that would discourage working people from participating as union members in the political process by conditioning their unions' ability to spend even a few dollars of their dues money, for something like a voter registration drive in compliance with onerous paperwork requirements that would be unworkable for any organization or business.

When Congress enacted the current reporting requirements in the Federal Election Campaign Act Amendments of 1976, we established a $2,000 reporting threshold provision to avoid burdening small organizations that engage in minimal reporting activity with onerous paperwork requirements. We also required reporting only of direct expenditures in recognition of the difficulty inherent in trying to account for indirect costs.

Now the sponsors of this amendment are telling us that we should keep that $2,000 threshold for the reporting of corporate expenditures but we should require every local union to report and identify every dollar spent, whether directly or indirectly, not just on candidate advocacy or even Federal elections in general, but on any political cause.

Under this amendment, if a local union business agent at a local union meeting took a few minutes to talk about apartheid in South Africa and urge members to sign a petition protecting that practice, the local union would presumably have to allocate and report some portion of the costs of the meeting, rental of the hall, and the officer's salary, as an expenditure relating to a political cause. If a union put an article in its newsletter urging members to write their Congressmen about the need for health care reform, a share of the cost of that newsletter would also have to be reported. Mr. President, what conceivable justification is there for requiring a union or any other private organization to report to a Federal Government agency that political causes it supports?

The reporting requirements in the Federal Election Campaign Act that have been in effect for some 15 years are evenhanded and reasonable. The requirements proposed in this amendment are not, and I do not believe the Senate should accept this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, everybody knows the corporate world represents shareholders and not individual dues-paying members. Everybody knows the corporate world does not do the collateral campaign work that the unions do with dues paid money. It is hardly the same situation.

But the distinguished Senator from Massachusetts raises a fair point. If we include the unions, should we not include the corporations, including nonprofit corporations? And I have to say, if he feels strongly about it, I am going to do that.

So I ask unanimous consent to send a modification to the Hatch amendment to the desk that will do precisely what he is complaining about.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, I would like, if we could, to get a chance to look that over. We have scarce time.

Mr. HATCH. I would be happy to read it.

Mr. KENNEDY. I would ask him to read the amendment. I understand we are under a time limit. I reserve the right to object until I have a chance at least to look at the amendment.

Mr. HATCH. Mr. President, why do I not read the modification. I will read it word for word.

Mr. KENNEDY. I want to make it clear I reserve the right to object.

The PRESIDING OFFICER. The reservation of the Senator's rights is noted.

The Senator from Utah is recognized.

Mr. HATCH. I think it meets every need the distinguished Senator from Massachusetts would like to have.

"At the end of the Hatch amendment, number" whatever it is, "add the following new subsection:"

(d), publicly-held corporations shall be required to provide to their shareholders, and nonprofit organizations shall be required to provide to donors of more than $100, a report as specified in subsection (a) above disclosing the amount spent for purposes listed in subsection (b)(1) (a) through (d).

This modification will require corporations, regardless of the amount of money, to report to their shareholders, just like the unions will have to report to their union dues payers, even though I do not think there is any comparison at all. But I am willing to do that. And it provides, in the case of nonprofit corporations, they have to provide to their donors of more than $100 a similar report and file it with the FEC.

So that handles every criticism the distinguished Senator from Massachusetts has raised.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I will have to object.

Mr. HATCH. Is this on my time or on the time of the distinguished Senator from Massachusetts?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. The Senator from Utah has the floor. All time is chargeable to him.

Mr. KENNEDY. First of all, I exercise my parliamentary right of objecting, and I will speak on my own time.

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. I cannot understand why the Senator is objecting when I am trying to do exactly what he says he wants done. Even though I do not think it is quite fair, I am willing to do that.

I think the reality is he is unwilling to be fair in this matter. They do not want the unions to have to report to honest, dues-paying members—who may be Republicans or Democrats or independents or whatever—how those dues moneys of theirs is being used.

Now, if that is not the wrong way to approach things, I do not know what is.

Let us be fair. I am willing to impose the very same thing on corporations, exactly what he has asked, without dollar amounts. I am willing to impose on nonprofits exactly what he wants.

Now we put a $100 limitation on which donor is entitled to a report, it may be unreasonable to impose such a requirement of donors of very small amounts. I will even take that off if he wants.

But in all honesty, this is what he has asked for. This is what he has complained about. He wants me to be fair. I am being fair, even though everybody in the election process knows corporations are not doing what the unions are doing in Federal election situations, nor do they almost 100 percent support one party, as the unions do; well over 90 percent support one party.

So what more can I do? My feeling is it is one thing to stand up and make the complaints, and then I meet the complaints and then the Senator objects to meeting the complaint.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator controls 7 minutes and 51 seconds.

Mr. KENNEDY. Mr. President, this is the kind of situation where you need more time for consideration and deliberation. The perfecting amendment, as I understand it, applies, to disclosure to donors of $100 or more. It is not parallel because what you are talking about in the union content is disclosure to all members as well as nonmembers. The Senator from Utah is saying he has parallelism because it is going to apply equally to corporations and unions. It is not. Either that, or it is poor drafting.

Mr. President, the fact remains, that I believe these requirements place an enormous, onerous burden on any organization covered by them, whether a union or any other membership organization.

I understand the interest of the Senator from Utah in trying to provide additional, in effect, sunlight. But I am no more willing to burden an organization like the Sierra Club or various consumer organizations, with this kind of burdensome paperwork requirement. I am to place those burdens on union.

But, Mr. President, this perfecting amendment does not achieve parallelism in any event.

We have 6 minutes or 5 minutes more to debate this. If disclosure is a problem that needs to be addressed I think the Rules Committee ought to address it. It has not been demonstrated here on the floor that it is a significant problem. This was basically a one-sided, one-shot amendment. And now, in the final minutes remaining of our time, the Senator from Utah is trying to broaden it out. I have not had an opportunity to see this perfecting amendment. That is why it is objected to. And if there is a problem, then the Rules Committee ought to address it through the committee process with appropriate opportunity for full consideration.

I do not think the case for this amendment has been made here today and therefore I do not believe the amendment should be accepted.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, how much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator controls 4 minutes and 4 seconds.

Mr. HATCH. Mr. President, is it correct that I need unanimous consent to modify my own amendment at the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Therefore, I cannot modify my own amendment to meet the complaints of the Senator from Massachusetts, because he objects to the unanimous consent; is that correct?

The PRESIDING OFFICER. An objection would preclude modification under the unanimous consent order.

Mr. HATCH. Mr. President, it seems a little odd to me, when the Senator raises the issue that Right to Work Organization is not covered, "Right to Life" is not covered, and all other nonprofits are not covered unless I have this modification, and I give it to him; where in the world is the logic behind objectivity to that?

I am meeting what the Senator said he wants to be met. I am requiring corporations, regardless of how much money they spend—if it is $1—to report it to every shareholder, fairly requiring the unions to report to their union members where they are using their moneys with regard to political matters.

It is fair. It is right. It is a right to know. I am meeting every question the distinguished Senator from Massachusetts wants, and he now will not allow me to modify my amendment. That is fine with me. But I want everybody in this body to understand there is absolutely no reason in the world why union-dues and fee-paying members, who cannot protect themselves, do not, or should not, have a right to know how their dues are being spent for political activities with which they might agree or disagree; especially since the unions have to keep track of those matters anyway.

We are not asking for any onerous or burdensome duties. We are just asking for what they have to do anyway. Except nobody knows what they do with the moneys. The dues-paid members do not know what is happening to their dues.

It has been estimated by some that every 2 years upwards of $100 million of union dues go toward political activities. That may be high; I do not know. But that is what some advocate and argue.

Let us say it is $25 million; it is still a lot of money. And dues-paying members ought to have some idea. I am willing to meet the Senator's criticisms. I will require every corporation to report to every shareholder; I will require every nonprofit corporation to report to every one of their donors. How much more fair can it be?

That means the National Right-to-Life Committee will have to report. It means the National Right-to-Work Foundation will have to report. If they are using money for political purposes, they will have to tell their donors. I am willing to do that. But it also means every other nonprofit group is going to have to do it too, including those that are circumventing the political process on the other side of this coin.

All I have to say is that it seems highly unusual to me to raise these arguments, as though they are wonderful arguments, and have me meet the objections, 100 percent meet them, and then object to having me meet them. I think what it says is that the distinguished Senator from Massachusetts and those whom he represents are afraid to have the dues-paying, honest workers of this country find out what unions are using their dues moneys for when it comes to political activities.

And well they might. Because there is not a Republican running today, who is moderate to conservative, who does not confront a flood of money coming into his or her opponent that is never reported, from dues-paying money, by the unions in their States, in ways that are, I think, subverting the political process. And that is why the Senator is objecting to getting this thing evened up. Even though I am meeting his objections, he is objecting to my modification.

I call on all my fellow Senators to put an end to this. It is time to play this game fairly, and the only way you can is to vote for the Hatch amendment. I hope you will. If you do not, you are going to have to live with the consequences.

The PRESIDING OFFICER. All time controlled by the Senator has expired. The Senator from Massachusetts controls 7 minutes.

Mr. KENNEDY. Mr. President, that was a very eloquent, impassioned statement, but it was fundamentally wrong.

Mr. President, at the present time, PAC's have to make declarations about their contributions. The money contributed by PAC's has to be voluntarily collected and it has to be reported. That is the law. If the Senator has instances where it is not being done, he ought to report it to the Justice Department, No. 1.

Second, you currently have a requirement for reporting of expenditures over the $2,000 threshold if a union is spending dues money for internal communication, which was carefully crafted out, accepted, and has been in effect.

Now, with regard to the final two areas of expenditures, which are registration and the get-out-the-vote campaign, if the Senator has complaints about that, let us hear them. But this is a bad amendment on its face, and now he wants to extend it. It is just a bad idea. Why should it be extended?

These kinds of requirements will have one very important and fundamental result, and that is they will dampen political activity. We hear statements out here on the floor about how we want to encourage political activity, and we are attempting to encourage political activity.

You accept this particular amendment, and what is going to happen every time, either in a corporation or in the Sierra Club, or in any other group? Its members are going to say: Should we involve ourselves and engage in a discussion about the pros and cons of a particular issue, if we are going to have to account for and fill out voluminous reports on all the costs indirectly associated with conducting this discussion? This fundamentally undermines that basic process, Mr. President. It just makes no sense.

If we have a problem, the time to deal with it is not in a half hour, in the final hours of debate on this bill. It is for the Rules Committee to debate this and bring a recommendation to us. This issue has not been identified as a problem by the sponsors of this legislation at any time during the course of this debate up until now.

I do not believe these requirements were a good idea in the amendment as introduced, and I do not think it is a better idea just because you now propose them to be extended.

Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator controls 2 minutes and 21 seconds. All time controlled by the Senator from Utah has expired.

Mr. KENNEDY. Mr. President, I will be glad to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment offered by the Senator from Utah.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur sequentially, as included in the unanimous consent agreement, beginning at 1:30.

The next amendment in order to be offered is by the Senator from Mississippi [Mr. LOTT] with 20 minutes to be equally divided. Who yields time?

If neither side yields time, time will be deducted equally from both sides.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 267

Mr. MCCONNELL. Mr. President, the Senator from Mississippi is unavoidably detained. I want to explain to my colleagues what his amendment is about. We are going to get a copy of it and offer it on his behalf.

The PRESIDING OFFICER. The Senator is recognized, with time chargeable to the Senator from Mississippi.

Mr. MCCONNELL. Mr. President, yesterday I received a letter from the President of the United States pointing out there are three things that can trigger a Presidential veto: No. 1, spending limits; No. 2, public finance; and No. 3 would be if the House and Senate tried to write a different set of campaign finance rules for each body.

There has been some suggestion on the other side, in the other body, that the Senate would simply craft a set of rules for itself, and the House would craft a set of rules for itself. And there, I guess, would be no conference and we would send it on down to the President.

The President's letter to me, dated May 22, says in pertinent part on this issue: "Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further Balkanize ethics in election reform."

That is the President of the United States in a letter to me just yesterday.

I might say further, Mr. President, when I first suggested the abolition of political action committees 3 years ago, I only had 14 cosponsors, all of them Republicans. Today, that is in the underlying bill. As we had our debate on last year's version of campaign finance reform, the day before the bill was to come up, the majority adopted the position of the Senator from Kentucky, presumably in order to avoid having to vote on the elimination of PAC's, and thereby adopted the position originally advocated by this Senator 3 years ago.

From all I have read, Mr. President, this great reluctance, particularly by the majority in the other body, to eliminate PAC's and some suggestion that quite possibly the way to save PAC's would be for the Senate to go on and get rid of them if they want to, but we will not do it in the House.

The purpose of the sense-of-the-Senate resolution of the Senator from Mississippi is to express the sense of the Senate that we ought to craft one set of rules, one set of laws on campaign finance reform that applies to both the House and the Senate equally. I hope it is an amendment that will be accepted.

Mr. President, I ask unanimous consent that the letter to me from the President on yesterday be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, May 22, 1991.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR MITCH: In my State of the Union address in January, I expressed my strong desire to achieve genuine campaign finance reform this year. We must curtail special interest influence in elections, promote electoral competition, and increase the participation of individual citizens and the political parties.

Since my first year as President, I have called for abolishing political action committees that are subsidized by corporations, unions, or trade associations. That critical step, combined with measures to reduce unfair advantages of incumbency, would markedly improve both the perception and the reality of our electoral process.

I hope that Congress does not waste this opportunity for reform on efforts to insulate incumbents further, by limiting overall speech in campaigns to challenge them, or on new schemes to provide taxpayer subsidies for congressional elections.

The legislative initiative which you and many of your colleagues recently introduced would eliminate political action committees and accomplish several other reforms I have proposed in the past, including tighter regulation of "soft money" and the use of union dues for political purposes. In addition, your bill promotes electoral competition in several respects consistent with my previous proposals.

Spending limits, on the other hand, would disadvantage challengers and thereby entrench incumbents further. Ironically, spending limits tend to favor powerful special interests over individuals, because these interests would retain the financial and organizational resources to work around the limits. Therefore, I intend to veto any campaign finance "reform" legislation which features spending limits or taxpayer financing of congressional campaigns.

Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

As you know, there are two critical ingredients to campaign reform: curbing the divisive role of special interests and enhancing the quality of representation through real electoral competition. I believe both of these goals can be achieved and are essential to revitalizing our electoral process.

I look forward to working with you and your colleagues to enact meaningful campaign finance reform consistent with these aims.

Sincerely,

GEORGE BUSH.

Mr. MCCONNELL. Mr. President, I will reserve the remainder of the time of Senator LOTT.

The PRESIDING OFFICER. Who yields time? Neither side yields time. Time will be subtracted equally from both sides.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BOREN. Mr. President, I ask unanimous consent that the pending amendment of the Senator from Mississippi be set aside under the condition that the time that has already run against the amendment be charged against the amendment and that when we return to consideration of the amendment of the Senator from Mississippi, only the time remaining would be available.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be set aside. The time remaining will be about 9 minutes. We will recalculate shortly.

The next amendment under the previous order is the Boren amendment with 10 minutes to be equally divided. The Senator from Oklahoma.

AMENDMENT NO. 266 TO AMENDMENT NO. 242

(Purpose: Technical amendments relating to reporting requirements)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 266 to amendment No. 242.

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

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

The amendment is as follows:

On page 10, line 21 strike "Commission" and insert "Secretary of the Senate".

On page 50, line 8 strike "Commission" and insert "Secretary of the Senate".

On page 50, line 14 strike "Commission" and insert "Secretary of the Senate".

On page 51, line 1 strike "Commission" and insert "Secretary of the Senate".

On page 54, line 8 after "title V" insert "(whenever a 24 hour response is required of the Commission)".

At the end of title IV, insert:

Sec. 405. TECHNICAL CORRECTIONS TO ETHICS IN GOVERNMENT ACT OF 1978

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 103(1) by striking "7-day" and inserting "30-day"; and

(2) in section 105(b)(1) by—

(A) striking "Each agency" and inserting "Except as provided in the second sentence of this subsection, each agency"; and

(B) inserting after the first sentence the following: "With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year, or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g)."

Mr. BOREN. Mr. President, this is simply a housekeeping, technical amendment. Most of the reports that are filed by Senators, by candidates for the Senate are filed with the Secretary of the Senate and then with the Federal Election Commission.

In the drafting of our bill, inadvertently we provided that in the case of independent expenditures those reports would go directly to the Federal Election Commission instead of also being logged in first as the point of entry with the Secretary of the Senate. This would simply make all of the reporting uniform and parallel. It is a technical amendment and would have those reports sent at the point of entry to the Secretary of the Senate, to his office, as well as to the Federal Election Commission, and make all the reporting parallel.

I would be happy to respond to any questions. I think it is probably acceptable on the other side of the aisle.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. MCCONNELL]

Mr. MCCONNELL. Mr. President, we have no objection to the Boren amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BOREN. Mr. President, I yield back all time remaining on this side.

The PRESIDING OFFICER. Does the Senator from Kentucky yield back all time?

Mr. MCCONNELL. I yield back all time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 266) was agreed to.

Mr. BOREN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of the amendment sponsored by the Senator from Mississippi [Mr. LOTT].

Mr. BOREN. Mr. President, I ask unanimous consent that while we await the return to the floor of the Senator from Kansas, the distinguished minority leader, we enter into a quorum call, the time to be charged against neither side.

I further ask unanimous consent that as soon as the Senator from Kansas arrives back on the floor, the distinguished minority leader be recognized to offer the Dole amendment under the conditions of the order entered into last night, and that the amendment of the Senator from Mississippi continue to be set aside in order that we might take up the Dole amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the quorum call will not be charged against either side. The Republican leader will be recognized to offer his amendment as soon as he returns. The Lott amendment will continue to be put aside until the disposition of the Dole amendment.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 267

(Purpose: To express the sense of the Senate regarding application of provisions relating to PACs equally to candidates for the Senate and candidates for the House of Representatives.)

Mr. MCCONNELL. Mr. President, I send to the desk the Lott amendment, which was not ready earlier when the time began to run on the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. LOTT, proposes an amendment numbered 267.

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

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

The amendment is a follows:

On page 101, between lines 4 and 5, insert the following:

SEC. 405. SENSE OF THE SENATE REGARDING APPLICATION OF PROVISIONS RELATING TO PACS EQUALLY TO CANDIDATES FOR THE SENATE AND CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

It is the sense of the Senate that all provisions of this Act and amendments made by this Act that relate to multicandidate political committees and separate segregated funds shall apply in regard to candidates for the House of Representatives in the same manner and to the same extent as they apply to candidates for the Senate.

The PRESIDING OFFICER. The Chair reminds Senators that 3 minutes 21 seconds remain for the proponents and almost 5 minutes remain for the opponents.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Lott amendment be set aside pursuant to the previous understanding with the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, the Lott amendment will be set aside in accordance with the previous order.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Kansas is recognized for the purposes of offering an amendment.

AMENDMENT NO. 268 TO AMENDMENT NO. 242

(Purpose: To direct the Federal Election Commission to study the feasibility of developing systems for telephone voting by persons with disabilities)

Mr. DOLE. Mr. President, the first amendment I will offer I do not think is controversial. It provides for a study to see whether or not we can develop a system by which persons with disabilities may be permitted to vote by telephone. There is even not total support in the disabled community. They do not want to be separated from the main stream. This is only a study.

I send that amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 268 to amend 242.

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

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

The amendment is as follows:

At the end of the amendment add the following:

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

SEC. 501. STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.

(a) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(b) CONSULTATION.—The Federal Election Commission shall conduct the study described in subsection (a) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(c) CRITERIA.—The system or systems developed pursuant to subsection (a) shall—

(1) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(2) propose procedures to identify persons who are so disabled; and

(3) describe procedures and equipment that may be used to ensure that—

(A) only those persons who are entitled to use the system are permitted to use it;

(B) the votes of persons who use the system are recorded accurately and remain secret;

(C) the system minimizes the possiblity of vote fraud; and

(D) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(d) REQUESTS FOR PROPOSALS.—In developing a system described in subsection (a), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(e) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons wiht disabilities.

(f) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

Mr. DOLE. Mr. President, in a nutshell, this amendment would direct the Federal Election Commission to conduct a feasibility study of allowing certain persons with disabilities to vote by telephone.

Polling places have become much more accessible over the past 7 years as a direct result of the Voting Accessiblity for the Handicapped and Elderly Act, which Congress passed in 1984. Nevertheless, there are millions of Americans who are registered to vote but still remain unable to go to the polls because of a physical disability. This amendment is the first step in bringing these citizens back into the political process.

I will briefly describe the amendment.

With currently available technology, individuals can now access certain data bases over the telephone by dialing a personal identification number, the now familiar PIN number.

The so-called voice mail systems in many Senate offices are examples of this technology at work. It is possible but by no means guaranteed that this technology could be applied to make the election ballot accessible to those who are unable to leave their homes.

Simply put my amendment would direct the FEC to examine this possibility. We want to make certain there is no fraud, and that it cannot be abused. There are a lot of things that need to be studied. The FEC may decide it is not in anyone's interest.

To ensure that all interested persons are consulted during the preparation of the study, the amendment directs the FEC to consider the views of persons with disabilities, representatives of the telecommunications industry, and State and local election officials.

The amendment also directs the FEC to consider ways to ensure that votes transmitted telephonically are kept secret and to minimize any financial costs that may be imposed on State and local governments.

VOTE FRAUD

Mr. President, obviously, one of my biggest concerns about telephonic voting is the potential for fraud.

Because of this concern, my amendment directs the FEC to study ways to minimize the possibility of vote fraud.

If the FEC study demonstrates that a telephonic voting system would, in fact, lead to fraud, then I will be the first Senator to stand up and say that such a system should never be adopted in any jurisdiction, anywhere.

LIGHTENING THE "BURDENS" OF CITIZENSHIP

Mr. President, I have absolutely no interest in making telephonic voting available to everyone.

In my view, our participatory democracy would be weakened if a majority of voting-age citizens were not required to take the affirmative step of appearing at the polls and voting in person.

The act of voting may be an individual experience, but going to the polls is—and should be—a community experience shared by all eligible voters.

Nevertheless, there are those in our society who are simply unable as a result of a physical disability to get out of the home or hospital and make the trek to the polling booth.

We should not preclude these persons from participating on election day if the technological means exist to allow participation without significant expense or the likelihood of fraud.

Mr. President, I ask unanimous consent that the full text of the amendment be inserted in the RECORD immediately after my remarks.

Mr. President, I also ask unanimous consent that a letter from Brent Regan, vice president of Southwestern Bell Corp., be inserted in the RECORD as well.

I understand the managers are prepared to accept the amendment. I am prepared to yield back my time.

Mr. BOREN. Mr. President, I yield myself as much time as I might require.

Mr. President, I want to commend the distinguished minority leader for this amendment. It is of great value to us. I think this study is certainly merited. I will enthusiastically support the amendment of the distinguished minority leader. I know of no objections to it on this side. Certainly, I would be prepared to accept the amendment as manager of the bill on this side.

Mr. President, I yield back the remaining time on this side.

Mr. DOLE. I yield back any time.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 268) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 269

(Purpose: To provide for public disclosure of congressional intervention in enforcement actions)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 269.

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

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

The amendment is as follows:

At the appropriate place:

TITLE V—ETHICS IN GOVERNMENT

SEC. 501. PUBLIC DISCLOSURE OF CONGRESSIONAL INTERVENTION IN ENFORCEMENT ACTIONS.

(a) UNWRITTEN CONTACTS.—

(1) IN GENERAL.—Each department and agency of the executive branch of the United States shall compile a monthly list of all unwritten communications from any Member, employee, or agent of the Congress received by the department or agency with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts.

(2) DETAILS OF LIST.—The list required by this subsection shall include—

(A) the source of the contact;

(B) the stated purpose of the contact;

(C) any information or actions requested; and

(D) any other pertinent information.

(3) FILING LISTS.—Not later than the 15th of each month, each department or agency of the United States Government shall submit the list required by this subsection for the preceding month to the committees of the House of Representatives and the Senate with jurisdiction over the department or agency. Each committee receiving lists pursuant to this subsection shall submit the lists to the Congressional Record on January 1st and July 1st of each year for publication on the next day the record is printed.

(b) WRITTEN CONTACTS.—Each department and agency of the executive branch of the United States shall—

(1) create a public file containing all written communications from any Member, employee, or agent of the Congress received by the department or agency and any written responses by the department or agency to the written communications with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts; or

(2) include the information described in paragraph (1) in an appropriate existing public file.

Mr. DOLE. I may withdraw this amendment because I have had a discussion with Senator Ford. I know he is tied up in a committee. I think what I will do is discuss the amendment briefly, and if he has not arrived I think I will withdraw the amendment. But at least I want to make some record of it.

Mr. President, this that so-called front-page test. We have all read a lot, heard a lot, a lot said, some properly, some may be accurate about the congressional contacts, how we contact people on behalf of our constituents, whether we go over the line. I have said if we do not feel comfortable reading it on the front page, maybe we should not do it. What this amendment would do is try to address that problem.

In its recent report on so-called Keating five the Senate Ethics Committee emphasized the need to establish clear-cut rules on congressional contacts with Federal agencies.

As a followup to the Ethics Committee's recommendation, the distinguished majority leader and I have appointed a bipartisan task force on constituent service, a task force which is chaired by Senators FORD and STEVENS, which will offer some suggested guidelines later this year. In the meantime I thought it was important to offer this amendment which addresses the congressional contact issue by proposing something called the front-page test.

This test which is part of the Republican campaign finance reform package emphasizes the disclosure of congressional contacts, not their outright prohibition.

In a nutshell the front-page test would require Federal agencies to keep a monthly list of all unwritten congressional contacts concerning, one, potential or ongoing enforcement matters; and, two, proceedings related to the award of agency contracts.

These lists would specify the source of the contact, the stated purpose of the contact, and any information or actions requested.

The list would then be forwarded to the appropriate congressional committee for publication in the CONGRESSIONAL RECORD on a semiannual basis.

The front-page test would also require Federal agencies to incorporate into the appropriate public file all letters and other written congressional communications on enforcement matters and agency contacts. There is a disclosure requirement, not an outright ban.

We have to contact agencies on behalf of constituents. Otherwise there will not be much use of having us in the Congress of the United States. The fine line is when we may step over the line, when we may go too far.

Certainly, we want to continue to go to bat for our consitutents. That is our job. That is what the public expects. We have a right to petition Congress. It is in the Constitution.

So there are a lot of things I think we do very properly. But to allay the fears of some who think we may be going over the line I propose this so-called front-page test.

Again, Mr. President, this is a disclosure requirement, not an outright ban.

Mr. President, as I have said before, Members of Congress should continue to go bat on behalf of their constituents.

That is our job, and frankly, that is what the public expects.

But if we are not willing to read about an intervention on the front page of the newspapers, then we ought to think twice about making that phone call or writing that letter.

Mr. President, some of my colleagues may be wondering why I am offering this amendment.

Well, the reason is simple.

Constituent service is—under any standard—a campaign finance issue.

The American people want to know whether the Keating-style quid pro quo is the rule of the campaign finance game, or the exception.

And they want to know whether big-money campaign contributors get special treatment when it comes to congressional help with a pesky Federal regulator.

No campaign finance proposal can legitimately bear the name "reform" if it does not offer a solution to the perceived abuses that masquerade under the heading "constituent service."

Mr. President, I ask unanimous consent that a letter to Senators HEFLIN and RUDMAN describing the front page test be printed in the RECORD.

Mr. President, I also ask unanimous consent that editorials from the New York Times, the Associated Press, and Roll Call—all endorsing the front page test—be printed in the RECORD as well.

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

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 4, 1991.

Hon. HOWELL HEFLIN,
Chairman, Select Committee on Ethics, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I have had the opportunity to review the "Statement of the Select Committee on Ethics Following Hearings Involving Senators Cranston, DeConcini, Glenn, McCain, and Riegle."

I am pleased that the Statement recognizes the need to establish clear-cut rules on Congressional interventions with federal agencies.

As you may know, I attempted to address this issue in S. 6, a comprehensive campaign finance reform bill introduced on January 14. S. 6 contains a Title called "Ethics-in-Government," which would require the public disclosure of unwritten and written Congressional contacts with federal agencies. If you can bear with me, I would like to briefly describe the two sections of this Title.

Unwritten Contacts. The first section requires all federal agencies (independent agencies and executive branch departments) to disclose unwritten (i.e. telephonic, personal, etc.) Congressional contacts with the agency concerning (a) potential or ongoing enforcement matters, and (b) proceedings related to the award of agency contracts. The section also requires each agency to compile a monthly list specifying (a) the source of the contact, (b) the stated purpose of the contact, (c) any information requested or actions suggested to the agency, and (d) any other pertinent information. The agencies are required to submit these lists to the Congressional committees of jurisdiction. The Congressional committees are then required to submit these lists for publication in the Congressional Record on a monthly basis.

In a nutshell, this section extends to all federal agencies the Banking Committee pol-

icy requiring the public disclosure of Congressional contacts with the FDIC.

Written Contacts. The second section requires all federal agencies (independent agencies and executive branch departments) to incorporate all written Congressional communications into the appropriate Public File of (a) any potential or ongoing enforcement action or (b) any proceeding related to the award of an agency contract. Agency responses to the Congressional communications must also be incorporated into the Public File.

This second section basically reflects the policy of the Federal Energy Regulatory Commission.

As you can see, both sections emphasize the public disclosure of Congressional contacts, and not their outright prohibition.

Office Policy. Shortly after the introduction of S. 6, I also instituted an office policy requiring my own staff to keep personal logs of contacts with federal agencies. Although this policy imposes a small paperwork burden on us all, I believe that the burden is far outweighed by the need to keep an accurate accounting of such contacts. I am enclosing the office policy for your review.

I am simply passing along the "Ethics-in-Government" title of S. 6 and the office policy as a response to the Committee's call for a bipartisan effort to establish rules on constituent service. The Committee is right-on-target when it states that ". . . the adoption of specific standards governing contact or intervention by Senators with executive or independent regulatory agencies will minimize the potential for appearances of impropriety. . . .[T]he success of any democratic government, designed to execute the will of a free people, is ultimately dependent on the public's confidence in the integrity of the governmental process and those who govern."

In the days ahead, it is my hope that Members of Congress would continue to go to bat on behalf of their constituents. But if we're not willing to read about an intervention on the front page of the newspapers, then—perhaps—we ought to think twice about making that phone call or writing that letter.

Thank you for your consideration of both of these proposals. If you have any questions or comments, please feel free to contact me or Dennis Shea of my staff at 4-3135.

Sincerely,

BOB DOLE.

TITLE II—ETHICS IN GOVERNMENT

SEC. 201. PUBLIC DISCLOSURE OF CONGRESSIONAL INTERVENTION IN ENFORCEMENT ACTIONS.

(a) UNWRITTEN CONTACTS.—

(1) IN GENERAL.—Each department and agency of the executive branch of the United States shall compile a monthly list of all unwritten communications from any Member, employee, or agent of the Congress received by the department or agency with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts.

(2) DETAILS OF LIST.—The list required by this subsection shall include—

(A) the source of the contact;

(B) the stated purpose of the contact;

(C) any information or actions requested; and

(D) any other pertinent information.

(3) FILING LISTS.—Not later than the 15th of each month, each department or agency of the United States Government shall submit the list required by this subsection for the preceding month to the committees of the House of Representatives and the Senate with jurisdiction over the department or agency. Each committee receiving lists pursuant to this subsection shall submit the lists to the Congressional Record on January 1st and July 1st of each year for publication on the next day the record is printed.

(b) WRITTEN CONTACTS.—Each department and agency of the executive branch of the United States shall—

(1) create a public file containing all written communications from any Member, employee, or agent of the Congress received by the department or agency and any written responses by the department or agency to the written communications with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts; or

(2) include the information described in paragraph (1) in an appropriate existing public file.

JANUARY 17, 1991.

MEMORANDUM

To: All Staff of the Republican Leader.
From: Sheila Burke, Jim Wholey.
Subject: Office Policy—Contacts with Federal Regulators.

All staff of the Republican Leader will follow the procedures outlined below. These procedures are effective immediately.

The purpose of this policy is to 1) ensure an accurate accounting of staff contacts with federal agencies, and 2) prevent any staff contacts that may create an appearance of impropriety.

PURPOSE

1. Personal Log—Unwritten Contacts. All staff of the Republican Leader will maintain a personal log of all *"unwritten contacts"* with any federal agency concerning 1) potential or ongoing enforcement matters (civil and criminal), and 2) proceedings related to the award of agency contracts. "Unwritten contacts" include, but are not limited to, telephonic communications and personal meetings.

Personal logs must contain 1) the name of the federal agency, 2) the name of the person or persons contacted at the federal agency, 3) the date of the contact, 4) the purpose of the contact, and 5) any information requested or actions suggested to the federal agency. Attached is a copy of a sample log sheet.

The policy is *not* intended to restrict or prohibit legitimate contacts with federal agencies on legislative matters and other official business. It is limited strictly to contacts involving 1) potential or ongoing enforcement matters (civil and criminal), and 2) proceedings related to the award of an agency contract. If you are uncertain whether an unwritten contact involves 1) a potential or ongoing enforcement matter (civil and criminal), or 2) a proceeding related to the award of an agency contract, record the contact in your personal log anyway. *Err on the side of disclosure.*

Bi-weekly Records. On the 1st and 15th of every month, staff in the Republican Leader's Office must forward copies of the personal log to Sheila Burke, Chief of Staff. Staff in the Senator's Hart Office must forward copies of the personal log to Jim Wholey, Administrative Assistant. Copies of the personal log must be forwarded, *even if no contacts are recorded for the bi-weekly period.*

Prohibition. *Unless personally authorized by the Republican Leader*, no staff member will contact a federal agency and request that a "specific action" be taken by the federal agency with respect to 1) a potential or ongoing enforcement matter (civil and criminal), or 2) a proceeding related to the award of an agency contract. "Specific actions" include, but are not limited to, requests for a) reductions in fines or penalties, b) special consideration for a party to an enforcement action, and c) special consideration for a bidder for an agency contract.

2. Written Contracts. Staff in the Republican Leader's Office should continue to forward copies of signed letters to Joyce McCluney, Office Manager. Copies should be forwarded to Joyce on the date that the letter is mailed. Staff in the Senator's Hart Office should provide to Jim Wholey copies of all signed letters to federal agencies. Copies of these letters must also be forwarded to Joyce, who will maintain them in a central office file.

For purposes of this policy, federal agencies include all independent agencies and executive branch departments.

PERSONAL LOG—UNWRITTEN CONTRACTS WITH FEDERAL AGENCIES

Staff Person:
Bi-weekly period of:
Federal Agency:
Name of Person(s) Contacted:
Date of Contact:
Information Requested/Actions Suggested:
Other Pertinent Information:

Federal Agency:
Name of Person(s) Contacted:
Date of Contact:
Information Requested/Actions Suggested:
Other Pertinent Information:
Federal Agency:
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[From Roll Call, Jan. 21, 1991]

INOCULATION AGAINST KEATING FIVE DISEASE

He won't say that he introduced it in response to the Keating Five investigation, but there's little doubt that Minority Leader Bob Dole's new ethics legislation would help prevent the abuses that the probe has spotlighted. As part of what is grandly called The Comprehensive Campaign Finance Reform and Ethics Act (S. 6), the Kansas Senator has proposed requiring Members of Congress and their staffers to disclose all contacts they have with "federal agencies concerning enforcement matters." Dole explained his intention very well on the floor last week: "If a Member or his staff intervenes with a federal regulator, this intervention should be publicly disclosed. And if the intervention is publicly disclosed, it should be publicly defended. Don't get me wrong. Members of Congress should go to bat on behalf of their constituents. That's their job. But if we do intervene with a federal regulator on behalf of a constituent, we should be comfortable reading about the intervention on the front page of newspapers."

While Dole's legislation will undoubtedly mean burdensome paperwork, we believe it is an excellent solution to the problem with which the Ethics Committee is now wrestling—how to define improper intervention with regulators. Instead of trying to define it, we should publicize it, and let the voters make the decision about propriety. In addition, disclosure is great preventive medicine:

If Members know they have to make a record of their interventions, they will be reluctant to intervene in questionable circumstances in the first place. Our only quibble with Dole's idea is that it is contained in a comprehensive campaign reform bill. We are skeptical that such a bill will pass, and it would be a shame if the disclousre measure met the same fate as the honoraria ban that was killed last year by being attached to a broader reform bill that everyone knew would fail.

[From the New York Times, Feb. 3, 1991]

TOPICS OF THE TIMES; SUNLIGHT IN THE CAPITOL

Would the five Senators now under scrutiny in the Keating Five case have intervened so aggressively on behalf of a big campaign contributor if they had known their tactics would have to withstand public scrutiny? The question answers itself, confirming the widsom of a simple ethics rule proposed by Senator Bob Dole, the Republican leader.

Mr. Dole's rule, introduced as part of a campaign finance reform package, would require members of Congress and their staffs to disclose all contacts with Federal agencies concerning enforcement matters.

"Members of Congress should go to bat on behalf of their constituents," explains Senator Dole. "That's their job. But if we do intervene with a Federal regulator on behalf of a constituent, we should be comfortable reading about the intervention on the front page of the newspapers."

Enacting such a rule now wouldn't relieve the Senate Ethics Committee from judging the Keating Five or defining the limits of proper constituent service. Nor would it lessen the duty of Congress to end the corrupting reliance on special-interest campaign money.

But Mr. Dole's sunlight would help deter future abuses while providing a revealing glimpse of how elected representatives view their jobs, and themselves.

[From the Associated Press, Jan. 27, 1991]

MAYBE THE "FRONT-PAGE TEST" CAN AVOID FUTURE KEATING FIVE CASES

(By Walter R. Mears)

To avoid sequels to the Keating Five case, Sen. Robert J. Dole proposes the front-page test: Don't do it if you wouldn't want to read about it in the newspapers.

Dole, the Senate Republican leader, thinks that ought to be a guideline for senators intervening with federal regulators in behalf of their constituents. So he has introduced legislation to require public disclosure of congressional contacts with federal agencies on regulatory matters or on government contracts.

In a system in which political campaigns demand huge sums of money and constituents demand services—which sometimes means intervention with government agencies—conflicts seem just about inevitable.

Campaign money, and intervention for a man who provided a lot of it, are the ingredients of the Keating Five case now before the ethics committee. After two months of hearings, the panel is to begin deliberating later this week on the conduct of five colleagues, deciding if their help to a savings and loan boss fighting federal regulators went beyond ethical bounds.

The five are: Republican John McCain of Arizona and Democrats Alan Cranston of California, Donald W. Riegle, Jr. of Michigan, Dennis DeConcini of Arizona and John Glenn of Ohio.

Their defense argued that if they are guilty of misconduct, so are most other senators, because everybody needs campaign contributions and everybody intervenes for constituents.

"A couple of senators, to avoid personal accountability, have raised the 'everybody does it' defense," Robert S. Bennett, the special counsel, said. ". . . Everybody doesn't do what was done here."

He argued that the link between Keating donations and efforts on his behalf by three of the senators went beyond the bounds of any routine constituent service.

"If everybody does what was done here, then that means this place doesn't have an infection that can be cured—it means that you're terminal," Bennett said.

Still, many if not most of the individuals and interests who seek intervention with regulators and other federal officials are campaign contributors. They're not as blatant about the connection as was Charles J. Keating Jr., who once said publicly that he certainly hoped he'd gained influence with the $1.3 million he and his associates donated to the campaigns and causes of five senators.

The connection is the issue. The senators say they acted to help Keating because he was a consitituent or had business interests important to their constituents, and claimed he was being treated unfairly by overly zealous federal regulators.

Bennett says interceding wasn't necessarily wrong, but the apparent tie to contributions made it so.

A Senate re-election campaign costs an average of about $4 million, or $13,000 for every week of a six-year term. At those prices, campaign fund raisers aren't likely to be turning away donors because they have axes to be ground with the federal bureaucracy.

Constituent service is part of the job of a senator or representative, and that means going to bat for people who think a government agency is doing them wrong.

"More and more constituents are requesting the assistance of their congressmen at the same time that those congressmen must ask more and more of the same constituents for campaign contributions," Bennett said at the start of the Keating Five hearings. ". . . How can our system of government maintain the appearance and the reality of integrity as these trends continue?"

Even so, Bennett said senators "can and must have the power to pressure regulators. . . ."

The premise is that they'll do so in order to keep regulatory agencies acting properly, not punitively or overzealously. That's a very fine line; a businessman under regulatory pressure almost always deems it excessive.

"We don't just pick up everything that comes in and say it's a constituent so I've got to go and lean on a regulator someplace . . ." said Glenn. "We say there has to be some justification . . ."

Glenn is one of two senators Bennett says should be exonerated and dropped from the Keating Five case. The other is McCain.

Glenn said the ethics investigation should not make senators so leery that they fail to intercede when constituents are being treated unfairly by the government.

"Members of Congress should go to bat on behalf of their constituents, that's their job," Dole said in proposing his ethics bill. "But if we do intervene with a federal regulator on behalf of a constituent, we should be comfortable reading about the intervention on the front page of the newspapers."

Editor's Note—Walter R. Mears, vice president and columnist for The Associated Press, has reported on Washington and national politics for more than 25 years.

Mr. DOLE. Mr. President, the front-page test may not be the perfect solution, but it is a solution that is simple enough, and comprehensive enough, to guarantee public accountability of the public's elected representatives.

I urge my colleagues to support the amendment.

Mr. President, we have, since I first introduced this resolution, appointed the special committee. I have named three colleagues on my side, Senator MITCHELL named three on his side; it might be more appropriate to have them consider the amendment and not have it a part of the campaign finance reform bill.

So after the Senator from Oklahoma speaks I will withdraw the amendment.

Mr. BOREN. Mr. President, I yield myself as much time as I might require.

Mr. President, the distinguished chairman of the Rules Committee, Senator FORD, had hoped to be on the floor at this time to enter into a discussion with the Senator from Kansas, the minority leader. Unfortunately he is detained in another meeting. But he has sent over to me a statement by him which I will paraphrase at this time.

I am authorized to say on behalf of Senator FORD that he wants to compliment the minority leader with the thought that he has put into this amendment which he understands is based upon section 201 of S. 6, the Republican campaign finance bill.

In general, Senator FORD has indicated to me that he certainly believes disclosure in the area of constituent services is a good thing, and it is an area which we should explore in great detail.

He says that he knows that the Senator from Kansas is aware that he has been asked to cochair the task force which the minority leader just referred to on constituent services along with Senator STEVENS. The task force also includes Senators BINGAMAN, BRYAN, KASSEBAUM, and SMITH. He wants to assure the minority leader that that group will be taking a very serious look at the proposal in the task force which he thinks is a good one.

He thinks there are a few questions which he believes should be explored. Should distinctions be made between oral and written communications? What types of issues before which agencies? Do we make distinctions between agency enforcement matters, or contract awards, or other matters before the agencies? What information should we disclose and in what form? How much disclosure is enough? How much imposes an unreasonable burden on the agency?

So Senator FORD respectfully suggests that the issue would be better addressed within the context of the con-

stituent service task force and not the campaign finance reform bill.

Senator FORD has authorized me to say to the minority leader that he and the task force will look into this proposal, and with those assurances he hopes that the minority leader will withhold going forward with the amendment at this time.

So I offer those comments on behalf of my colleague, the chairman of the Rules Committee.

Mr. DOLE. Mr. President, I thank my friend from Oklahoma. I will withdraw the amendment.

Before I do I would like to say that I have included a letter that I have addressed to Senators HEFLIN and RUDMAN as chairman and cochairman of the Ethics Committee, along with editorials from the New York Times, Roll Call, as well as the amendment in the RECORD.

I do this so Members may have a chance to look at it. They may have some other questions that should properly be raised. Certainly it is not perfect. It probably needs to be refined. It seems to me in these days of the public right to know that we could probably advance that cause without taking away from us the right to go to bat for our constituents.

Mr. President, I yield the remainder of my time. I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 269) was withdrawn.

AMENDMENT NO. 270

(Purpose: To provide for seed money for challengers)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 270.

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

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

The amendment is as follows:

At the end of title II, subtitle C, add the following:

SEC. 224. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 223, is amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of this Act, the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) that in the aggregate do not exceed the lesser of—

"(A)(i) $150,000, in the case of a candidate for the House of Representatives; or

"(ii) $250,000, in the case of a candidate for the Senate; or

"(B) the aggregate qualified matching contributions received by the candidate and the candidate's authorized committees.

"(2) A contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection—

"(A) the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time the contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held; and

"(B) the term 'eligible candidate' means a candidate for election, or nomination for election, to Federal office (other than President or Vice President) who does not hold Federal office."

The PRESIDING OFFICER. There are 30 minutes equally divided for debate on this amendment.

Mr. DOLE. Mr. President, I do not intend to use anywhere near 15 minutes on this side.

I know a number of my colleagues on both sides have commitments later today and this evening. I want to do what I can to accommodate them. I hope those who follow me will be able to reduce their time also.

Mr. President, with the election rate last year, last November, nearly 97 percent, it is fair to say the congressional incumbents are living on easy street. That is why any campaign finance proposal bearing the name reform must go the extra mile to help challengers to run against incumbents.

Incumbents enjoy all kind of advantatges—franking privileges, large staff, high recognition, easy access to the media, and sometimes you wish you had not had that. Most importantly, we have the ability to tap into the special interest money that fuels congressional campaigns. But when it comes to sharing these advantages, congressional challengers are most often left out in the cold all but eliminating politicians and politics.

Let us make one thing clear, though, Mr. President. Incumbents are not to blame for playing by the rules—the rules are the problem. We are all going to play by the rules. If the rules ought to be changed, we should change them.

What we need to do is change some of the rules to level the playing field and give challengers a fighting chance.

This amendment attempts to change the rules by proposing a seed money fund, a seed money fund for congressional challengers. Simply put, this would give challengers a much needed jump start in the early stages of their campaigns.

More specifically, my amendment would allow the political party committees to use a special coordinated expenditure fund to match early in-State contributions received by challengers.

The contribution must be made prior to the date of the primary election, and they must be made by residents of the State in which the challenger is running. Party committee matching funds would be permitted to a maximum of $150,000 for House challengers and $250,000 for Senate challengers.

The seed money idea is the brainchild of Norm Ornstein, a well-known campaign finance expert and resident scholar at American Enterprise Institute.

In my view, it is an idea that the Senate ought to endorse, particularly if we are serious about improving competition and assisting cash-strapped challengers.

I know my colleagues on the other side of the aisle will say that this amendment will help the Republican Party. Well, they are probably right. But this will help the Democratic Party, too.

This does not discriminate between Democrats and Republicans. It is proparty, procompetition, and it is pro-Republican and pro-Democrat. My view is that we ought to have stronger parties. If we did, we would have more discipline, and we would have a lot better politics in America if we had a strong party system. I must say that, with the exception maybe for Presidential races, we do not hear that much about either party, what they are doing at grassroots level, and they may be doing a lot.

Mr. President, Republicans have always believed that the best way to get more resources to cash-poor challengers is to increase the limits on what the two parties can give their candidates.

This approach was endorsed by the bipartisan panel of campaign experts appointed last February by the distinguished majority leader and myself. We had six people outside of the Senate, who were not running for office, Democrats and Republicans, who made recommendations, and this is one of the recommendations.

As the panel pointed out last year, the political parties have one primary focus; that is, electing their own candidates and defeating the candidates of the other party. Otherwise, there would not be any need for parties.

This seed money is a good idea and one that ought to be adopted. If we want to improve competition, we ought to strengthen, not weaken, the institution in America that has a vested interest in removing incumbents. The Democratic Party has that vested interest. So does the Republican Party. And I think this amendment will help accomplish that goal.

I urge my colleagues to, when they ask for the yeas and nays, support this amendment when it comes to a vote.

I do not want to speak at the end of the bill, because that would take addi-

tional time. So I will make my final comments now.

We have been debating, more or less, campaign finance reform for 7 days. Some of the debate was on Presidential debates which had nothing to do with campaign finance. Some was sort of a showboat vote on honoraria, which has already been eliminated and is being phased out. We like to do it to get a headline or two. We have spent some time on that.

There have been other matters, such as whether we ought to raise taxes or do away with lobbyist expenses which, in my view, was not campaign finance reform. Aside from those three or four items, we spent quite a bit of time on campaign finance reform.

It has been a good debate, and it has been a spirited debate at times, and certainly has taken some of the Senate's time, but this is very important.

When all is said and done, when all the speeches have been made, the bottom line is that the President will not and probably should not sign this legislation. He is not going to sign this legislation. He indicated so in a letter yesterday to the Senator from Kentucky who is the real in-house expert on campaign finance on this side of the aisle.

My colleagues on the other side may cling to taxpayer financing of congressional campaigns as the centerpiece of their reform package.

But Republicans oppose, and will continue to oppose, along with a great majority of people, this kind of financing—broadcast vouchers, discounted mail rates, Treasury outlays to combat independent expenditures—all of which amounts to nothing more than a welfare program for politicians.

The other side of the aisle may claim that reform is meaningless without spending limits. But they are meaningful only to the extent that they help challengers, help incumbents, and reduce—not improve—competition in politics.

Mr. President, as I said yesterday, our next opportunity for bipartisanship will be in the House-Senate conference—if the House ever passes a campaign finance reform bill, and if it does so on a timely basis. We have time this year and next year, and we ought to be able to maybe come together.

When we reach this fork in the road, it seems that we are all going to have a simple choice, particularly my colleagues on the other side: They can either scuttle campaign reform for yet another year by demanding that taxpayers subsidize the politicians. Or they can work with House and Senate Republicans to craft a reform bill acceptable to the President and the American people.

I think it is fair to say that many of us want reform. Many of us have discovered that the worst part about running for office is asking people for money. That does not mean we have to ask the Treasury for money. It means we have to have more competition and maybe look at the source of the funds—not the amount, but the source. It is the source that is bad. If it is bad, we ought to limit the source.

That is what we have done on the Republican side. That is why I believe that we still have some hope of getting a bipartisan solution. I have worked with the majority leader. We have agreements in some areas, but there are some areas where the two parties cannot agree.

We have agreed on PAC reform, broadcasting, bundling, independent expenditures, reform of FEC procedure. These are several examples.

I have proposed something called "flexible fundraising targets,"—targets, not limits—which are a variation of the Democrat's spending-limits concept.

Republicans are walking in lockstep with the American people when we say no to public financing or politicians and no to the type of spending limits that harm competition, not improve it.

Finally, Mr. President, I want to thank my distinguished colleage from Kentucky, MITCH MCCONNELL, who demonstrated once again that he is the Senate's—and one of the Nation's—leading experts on campaign finance reform. He knows the issue; he has worked this issue, tirelessly. He has gained respect of colleagues on our side of the aisle and I think on the other side of the aisle.

I make the same statement about my good friend from Oklahoma. These two gentlemen understand nearly every facet of campaign finance reform.

I am an optimist. I still believe that we are going through this exercise on the floor because we need to do that. But I still believe there is enough common ground that if we go to conference, we should not have one set of rules for the Senate and another for the House—and I think the Senator from Mississippi will offer an amendment to take care of that—because that would be a travesty. We have that now in pay. The House Members are paid $25,000 more a year than Senators. It does not seem to me a very great idea. But that is the way it is.

But, in any event, when we got to conference I even suggested the four leaders ought to be part of the conference committee, the Republican leader in the Senate, the Democratic leader in the Senate, the House Democratic leader and the Republican leader in the House, so we could really try to work together in an effort to really come to grips with campaign finance reform. It is needed.

Many people do not understand it. Many people do not contribute to campaigns. It is not really the burning issue outside the beltway as it is inside the beltway. But it is an issue that should be addressed and I think all of us in politics understand that and we just need to face up to it. Maybe the only way we can do that is in a small group in a conference committee.

I yield back the remainder of my time.

Mr. BOREN. How much time is allocated on this side?

The PRESIDING OFFICER. The Senator from Oklahoma has 15 minutes.

Mr. BOREN. I yield to myself as much time as I might require.

Mr. President, I thank the distinguished Republican leader, my friend, the Senator from Kansas, for the very generous comments which he made about Senator MCCONNELL and myself and our work on this bill.

I underline that I share the optimism the Senator from Kansas just expressed. There are a number of us determined we will try to work out a bipartisan solution to this problem, which truly is an American problem.

I am encouraged by the statements of the distinguished Republican leader and I am encouraged by his leader statement that he hopes perhaps he and the majority leader will be among those that might serve on the conference, that those in a position to make some final decision on the House side will also be there, and at the conference stage of this consideration we can engage the White House into these discussions as well in a very detailed way, and that we can find a common meeting ground, come out of the conference exit with a bill that will command the solid majority on both sides of the aisle of both Houses, and one which the President of the United States would want to sign into law.

As I have said all along, we recognize for a bill to become law it must pass through a Congress controlled by one party and it must be signed into law by a President of the other party. That means it must be a bill that does not seek partisan language of one side over the other, but deals with the problem at hand.

All of us realize the current campaign system is not working. There are a variety of proposals here. But I have yet to hear on single Member of the Senate on either side of the aisle come to the floor and defend the status quo, the status quo which, as the Senator from Kansas has said, results in reelection rates of 97 to 96 percent for Members of the House and Senate, a status quo in which the incumbents are able to outraise a challenger 8 to 1 in the House and 3 to 1 in the Senate, a status quo where more and more money is poured into campaigns and more being used to finance negative campaigns, rather than a real discussion of issues.

So none of us feel in conscience the status quo is defensible. It must be changed. And we must find a way to change it in a constructive way.

I want to say to the Senator from Kansas, having had a number of discus-

sions with him on this subject, I certainly respect his sincerity in this regard. I know he wants to see us solve the problems at hand and I know he wants us to do it in a bipartisan way.

I pledge to him, as one Senator on this side of the aisle, to work with him to the best of my ability to see that happen. I agree with him that starting as early as we can in the Congress, not waiting to the second year of a Congress to get moving, does give us time.

There are some hopeful signs on the House side that they will pass a bill that is an improvement over the bill they passed last year. I certainly hope we will see an improved product on the other side of the Capitol. Then we will have time to enter into a conference committee and we will have time to engage the executive branch and the President in this discussion as well.

My purpose for the last several years has not been to score political points or develop an issue that can be used in campaigns, but deal with the problem. I know there are many on the other side of the aisle, including the distinguished Republican leader who just spoke, who feel the same way. I express my appreciation to him. I think the statement he has just made in itself gives us great cause for optimism that there is going to be a sincere effort made by all of us to try to work something out in conference. And I believe we can, from the discussions I have had with numerous parties, including those at the White House, about this matter.

Mr. President, I, having made those comments and having just shared so many common points of view with the distinguished Republican leader in finding so many points of agreement with what he just said, find myself now in a position of having to differ with the specifics of the amendment he just offered.

Mr. DOLE. I cannot believe it.

Mr. BOREN. The amendment which would give seed money and not count it against spending limits to challengers I think is a well-intentioned amendment because, as I have said again and again, why I think we need to change the system is challengers do not have a fair chance under the current system of political action committee weighing in, giving to the incumbents at a rate of 16 to 1 over challengers in the House, 4 to 1 over challengers in the Senate. That is something that is badly wrong since incumbents can outraise, outspend challengers.

I think the current system obviously favors incumbents and that is the reason, frankly, I want us to have some overall constraints on spending.

I think the most important thing we can do for a challenger to have a level playing field is put limits on spending incumbents, Democrats or Republicans, who are going to be able—at least in 99 percent of the cases—to raise more money than challengers. I think that is the real thrust.

S. 3 provides vouchers early on the purchase of television time. This is of great advantage. And lower mailing rates. This is of great advantage to challengers who are new, breaking into the process. In essence, there is seed money provided early on to give challengers a chance.

As I indicated, since we have to have a level playing field, and we cannot have a bill that is going to favor one party or another, I really must oppose this amendment because I do think it would give a distinct advantage to those on the other side of the aisle.

I have before me a study released by the Federal Election Commission dated November 1, 1990, which is headed Republicans maintain 4-to-1 spending edge over Democrats despite fundraising decline over prior cycles among some of the committees. And it points out as the November congressional election approaches, the national Republican Party committees have outspent its Democratic counterparts by more than $118 million, according to a study of the Federal Election Commission.

Reports filed with the FEC show the Republican national senatorial and congressional committees raised and spent $159 million while the Democratic committees $37 million and spent $40 million from January 1, 1989, through October 17, 1990.

Mr. President, I ask unanimous consent that this Federal Election Commission study be printed in the RECORD.

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

REPUBLICANS MAINTAIN 4-1 SPENDING EDGE DESPITE FUNDRAISING DECLINE OVER PRIOR CYCLES

WASHINGTON.—As the November congressional elections approach, the National Republican party committees have outspent their Democratic counterparts by more than $118 million, according to a study by the Federal Election Commission.

Reports filed with the FEC show that the Republican's national, senatorial and congressional committees raised and spent $159 million while the Democratic committees raised $37 million and spent $40 million from January 1, 1989, through October 17, 1990.

In terms of candidate support, Republican party committees gave $1.8 million in direct contributions compared to just over $900,000 for Democratic committees. The GOP also spent $7.4 million in coordinated expenditures compared to $5.8 million for the Democrats.

Compared to 1985–86, the last non-presidential election cycle, financial activity has remained level for Democratic committees while receipts fell $30 million and spending dropped $26 million for the Republicans.

In addition to direct contributions and coordinated expenditures, the Republican party has provided additional support by means of two joint fundraising committees—Republican Senatorial Inner Circle 1990 and 1990–91. These committees have distributed a combined total of $1.9 million to 49 senate candidates. Details of these activities are attached to this release.

The National Republican Party has transferred $3.7 million to various state Republican party committees; the Democratic $1.6 million. An itemization of these transactions by party and by state is also attached.

ACTIVITY OF PARTY COMMITTEES THROUGH 20 DAYS PRIOR TO THE GENERAL ELECTION

	1989–90	1987–88	1985–86	1983–84
RNC				
Receipts	$60,755,728	$82,778,403	$75,638,914	$97,583,753
Individuals	54,093,457	75,608,903	70,880,513	92,060,777
Non-Party	540,016	987,000	317,588	681,292
Disbursements	60,771,162	70,554,816	72,888,542	92,708,635
Cash-on-hand	2,312,641	13,464,432	4,417,092	5,183,898
Debts by	.....	.....	.....	.....
Contributions	196,669	139,250	287,808	776,425
Coord. expend.	14,321	1,031,401	2,100	5,177,571
NRSC				
Receipts	69,848,319	56,878,346	79,808,159	73,546,055
Individuals	56,928,563	52,318,730	72,094,305	66,118,880
Non-Party	1,362,679	625,763	333,398	349,191
Disbursements	69,346,694	53,518,835	77,093,310	71,449,161
Cash-on-hand	1,233,406	3,544,847	2,276,998	3,633,166
Debts by	162,185	489,829	1,469,019	2,143,744
Contributions	834,242	646,974	613,450	564,856
Coord. expend.	6,000,802	8,392,105	8,901,784	5,081,102
NRCC				
Receipts	28,529,119	31,295,871	35,482,366	54,236,385
Individuals	25,277,442	28,737,982	33,265,680	48,381,066
Non-Party	1,085,685	688,500	337,833	300,511
Disbursements	28,938,616	27,787,981	35,522,140	53,483,255
Cash-on-hand	780,063	3,783,504	67,508	6,078,856
Debts by	2,443,467	876,817	2,992,264	633,725
Contributions	794,358	1,402,720	1,535,458	2,466,539
Coord. expend.	1,423,707	2,316,503	1,864,351	3,992,822
REPUBLICANS				
Receipts	159,133,166	170,952,620	190,929,439	225,366,193
Individuals	136,299,462	156,665,615	176,240,498	206,560,723
Non-Party	2,988,380	2,301,263	988,819	1,330,994
Disbursements	159,056,472	151,861,632	185,503,992	217,641,051
Cash-on-hand	4,326,110	20,792,783	6,761,598	14,895,920
Debts by	2,605,652	1,366,646	4,461,283	2,777,469
Contributions	1,825,269	2,188,944	2,436,716	3,807,820
Coord. expend.	7,438,830	11,740,009	10,768,235	14,251,495
DNC Services				
Receipts	13,139,595	41,712,005	15,172,256	39,827,632
Individuals	9,385,866	36,333,208	11,159,109	26,839,665
Non-Party	1,202,544	1,586,637	860,997	1,343,665
Disbursements	16,589,750	33,550,624	15,337,692	38,339,321
Cash-on-hand	1,964,503	8,317,054	127,105	1,759,444
Debts by	804,687	956,641	2,345,359	2,890,981
Contributions	48,650	31,398	20,500	57,750
Coord. expend.	116,929	7,182,670	343,348	947,107
DSCC				
Receipts	16,188,583	14,845,661	11,480,591	8,229,876
Individuals	10,772,463	10,273,980	7,477,336	4,803,055
Non-Party	4,019,955	2,870,990	1,545,924	1,463,153
Disbursements	15,498,633	13,921,228	11,315,932	7,345,555
Cash-on-hand	776,659	1,003,345	378,904	908,178
Debts by	1,098,278	830,528	850,149	.....
Contributions	479,770	470,216	577,067	410,050
Coord. expend.	3,792,130	5,016,620	4,475,055	3,091,242
DCCC				
Receipts	8,187,645	11,189,102	11,018,209	9,278,624
Individuals	3,334,216	5,720,627	7,458,350	6,090,049
Non-Party	3,678,992	2,844,260	1,440,636	1,458,901
Disbursements	8,209,599	11,082,368	11,068,252	8,743,842
Cash-on-hand	24,728	165,588	248,507	649,747
Debts by	1,598,403	1,725,351	786,983	448,902
Contributions	387,571	592,788	575,381	742,717
Coord. expend.	1,909,823	1,508,379	876,568	550,115
DEMOCRATS				
Receipts	37,515,823	67,746,768	37,671,056	57,336,132
Individuals	23,492,545	52,327,815	26,094,795	37,732,769
Non-Party	8,901,491	7,301,887	3,847,557	4,265,719
Disbursements	40,297,982	58,554,220	37,721,876	54,428,718
Cash-on-hand	2,765,890	9,485,987	754,516	3,317,369
Debts by	3,501,368	3,512,520	3,982,491	3,339,883
Contributions	915,991	1,094,402	1,172,948	1,210,517
Coord. expend.	5,818,882	13,707,669	5,694,971	4,588,464

Note that Coordinated Expenditures are only made in General or Special Elections.

Republican Senatorial Inner Circle 1990 distribution of proceeds of joint fundraising

Candidate	*Amount*
990 Candidates:	
Ben Bagert—LA Chl	$43,500
Rudy Boschwitz—MN Inc	42,800
Hank Brown—CO Open	53,500
Bill Cabaniss—AL Chl	53,500

Republican Senatorial Inner Circle 1990 distribution of proceeds of joint fundraising—Continued

Candidate	*Amount*
Dan Coats—IN Inc	53,500
Thad Cochran—MS Inc	42,800
William Cohen—ME Inc	42,800
Larry Craig—ID Open	53,500
Hal Daub—NE Chl	53,500
Pete Domenici—NM Inc	42,800
Phil Gramm—TX Inc	38,800
Mark Hatfield—OR Inc	42,800
Jesse Helms—NC Inc	53,500
Alan Kolstad—MT Chl	53,500
Lynn Martin—IL Chl	53,500
Mitch McConnell—KY-Inc	53,500
Larry Pressler—SD Inc	53,500
James Rapaport—MA Chl	53,500
Claudine Schneider—RI Chl	53,500
Bill Schuette—MI Chl	20,000
Alan Simpson—WY Inc	42,800
Bob Smith—NH Open	53,500
Ted Stevens—AK Inc	42,800
Tom Tauke—IA Chl	53,500
Strom Thurmond—SC Inc	42,800
John Warner—VA Inc	40,800
Not running in 1990:	
Kit Bond—MO Inc	8,900
Conrad Burns—MT Inc	8,900
John Chafee—RI Inc	8,900
Al D'Amato—NY Inc	8,200
David Durenberger—MN Inc	8,900
Jake Garn—UT Inc	8,900
Slade Gorton—WA Inc	8,800
John Heinz—PA Inc	8,500
Jim Jeffords—VT Inc	8,900
Robert Kasten—WI Inc	8,800
Trent Lott—MS Inc	8,900
Richard Lugar—IN Inc	8,800
Connie Mack—FL Inc	7,700
John McCain—AZ Inc	8,800
Frank Murkowski—AK Inc	8,900
Don Nickles—OK Inc	8,900
Robert Packwood—OR Inc	8,800
Arlen Specter—PA Inc	8,500
Steve Symms—ID Inc	8,900
Malcolm Wallop—WY Inc	8,900
Nat Rep Senatorial Cmte	12,000
Total distributed	1,421,300

Republican Senatorial Inner Circle 1990-91 distribution of proceeds of joint fundraising

Candidate	*Amount*
1990 Candidates:	
Rudy Boschwitz—MN Inc	3,750
Jane Brady—DE Chl	3,750
Hank Brown—CO Open	20,000
Bill Cabaniss—AL Chl	20,000
Dan Coats—IN Inc	20,000
Thad Cochran—MS Inc	2,857
William Cohen—ME Inc	3,750
Larry Craig—ID Open	20,000
Hal Daub—NE Chl	35,000
Pete Domenici—NM Inc	3,750
Phil Gramm—TX Inc	3,750
Mark Hatfield—OR Inc	20,000
Jesse Helms—NC Inc	20,000
Alan Kolstad—MT Chl	20,000
Lynn Martin—IL Chl	35,000
Mitch McConnell—KY Inc	20,000
Larry Pressler—SD Inc	20,000
James Rapaport—MA Chl	3,750
Pat Saiki—HI Chl	35,000
Claudine Schneider—RI Chl	35,000
Bill Schuette—MI Chl	20,000
Alan Simpson—WY Inc	3,750
Bob Smith—NH Open	20,000
Ted Stevens—AK Inc	3,750
Tom Tauke—IA Chl	35,000
Strom Thurmond—SC Inc	3,750
John Warner—VA Inc	3,750
Christine Whitman—NJ Chl	3,750
Not running in 1990:	
Kit Bond—MO Inc	2,857

Republican Senatorial Inner Circle 1990-91 distribution of proceeds of joint fundraising—Continued

Candidate	*Amount*
Conrad Bums—MT Inc	2,857
John Chafee—RI Inc	2,857
Al D'Amato—NY Inc	2,857
David Durenberger—MN Inc	2,857
Jake Garn—UT Inc	2,857
Slade Gorton—WA Inc	2,857
John Heinz—PA Inc	2,857
Jim Jeffords—VT Inc	2,857
Robert Kasten—WI Inc	2,857
Trent Lott—MS Inc	2,857
Richard Lugar—IN Inc	2,857
Connie Mack—FL Inc	2,857
John McCain—AZ Inc	2,857
Frank Murkowski—AK Inc	2,857
Don Nickles—OK Inc	2,857
Robert Packwood—OR Inc	2,857
Arlen Specter—PA Inc	2,857
Steve Symms—ID Inc	2,857
Malcolm Wallop—WY Inc	2,857
Total distributed	496,247

NATIONAL PARTY TRANSFERS TO STATE PARTY COMMITTEES

[Jan. 1, 1989—Oct. 17, 1990]

	Rep Nat Cmte	Dem Nat Cmte
Alabama	$29,200	$10,000
Alaska	25,000	
Arizona	32,500	34,358
Arkansas	32,605	6,118
California	12,875	128,347
Colorado		14,510
Connecticut	65,000	16,640
Delaware	5,000	1,117
Florida	176,198	54,707
Georgia	46,500	6,198
Hawaii	2,000	25,624
Idaho		5,000
Illinois	37,500	66,468
Indiana	107,361	11,953
Iowa	5,250	31,371
Kansas		15,000
Kentucky	37,000	57,221
Louisiana		14,759
Maine	10,750	6,491
Maryland		1,640
Massachusetts	31,000	100,570
Michigan	78,848	48,250
Minnesota	34,500	4,798
Mississippi	3,550	11,785
Missouri	34,367	820
Montana	7,250	16,118
Nebraska	13,148	19,250
Nevada	1,250	6,259
New Hampshire		10,866
New Jersey	91,250	5,000
New Mexico	10,000	11,178
New York	15,500	20,000
North Carolina	54,166	119,839
North Dakota	10,373	4,795
Ohio	1,000	19,745
Oklahoma	15,000	4,522
Oregon	16,250	15,775
Pennsylvania	21,000	42,151
Rhode Island	5,000	14,239
South Carolina	8,000	
South Dakota	5,000	32,646
Tennessee	10,000	6,677
Texas	17,800	61,940
Utah		4,254
Vermont	10,000	7,366
Virginia	52,000	12,500
Washington		1,640
West Virginia	5,000	5,000
Wisconsin	29,350	8,279
Wyoming	8,000	6,351
Total	1,213,341	1,130,135

NATIONAL PARTY TRANSFERS TO STATE PARTY COMMITTEES

[Jan. 1, 1989—Oct. 17, 1990]

	Nat Rep Sen Cmte	Dem Sen Camp Cmte
Alaska		
Alabama	$149,000	
Arkansas		
Arizona		
California		
Colorado	150,000	

NATIONAL PARTY TRANSFERS TO STATE PARTY COMMITTEES—Continued

[Jan. 1, 1989—Oct. 17, 1990]

	Nat Rep Sen Cmte	Dem Sen Camp Cmte
Connecticut		
Delaware		
Florida		
Georgia		
Hawaii	50,000	
Iowa	414,500	153,627
Idaho	35,000	
Illinois	45,000	
Indiana	150,500	
Kansas		
Kentucky	315,000	10,000
Louisiana	32,290	
Massachusetts	155,000	
Maryland		
Maine	15,000	
Michigan	265,000	
Minnesota	25,000	
Missouri		
Mississippi		
Montana	90,000	130,140
North Carolina	250,000	
North Dakota		
Nebraska	15,000	
New Hampshire	75,000	
New Jersey		
New Mexico		
Nevada		
New York		
Ohio		
Oklahoma	30,000	
Oregon		
Pennsylvania		
Rhode Island	35,000	25,000
South Carolina		3,000
South Dakota	100,000	28,000
Tennessee		
Texas	50,000	25,000
Utah		
Virginia		5,000
Vermont		
Washington		
Wisconsin		
West Virginia		50,000
Wyoming	5,000	507
Total	2,451,290	430,274

* The Nat. Republican Congressional Committee has reported no transfers. The DCCC transfered $2,000 to Hawaii.

Mr. BOREN. Mr. President, what we are dealing with here, because of different fundraising capabilities of the parties, if we allowed party seed money not to be considered in terms of the limits, is we are giving a distinct advantage to the other side of the aisle over this side of the aisle, and I do not think that would be something that would promote competition the right way.

I think the best way to deal with the very real problem the Senator from Kansas has highlighted, that challengers do not really have an equal chance, is to put limits and constraints on overall spending because incumbents have such a tremendous advantage in being able to gear up the engines to raise the millions of dollars now being spent in Senatorial campaigns.

As long as the sky is the limit, the incumbents are always going to have a huge advantage, because they are able to raise the money, whereas challengers are simply not able to raise it.

In addition, the provisions of our bill which constrains the influence and the activities, and these are common provisions on both sides of the aisle, something also that the President has embraced, constraints on giving by special interest groups, the political action committees will help in the process as well.

So, Mr. President, at the appropriate time I will make a motion to table this particular Dole amendment and I will ask for the yeas and nays on the tabling motion as soon as my colleague has yielded back the time he has on his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I am going to yield back the time. I say the bipartisan committee recognized the disparity in the fundraising of the Democratic and Republican National Committees but indicated it would be incentive for Democrats to strengthen their party and do better in that area, plus we would be able to make loans.

I yield to the Senator.

Mr. McCONNELL. Mr. President, if the Republican leader will yield for an observation, I say one of the reasons the funding disparity appears to be so great is that all the nonparty soft money which our friends on the other side of the aisle benefit from never appears on these reports. In fact, the disparity is not that great, I suggest.

Mr. DOLE. Probably that is correct; they do not count that. I do not know how that works.

I yield back the time.

Mr. BOREN. How much time remains on this side?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. BOREN. One brief comment. I thank my colleague from Kansas for his generous offer on behalf of the Republican Party to enter into loans with the Democratic Party since we are usually stricken with the need for more money. We probably can discuss that appropriate rate of interest off the floor. I appreciate the offer.

I will say there is certainly strong agreement on this side of the aisle about soft money and certainly agreement with the Senator personally. We endeavored to put some provisions into this bill that will reduce the amount of soft money available. It will fully disclose any party soft money and constrain it.

I think that is an area where we need to go further in conference, for example, in making sure we have even more complete disclosure of soft money, of all forms, from whatever the source, not just from parties. This is the kind of issue I hope we can address in the conference committee and make additional progress on and something that will strengthen the bipartisan support of this bill.

Mr. President, I, at this time, move to table the Dole amendment and ask for the yeas and nays to be scheduled at the appropriate time.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOREN. I yield back all time.

The PRESIDING OFFICER. Under the previous order the Senator from Missouri is to be recognized.

The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, I think we have a very limited time here. I would like to speak to the amendment that has been offered in my name that would express the sense of the Senate regarding——

The PRESIDING OFFICER. If the Senator will withhold, unless you ask for the regular order or ask unanimous consent, the previous order will require me to recognize the Senator from Missouri.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the remainder of the time on the Lott amendment be expended at this particular point.

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

The Senator from Mississippi.

Mr. LOTT. I inquire about the time remaining.

The PRESIDING OFFICER. The Senator from Mississippi has 3 minutes and 30 seconds.

AMENDMENT NO. 267

Mr. LOTT. Mr. President, this amendment would express the sense of the Senate regarding application of the provisions relating to PAC's equally to candidates for the Senate and candidates for the House of Representatives.

I do think that this is very important language to make it clear that the Senate feels that there should be parity, equality, between the two bodies, between the House and Senate, specifically on the political action committees language and separate, segregated funds, and they should apply in the same way to the candidates for either House.

I served 16 years in the House; enjoyed it very much. But I had no idea when I came to this body that I would be coming to a situation where there is such a disparity between the two, including pay that is lower for the Senate as opposed to the other body, and now the possibility that we might have different campaign finance laws applicable to one body versus the other.

Some people might say, well, there is adequate protection in the bill. I think we need to make it perfectly clear that the Senate feels very strongly that the language should be the same, particularly on the PAC's. And it has been said by at least one key Member of the other body that what they would like to have is to just let the Senate pass its version and the House would have a separate version, and we would just put the two together and come out of the conference in that way.

I think that would be a big mistake. It would further denigrate the Senate, in my opinion, as compared to our colleagues in the other body. It would cause great confusion as to the applicability of campaign finance laws, and it would further guarantee the certainty that there would be a veto of this legislation.

The letter from President Bush that has already been referred to, dated May 22, noted three reasons for sure that he would veto legislation if it got to his desk in this form. One of those was:

> Further, I am deeply opposed to campaign reform legislation that proposes different rules concerning political action committees for the Senate and House. We must not further balkanize ethics and election reform.

So I hope that our colleagues on the other side of the aisle will accept this language. I think it would be a big mistake, and I just cannot understand why we would even consider having different campaign finance laws applicable to one body versus the other. So I ask this be adopted.

I am glad to yield to the distinguished Republican manager of the bill.

Mr. McCONNELL. Let me thank my friend from Mississippi for his amendment, and tell him I think he is right on the mark. We need to pass one campaign finance reform law.

Mr. BOREN. Mr. President, how much time is allotted on this side?

The PRESIDING OFFICER. The Senator from Oklahoma has 5 minutes.

Mr. BOREN. Mr. President, I yield myself such time as I might require of the time available to me.

Mr. President, I too agree with the statements that have just been made by the Senator from Mississippi. We have had situations where we have one set of rules apply for the House and one set of rules apply for the Senate. It is simply not a healthy situation, or the appropriate way to do business.

I would like to see us have one set of campaign reform principles adopted, applying in all areas in terms of special-interest financing of campaigns, and every other area, as well. So I support what the Senator from Mississippi is here trying to do.

I would just make this caveat. The Senator from Mississippi certainly understands this, having served in the other body with distinction for a number of years. The Members of the House are very sensitive about Members of the Senate presuming to tell them how they should conduct their own business, just as we are sensitive about Members of the House setting forth rules and procedures under which we should operate.

So I do want to say, certainly when it comes to setting limits, if we have a bill that has some sort of limits or spending targets, as the Republican leader has referred to, Members of the House would certainly set some things that would apply only to the House of Representatives, because there are differences in campaigns and districts statewide.

But in terms of the general principles under which we should operate, including special-interest funds that would be available for campaigns, I think it is very important that we have a common set of rules.

In supporting the amendment of the Senator from Mississippi, I want to make it clear the Senate is not just displaying arrogance toward the House. We realize the bill will be a product of House and Senate conference.

It may be that the House will move the Senate toward their position on certain issues. We will have to split the difference on differences of opinion, so that the final product will not just be the House being forced to accept the Senate bill, quite obviously. It will be a process in conference in which both the attitudes of the House and Senate will be blended together in one bill.

But I think what the Senator is saying is that is exactly what should happen. So the House and Senate conference should work together and have one bill, with one set of rules and regulations and principles applicable to both Houses, not necessarily that the Senate provision prevail on all issues, but we should hammer out of a common set of principles. I certainly agree with that.

I know of no opposition to the amendment on this side of the aisle. I am prepared not only to accept the amendment, but indeed, as one individual Senator, I support the amendment and commend the Senator for offering it.

I yield back all time on this side.

The PRESIDING OFFICER. The Senator from Mississippi has 47 seconds remaining.

Mr. LOTT. Mr. President, I do want to emphasize I agree on this. Certainly, we need different rules. We have always had different rules in the way we operate our individual bodies, and I understand that a conference is give and take. Having been a conferee from the other side, I think it is important there be that give and take. But when it comes to the law for campaigns, we should work it out and have only one law applicable. So I appreciate the Senator's comment on that.

I yield back the balance of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 267) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Missouri [Mr. DANFORTH].

AMENDMENT NO. 271 TO AMENDMENT NO. 242

(Purpose: To amend section 315 of the Communications Act of 1934 with respect to the purchase and use of broadcasting time by candidates for public office, and for other purposes)

Mr. DANFORTH. Mr. President, on behalf of Senator INOUYE and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for himself and Mr. INOUYE, proposes an amendment numbered 271 to Amendment No. 242.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike all on page 44, line 21, through page 45, line 5, and insert in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) or (2) are in effect, of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b)(1)(A) or (2).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

On page 45, after line 19, insert the following:

(d) APPLICABILITY OF LOWEST UNIT CHARGE REQUIREMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking "forty-five" and inserting in lieu thereof "thirty";

(2) by striking "sixty" and inserting in lieu thereof "forty-five"; and

(3) by striking "class and".

On page 97, line 3, strike "broadcast" and insert in lieu thereof "television, radio, and cable communication".

On page 97, line 7, line 14, and line 17, strike "broadcast" and insert in lieu thereof "communication".

On page 97, line 13, strike "broadcast" and insert in lieu thereof "message".

On page 97, line 11, after "I" insert the following ", (name of the candidate),".

The PRESIDING OFFICER. Under the previous order, the time allotted for the discussion of this amendment is 10 minutes equally divided.

Mr. DANFORTH. Mr. President, I yield myself 3 minutes

Mr. President, while the entire bill that has been on the floor has been extremely controversial, this amendment, to my knowledge, is totally noncontroversial. The intent of the amendment is to incorporate into the bill the provisions of S. 521. S. 521 is the Commerce Committee's bipartisan effort at addressing two issues of compaign reform.

The first issue that is addressed by the Commerce Committee bill, reported out unanimously last week, has to do with the reform of the lowest unit rate rule. Lowest unit rate was intended to provide political candidates with the same broadcast rates as are available to commercial advertisers.

Unfortunately, because of the distinction that has been made between preemptible and nonpreemtible time, the practical effect of the current law is that political candidates can be changed many times what commercial advertisers are charged.

Further, there is the possibility of abuse, and there have been instances of abuse where two competing candidates have been charged very different amounts for exactly the same timeslot.

This Commerce Committee bill changes that provision, reinstates the original intent of lowest unit rate, and does in fact provide political candidates with the same advertising rates as are available to commercial advertisers.

Second, it conforms the candidate disclosure provisions in the legislation before us to what was reported out by the Commerce Committee and makes those disclosure provisions applicable not only to broadcast television and radio but also to cable television and further requires the candidate to state his name, disclosing his identity.

That is the upshot of the amendment. This, in the minds of the members of the Commerce Committee, constitutes real campaign reform, a very major step forward, and it is something we believe could pass the Congress in very short order.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. BOREN. Mr. President, I yield myself 2 minutes.

Mr. President, I have had a discussion with the Senator from Missouri about this amendment. Basically I find much that recommends and commends itself in the amendment of the Senator from Missouri. I want to pay tribute to him for all the work he has done as a member of the Commerce Committee on this particular issue, not only on this issue but on several others. We have included and we are indebted to the Senator from Missouri for another of his ideas which relates to trying to end negative campaigning, the kind of 30-second spots under which people hire actors to get on television and make charges about their opponents and throw mud and besmirch the character of opposition candidates without having to assume responsibility for this mudslinging and negative campaigning themselves. The Senator from Missouri, among others, has advocated that we make candidates assume this responsibility. If there are actors on a spot and they are attacking the opposing candidates, at the end of that spot

the candidate has to say, I, Senator X, or candidate X, have authorized this ad and assume responsibility for it. Maybe that will discourage this kind of character assassination and negative campaigning.

I want to commend the Senator from Missouri for this idea among many others that he has contributed to this process. In fact, I still have high hopes since he has made such a contribution to this effort that ultimately he will decide to join in support of final passage of this legislation to send it to conference. There is always hope, even to the 11th hour, until the name is called, that repentance might be at hand on some issues. My distinguished colleague from Missouri is a theologian and ordained as well. I keep hoping for his personal salvation on this issue. I want him to know I am concerned about his well-being and hope he will join us in voting for this bill.

I also want to commend him for the work that has been done by the Commerce Committee and by him on the question of the lowest unit rate, on getting a more workable definition. The Senator has a balanced proposal which would reduce the number of days in which the rate would be offered but would define the rate in a much more workable fashion. So I find many things for which to commend him.

I do want to say—and the Senator from Missouri understands this—my position on this amendment as to whether or not I can accept it without a rollcall will depend in part on the outcome of the vote on the Nickles amendment, which would strip out of our bill the 50 percent discount rate as an incentive for candidates who comply with spending limits. It would do severe damage to the bill if that amendment were agreed to, and there might be a number of people on this side of the aisle whose attitude would be affected toward the Danforth amendment, which would come up in sequence after the Nickles amendment, if that amendment were to prevail. To protect the rights of those on this side of the aisle who might want a vote on the Danforth amendment if the Nickles amendment happened to prevail, I do want to reserve my right to do that.

On the other hand, I do not want to request the yeas and nays at this point. If they became necessary and were ordered, it would require unanimous consent to vitiate them. I also know if the yeas and nays are ordered on the Danforth amendment, the Senator from Missouri will wish to have additional time to debate this matter. If that indeed is the case, I will join with him in making that request that he be given that additional time.

So, Mr. President, I have discussed this with the Senator from Missouri. I ask unanimous consent that I have remaining to me 1 minute of time on this side, and whether or not there be ordered a rollcall vote on the amendment—I be allowed to ask for a rollcall vote on the Danforth amendment after all the other votes have occurred which begin at 1:30. In other words, after we have voted on all of those matters on which rollcalls have been ordered, at that time I would ask unanimous consent that, immediately after the last rollcall in sequence, commencing at 1:30, the Danforth amendment be pending and that I be recognized for 1 minute at that time, at which time I hope to be able to accept the Danforth amendment.

If not, I would request at that time the yeas and nays and then I would enter into a request with the Senator from Missouri that additional time for debate on the Danforth amendment be given. We have had a discussion about this, and I believe the Senator from Missouri does not object to this unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Senator from Missouri.

Mr. DANFORTH. Mr. President, reserving the right to object, but simply to clarify what I hope is the unanimous-consent request of the Senator from Oklahoma, last night as we were discussing the possibility of time agreements I made two possible propositions. One was that we enter into a 10-minute time agreement, equally divided, on the theory that this totally noncontroversial amendment would be acceptable by both sides and it would only take 10 minutes of debate.

The second proposition I made was that, if it turns out to be controverted and not acceptable by the managers and therefore requiring a rollcall vote, instead of 10 minutes equally divided, there be 2 hours equally divided.

If the Senate is going to engage in a contested issue, if we are going to have controversy on this totally noncontroverted issue, then it it important for the Members of the Senate to understand what the lowest unit rate issue involves in some degree of depth, and the distinction between the disclosure provisions in the bill that is before us and the bill that was reported out of the Commerce Committee. That cannot be done in 5 minutes, and it certainly cannot be done in 1 minute.

So my hope would be unanimous-consent request of the Senator from Oklahoma include the fact that in the event this amendment is not acceptable, that there then be 2 hours equally divided for the debate on the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I would be happy to amend my request to make that explicitly clear, so that when I am recognized at the conclusion of all votes ordered to commence at 1:30, if at that time when I am recognized for 1 minute to either accept or request a rollcall on the Danforth amendment, if, at that time I do request a rollcall in or in relation to the Danforth amendment, that the time for debate would be then automatically extended on the Danforth amendment to 2 hours equally divided, understanding we might not use all time but that it will be available.

As I say, I hope we are talking about a hypothetical situation. I think perhaps we are and it will work out so I can accept the amendment. But to preserve the rights of all concerned I believe that my request amended as the Senator from Missouri just requested would do it.

The PRESIDING OFFICER. Is there objection to the request as amended? Hearing none, it is so ordered.

Mr. PRESSLER. Mr. President, I want to congratulate the distinguished Senator from Missouri for his leaderhip on this important amendment to help clean up campaigns.

I say this as someone who practiced this principle in my own campaign. Going even further than this amendment, I had a self-imposed requirement that I be on camera for the length of any commercial that even mentioned my opponent's name.

I did it looking straight into the camera—full face and no gimmicks—the entire time. It gave my media consultant a serious case of heartburn and probably cost me 10 points, but I am proud I did it.

I never once allowed my media consultant to run an anonymous attack ad, even though there were dozens used on me. My opponent's name was never mentioned in an ad unless I said it myself. I think this added to the quality of the campaign.

But as proud as I am of my campaign, frankly, I do not think I would do it again by myself. As I said, it probably cost me 10 points. Fortunately, I had a few to spare. Next time I might not be so lucky. In the future, I probably will be compelled to respond to that kind of garbage if we cannot reach an agreement or set a standard of accountability. The hallmark of disclaimer theory is accountability. I support that.

Although I got many compliments for running a positive campaign, the fact remains that anonymous, negative attacks work. The only way to clean them up is by applying a fair standard across the board.

Personally, I would like to see candidates voluntarily agree to speak for themselves. My own experience tells me it is unlikely that this will be agreed to. That is why I support this amendment. It still allows for some anonymous announcer to sling mud, but at least it requires that the candidate sponsoring it be identified.

This bill is really no departure from current disclosure and disclaimer theory. It simply translates the fiction of thumbnail photos and unreadable newsprint disclaimers into the reality

of a disclaimer that voters can in fact recognize.

I will never forget the demonstration of one media consultant who tried to talk me into running negative anonymous ads. With great pride he showed me how he could camouflage the background of the tiny photo and newsprint disclaimer now required to make them unreadable. He put it to the test by telling people in advance where it was; he placed the ad four times in a row, and five out of five people could not read or identify the disclaimer.

The point here is that contrary to the stated purpose of current law, we have no disclaimer requirement, in fact. This amendment does nothing more than recognize and correct the currency deficiency in existing disclaimer law.

I have a hard time seeing how anyone who supports the disclaimer concept can oppose this amendment.

Some criticize this as an incumbent's protection plan. But that is not true. In fact, in my home State we had a House challenger endorse my more stringent proposal because he didn't like the cheap-shot campaigns. He, like I, ran ads about his opponent. But he had the conviction to speak for himself. Only one of five congressional candidates refused.

This amendment is far less demanding than my own standard. It is simply an effective disclosure requirement which, for the first time, effectively does what the original campaign disclosure act promised, and I again commend its author.

I urge my colleagues to join me in support of this amendment.

The PRESIDING OFFICER. Under the previous order the Chair recognizes the Senator from Kentucky [Mr. MCCONNELL] for purposes of offering an amendment.

AMENDMENT NO. 272 TO AMENDMENT NO. 242

Purpose: To deny tax status to certain organizations participating in campaigns.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 272 to amendment No. 242.

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

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

The amendment is as follows:

At the end of the amendment, insert the following:

SEC. . RESTRICTIONS ON SOFT MONEY ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after the date of enactment or September 1, 1992, whichever is later.

SEC. . DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by the preceding section, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

"(1) IN GENERAL.—An organization shall not be treated as exempted from tax under subsection (a) if—

"(A) such organization devotes any of its operating budget to—

"(i) voter registration or get-out-the-vote campaigns; or

"(ii) participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

"(B) a candidate, or an authorized committee of a candidate, has—

"(i) solicited contributions to, or on behalf of, such organization; and

"(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

"(2) CANDIDATE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

"(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

"(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed, and

"(ii) such individual is not otherwise a candidate described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act, but only with respect to solicitations or suggestions by candidates made after the date of the enactment of this Act.

The PRESIDING OFFICER. Under the previous order there are 30 minutes equally divided for debate on this amendment.

Mr. MCCONNELL. Mr. President, there has been a lot of talk about soft money in this debate, but we really have not dealt with it yet. The definition of soft money is that it is money spent by labor unions, corporations, and political parties to affect the outcome of elections but which is not reported to the FEC, disclosed to the public, or limited or regulated by law. Soft money activities can also be conducted in consultation with the candidate, as opposed to independent expenditures, which must be done independent of the candidate. Soft money activities can be engaged in by political parties and by groups that are not political parties, tax-exempt groups.

S. 3, the bill before us, seeks to nail parties, the one entity in America that will stand up for challengers. Unfortunately we are going to have a rollcall vote on Senator DOLE'S amendment to provide seed money for challengers, further evidence that S. 3 is designed to further tilt the scale against challengers.

Mr. President, in dealing with soft money, S. 3 crunches the soft money out of the parties but leaves all soft money expenditures by nonparties completely unaffected.

With this amendment, I hope to eliminate one of the most insidious forms of taxpayer financing of campaigns in our system: Tax-free corporations, subsidized under our Tax Code which participate aggressively in political campaigns, taking sides and doing everything in their power to get the outcome they want. The only difference between these groups and politically involved private citizens is that the citizens pay taxes; the corporations do not.

This amendment simply says that if a corporation wants to participate in a political campaign on behalf of or in opposition to a candidate for Federal office, they will not be punished. No public money will go to their opponent, but nor will they be able to claim exemption from taxes that every other American citizen pays.

The rule here is simple and fair: If you want to play, you have to pay. If a corporation wants to operate as an adjunct campaign organization for a particular candidate or activity, promote or attack the candidate, it is not going to get a tax break for doing it.

This amendment has a second important purpose. Everyone in this body is concerned about the black market of soft money that is choking Presidential and congressional races, principally Presidential races. The major players in this black market are tax-free organizations; labor unions and thousands of other corporations formed under section 501(c) of the Internal Revenue code.

With computerized phone banks, targeted direct mail, intricate money-transferring schemes, and coordinated earned media strategies, these tax-free corporations run possibly the most sophisticated black market in America. None of this activity—I repeat, none of this activity—is publicly disclosed. All of it is conducted beneath the radar of the Federal Election Commission. Experts have submitted that about half the total money spent in the last Presidential election was soft money, unreported, undisclosed, unlimited, some of

it by political parties. Much of that, however, was disclosed. Millions by the nonparty groups.

One reason why these organizations can afford such massive stealth campaigns is that they are subsidized through their tax exemption. In other words, we are forcing the American taxpayer to help subsidize the soft-money black market. My amendment corrects this outrageous anomaly in the tax law. If you are against taxpayer financing, as most Americans are, or if you are simply against continuing this tax break for soft money, you should vote for this amendment. If you think soft money deserves a tax exemption, then obviously you will be against this amendment. But, if we are going to get serious about eliminating soft money, then the first thing we should do is take away its tax breaks.

Whenever a new measure is introduced, there is always some concern about what the language means and how the courts will interpret it. The Democratic leader and I discussed this last summer during this debate. For simplicity sake, my amendment adopts the exact same language that defines the permissible activities of charitable organizations set forth in section 501(c)(3) of the Tax Code. This language is old, tested, and true. In fact, it was drafted and offered in 1954 by then Senator Lyndon Johnson. Since then, this language has been upheld repeatedly in the courts and refined by 35 years of judicial interpretation.

For example, although tax-free corporations are banned from intervening in political compaigns, they are nevertheless free to conduct voter education programs on the positions of candidates so long as the program includes both sides. Under this language, tax-free corporations are free to hold debates with the candidates and public forums on issues without jeopardizing their tax status.

However, such debates and forums must be impartial and fair to both candidates. That is hardly much to ask in return for a tax break. On the other hand, if the tax-free corporation wants to run attack phone banks or send hate mail about a particular candidate, it is free to do so, but it must give up its exemption from taxes. Or, and this is very important, Mr. President, it needs to set up a separate political committee, a nonconnected PAC which all of us believe will still be allowed no matter what legislation we pass, and report activities to the FEC. In other words, the soft money is converted into hard money.

If an organization wants to run a negative-earned media campaign against a candidate, it is free to do so, but the taxpyers will no longer be required to subsidize it.

If my amendment becomes law, soft money loses its tax exemption. It is as simple as that.

Finally, let me mention one other important thing my amendment does. There are a number of tax-exempt groups that conduct voter registration drives. That is an admirable and much needed activity in these days of declining voter turnout. But, there is a risk of political motivation with voter drives, especially when the money paying for the activity is donated or raised by a candidate. My amendment eliminates that risk by taking away the tax exemption of any group that conducts voter registration or get-out-the-vote drives while knowingly—knowingly—accepting money from a candidate for Federal office.

In other words, a tax-exempt group may not ask a candidate to solicit funds on its behalf or cooperate with a solicitation and then turn around and do voter registration and get-out-the-vote activities.

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

The PRESIDING OFFICER. The Senator from Kentucky has 7 minutes and 55 seconds.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. I yield myself such time as I might require.

Mr. President, I think there is an honest misunderstanding and misunderstanding of what the current law is by the author of the amendment, in all due respect. This is an amendment that I hope my colleagues will look at very carefully and understand what we are doing here. This is an amendment on which I really feel obligated to raise a red flag, and I hope that those staff members who are listening to this discussion and Members who are listening to this discussion in their offices will really pay attention to what this amendment will actually do, because I think if they do pay attention to the actual effect of this amendment, there is no way that they would want to approve it.

What are the facts? Under the current law, 501(c)(3) charitable organizations—these are organizations that are nonprofit charitable organizations that have a total tax deduction that are organized to be charities—may not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office. And if they do so, they can lose their tax-exempt status. I do not think, Mr. President, that anyone would argue with that.

But what this amendment would do is extend that same rule to 501(c) organizations. 501(c) organizations, as opposed to purely charitable organizations like, let us say, the Salvation Army or some organization like that, are generally not taxed organizations but they are not necessarily charities. These are the kinds of organizations that include civic and business leagues, labor unions, agricultural organizations, veterans organizations, fraternal societies and the like, the American Legion, the VFW, the Farm Bureau, the Farmers Union—these kinds of organizations—the National Rifle Association, for example. These are the kinds of organizations that are 501(c) organizations. They are civic organizations, fraternal organizations; they are not charities, per se.

The 501(c) organizations are already taxed on any political activity. The current tax law under section 527(f) of the Internal Revenue Code requires that tax exempt 501(c) organizations pay taxes on that portion of their income devoted to political activities. So we have already taken care, essentially, of the problem that is being described by the Senator from Kentucky; 501(c)(3) charitable organizations simply cannot participate in the political process for or against candidates or they lose their tax exempt status; 501(c) organizations, if they get involved for or against candidates in political activities, are taxed upon those activities and, therefore, are not treated as tax exempt.

But what would the amendment do if it is adopted? And this is what I hope, Mr. President, that Members will pay close attention to and really consider before they vote on this amendment. The effect of the McConnell amendment, if it is adopted, would be that, for example, these organizations, which I talked about, could not inform their own Members about political issues and the political records of candidates. A veterans organization, for example, could not inform its membership that a congressional candidate is opposed to and votes against all veterans programs. The National Rifle Association, or an association on the other side of that issue, dedicated to changes in the gun laws could not inform their own members of the records or points of view of Members of Congress or candidates on issues related to gun control, for example. The Farmers Union and the Farm Bureau could not inform the members of their organization as to the position or voting records of Members of Congress or their opponents related to agricultural issues. Nor could they run editorials or make other comments or descriptive comments to their own members in relationship to pending issues before the Congress that might be considered to be political.

Mr. President, I do not think any of us want to go that far. I do not think we want to go so far as to say if the American Legion or the VFW, for example, decides they want to inform the members of voting issues of Members of Congress they loose their entire tax-exempt status and are taxed on everything they do, including beneficial pro-

grams to help the veterans of this country. I use that as an example.

This certainly is the case of throwing out the baby with the bath water. The appropriate thing to do is that if the VFW, or the American Legion, or the Farm Bureau, or the NRA, or any other organization decides to get involved for or against political candidates in terms of supporting them and spending money on campaigns, those political activities are taxed, that that organization is not treated as tax-exempt for that purpose.

I do not think we want to go so far as to—we have heard so much about the freedom of speech and freedom of expression from those on the other side during the course of this debate—muzzle organizations which are basic service and fraternal organizations from communicating with their own members, for example, about the voting records and the positions which Members of Congress have taken on a particular issue. That is going too far.

I urge Members before they vote to consider how they are going to go back and explain to the members of the American Legion, for example, why they voted to take away their right to communicate with their own members, or if they do communicate with their own members on issues of the day they are going to take away their tax-exempt status.

In fact, we have also heard a good deal about we do not want any tax increase. Senator PACKWOOD came to the floor and said we were raising taxes if we took away the tax subsidy now being given to lobbying organizations, massive amounts of money lobbying Congress each year, $100,000 a year lobbying organizations, paying for their lobbying activities.

The Senator from Oregon said during that debate that that was a tax increase. Certainly, if that was a tax increase, which I think is subject to some question, if we are going to here apply the same rules across the board to impose taxes on the American Legion, for example, for communicating with their own members about political matters and giving the records of candidates by taking away their tax-exempt status, that would certainly be a tax.

So, Mr. President, while I think, undoubtedly, this amendment is well-intentioned, it has some very unintended consquences. It is going to end up penalizing and punishing 501(c) organizations for communicating with their own members and for sharing information about, for example, voting records of all of us.

I think the American Legion ought to be able to communicate with all of its members and to be able to say that Senator X or Senator Y have been voting consistently against the veterans or for them, or Senator X or his opponent are taking differing positions on very important veterans' issues of interest to the American Legion. That is informative. I think the Farmers Union or the Farm Bureau or the American Agriculture Movement, or any other group in agriculture, for example, ought to have the same privilege.

So I urge Members to vote down this amendment offered by the Senator from Kentucky. I think we have a solution to the problem already in the Tax Code. It is merely a matter of enforcement.

The 501(c)(3) organizations devoted to charity loose their tax-exempt status if they do engage in this kind of political activity; 501(c)(3) organizations are taxed up to the amount of their political activity. We do not make them taxable on everything just because they do attempt to communicate with their own members and provide information to their own members about the issues of today and the records of candidates and records of Members.

So, Mr. President, all I would say is Members should read the fine print of this amendment before they vote on it because it goes much further than we should go in terms of constraining freedom of association in this country.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. MCCONNELL. Mr. President, the Senator from Kentucky is tempted to say "There you go again" to the Senator from Oklahoma. Reading again The Law Of Tax-Exempt Organizations, there is not going to be any prohibition against operations notifying their members.

The IRS voter education guidelines are clear. It says that they may notify their members, give them the voting records of all incumbents; candidates for reelection will not be identified.

3. No comment will be made on an individual's overall qualification for public office.

4. No statements, expressly or impliedly, endorsing or rejecting any incumbent as a candidate for public office will be offered.

5. No comparison of incumbents with other candidates will be made.

It goes on down through No. 8, Mr. President.

It is very clear, Mr. President, that groups will be able to continue to notify their members of the voting records of candidates. It is right here. It is well-established law.

In addition, Mr. President, the other side argues this amendment is not necessary since all tax-exempt organizations are already subject to tax on their political activities. Section 527 of the Internal Revenue Code to which the other side refers imposes a special tax on tax-exempt corporations that attempt to influence an election. However, that tax is applied to the lesser of, one, how much money is spent directly on the political activity, though not including overhead or administrative costs; or two, the corporation's investment income for the year.

This ends up being a very small amount, hardly reflecting the corporation's total financial commitment to political activities and many such tax-exempt organizations just consider this tax to be a cost of doing business in the soft money black market.

In other words, the code section to which my friend from Oklahoma refers has virtually no impact on tax-exempt soft money. My amendment, on the other hand, completely eliminates the tax exemption for organizations that conduct soft money activities. But, Mr. President, all that does is make the organization choose: either give up its tax exemption, which I suspect none of them will choose to do, or get out of the soft money black market by stopping such activities altogether and setting up a separate political activity, as many of the organizations do today, a separate nonconnected PAC—they do that today—which converts their activities from soft money into hard money. When that happens, Mr. President, then it is on the FEC report. The black market is gone. The group still is allowed to participate but it participates through hard money. When the soft money is converted to hard money, it becomes limited and disclosed like everybody else's contribution. So this is not going to impact adversely any of these organizations except that they get out of the soft money market and participate through hard money, like everybody else in America, outside the tax exemption.

This thought that churches, farmers' cooperatives, veterans' groups, and other organizations that play an important part in the process are going to somehow be handicapped is just simply wrong. Civic organizations have always played an important role in promoting political involvement and educating votes in a fair, unbiased way. That kind of activity is not soft money, Mr. President. There is nothing wrong with it. My amendment would not affect it in any way.

Civil groups, churches, and any other organizations formed under the tax-exempt corporation law would be free to conduct voter registration, voter education, candidate forums, candidate debates, compilation of voting records, and candidate questionnairs, among other political activities, without, I repeat without, jeopardizing their tax exemption. However, these activities must be, as they should be, nonpartisan, unbiased, and fair to both sides.

If, on the other hand, a tax-exempt organization wants to support one candidate over another, or one party over another, and do mailings or phone banks or leafleting or statewide press conferences on behalf of that position, that becomes clearly soft money and the taxpayer should not be forced to

subsidize it through a lucrative tax exemption. That is all my amendment does.

Let me add that if any of these tax-exempt groups want to set up a separate political action commitee to engage in political activities, they may do so under my amendment but in effect what that does is turn a soft money activity into a hard money activity. That is desirable, Mr. President.

The FEC report would mean something if the McConnell amendment would be adopted. You would be able to pick up an FEC report and you would really know what is being spent, and it would have no adverse impact whatsoever on these tax-exempt organizations. If they wanted to participate in politics, they would simply do it through a hard money activity rather than a soft money activity. It does not prohibit their communicating with their members, or doing most of the things that they do today that are nonpartisan.

But when they step over into the partisan field, Mr. President, they ought to be on the same footing as everybody else in the American political office, through limited and disallowed contributions reported to the FEC. That is all this does. Any effort to characterize it otherwise is an attempt to scare Members of this body into thinking that they are casting a vote against the veterans of America, or any other tax-exempt group. That is absurd.

They will still be able to function in a nonpartisan way and keep their tax-exempt status. But when they start desiring to operate on behalf of a particular candidate, or a particular party, they must set up a nonconnected PAC, which none of us believe can be abolished by any legislation that we pass, converting that activity into a hard money activity, therefore limited, disclosed, and on the FEC forms like everybody else in America.

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

The PRESIDING OFFICER. 1 minute, 30 seconds.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. I yield 5 minutes to my colleague, the distinguished Senator from Texas.

Mr. BENTSEN. Thank you very much.

I see my friend from Kentucky wants to kill this bill. It is a great way to kill it because it will obviously be blue-slipped on the House side. Tax legislation has to originate on the House side and not on this side.

We have been through this before. Article I, section 7 of the Constitution specifies "all bills for raising revenues shall originate in the House of Representatives."

I must tell you the House of Representatives feels very strongly about this. They are very zealous in protecting that particular prerogative.

Some Senators may wonder whether the origination clause gives too much power and privilege to the House. But I remind Senators that the Constitution itself provides this body with certain prerogatives—to try impeachments; responsibility to give advise and consent to treaties and appointments of Ambassadors, Supreme Court Justices, and other officers of the United States.

I have been frustrated myself at times when serving in this body and as chairman of the Finance Committee with our inability to send S-numbered revenue bills over to the House and speed up that process. But these are the realities.

The bottom line is it is not our choice to observe the Constitution's limitations in this case. It is not a question of whether we like the origination clause. The House is going to insist on their prerogatives in this case.

The merits of the amendment have nothing to do with it. All this amendment can do is kill the bill. We voted on this last year. It was a substantial vote against it. It was 58 to 41. I say to my friend from Kentucky that did not reflect on the substance, and the merits of his amendment. But it sure tells us the realities of what we face in the House.

So I strongly urge the Members of the Senate, unless they are totally against campaign reform, to vote against this amendment.

When he proposes legislation like this, without moving provisions through the committee, that is not the way the committee system works. The purpose of having committees is to allow those with the expertise and the experience in that particular area to give it a close look, to see whether it merits approval, then bring it before this body to try to strike a balance between the competing proposals. That is the best overall policy.

Mr. McCONNELL. If the Senator from Kentucky were allowed to modify his amendment to make it a sense-of-the-Senate resolution, would the Senator from Texas then support the amendment of the Senator from Kentucky?

Mr. BENTSEN. I say to the Senator from Kentucky, in all candor, I did not give that much attention to the substance because it was so obviously going to be blue-slipped, and I ran into that one before. I have been up against this many times, as the Senator from Kentucky knows, and he has too. Sometimes it is a bit of a putdown for us. But that is it.

Mr. McCONNELL. The Senator would not object if I, in order to meet his technical concern, constitutional concern, simply modify my amendment to make it a sense-of-the-Senate resolution?

Mr. BENTSEN. I would reserve the right to object for the manager of the bill on this side. I would not comment on the substance of the issue.

Mr. BOREN. Mr. President, I would be constrained to object because I object also to the substance of the matter. I looked at the Internal Revenue's new rulings. There is a case which I have at my desk in which the courts in applying the rules on the 501(c)(3) have given interpretation that communication with one's own members might result in loss of tax-exempt status. I am very concerned about the substance as well. I feel it should not be done.

Mr. McCONNELL. Let me say briefly that the Senator from Kentucky has offered to modify his amendment to make it a sense-of-the-Senate resolution. That has been objected to by the manager on the other side.

Obviously, the technical issue that the Senator from Texas raised is not really the issue because the Senator from Kentucky has offered to modify his amendment and make it a sense-of-the-Senate resolution.

The real issue still before us is whether we want to do something about sewer money. This is the sewer money of American politics. If the Senate wants to go on record in support of sewer money, I will vote against the McConnell amendment.

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

Mr. BOREN. How much time remains on this side?

The PRESIDING OFFICER. One-and-a-half minutes.

Mr. BOREN. Looking at the law itself, the way 501(c)(3) has been applied, I mention Treasury regulations section 1.501(c)(3)-1(c)(3)(iii), participation or intervention in the campaign, prohibited participation in intervention in political campaigns, includes but is not limited to the publication, the distribution of written material, or the making of oral statements on behalf or in opposition to a candidate.

In the case of the association of the bar of the City of New York 85 A Federal second 876, Second Circuit, a 1988 case, the court ruled that so-called educational materials may be viewed as partisan if the organization publishes voting records in the areas where the organization also expresses its view. It there applies to 501(c)(3).

Clearly, if we look at these cases and the rulings, if we were to apply that same standard to 501(c) organizations, we could very well prohibit organizations like the American Legion, for example, or agricultural organizations from communicating with their own members and publishing the voting records.

I certainly agree with soft money being disclosed and being stopped as much as possible. We have some very

strong provisions in this bill that deal with soft money.

I have indicated a willingness to work with those on the other side to go further. You simply would say that mechanically I do not think this is the way to do it. Whether it is in the form of a sense of the Senate or a direct implementation here, it is something I do not think we should do. But I think what we should try to do as we go into the conference committee is work on some other reasonable approach. I think again this is the kind of matter that we would want our experts in the Finance Committee to have an opportunity to look at and to construct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCONNELL. Mr. President, the issue is quite simple. This amendment does not prohibit any 501(c), not a single one of them, from setting up a nonconnected political action committee which would operate in hard money; that is, limited and disclosed and on the FEC report like everybody else in America. It would not require them to give up their right to communicate with their members.

In effect, Mr. President, all this amendment does is turn soft money activity into hard money activity and leave completely unhampered the rights of these 501(c)'s to do the nonpartisan activities that they carry out every day today.

So this is the vote on sewer money, Mr. President. The underlying bill does not do anything about sewer money. It attempts to nail parties, to restrict parties, but it does not do anything about nonparty soft money. If we want to do something about that, Mr. President, I will vote in favor of the McConnell amendment.

The PRESIDING OFFICER. All time has expired.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized.

Mr. BOREN. Do I not have a right to make a motion to request the yeas and nays?

Mr. McCONNELL. I would like the yeas and nays.

Mr. BOREN. Mr. President, I move to table the McConnell amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOREN. Mr. President, we are now within 10 minutes of the time for votes to begin. I wonder if I might suggest to my colleague from Kentucky, so that we have about a 10-minute break before we go into the votes, that we might commence consideration of this amendment following those votes. He is next on the list with two different amendments.

Mr. McCONNELL. Mr. President, if I may suggest to the Senator from Oklahoma, it seems to me it would save us time. To finish the list, Senator DOMENICI indicated he will not offer his amendment; I have two amendments; and Senator GRAMM has one.

Mr. BOREN. Mr. President, we are due to commence at 1:30 on the votes. Would the Senator like to lay down his amendment now? How much time is allocated on the next amendment?

The PRESIDING OFFICER. Thirty minutes equally divided.

Mr. McCONNELL. I, too, would like to get something to eat, like the Senator. I recommend that we go into a quorum call until the vote starts at 1:30 and handle the last three amendments right after the votes.

Mr. BOREN. I think that would be a good plan.

Mr. President, I ask unanimous consent that a quorum call be in order with time not being charged against any pending amendment, that following the votes and the disposition of the Danforth amendment, we then return to consideration of the McConnell amendment dealing with the convention payments.

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

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

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

AMENDMENT NO. 262

The PRESIDING OFFICER. Under the previous order, the hour of 1:30 p.m. having arrived, the question occurs on the motion to table the Roth amendment No. 262.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—79

Adams	Bryan	Daschle
Akaka	Bumpers	DeConcini
Baucus	Burdick	Dixon
Bentsen	Burns	Dole
Biden	Byrd	Domenici
Bingaman	Coats	Durenberger
Bond	Conrad	Exon
Boren	Craig	Ford
Bradley	Cranston	Fowler
Breaux	D'Amato	Glenn
Brown	Danforth	Gore
Gorton	Leahy	Rockefeller
Graham	Levin	Sanford
Gramm	Lieberman	Sarbanes
Harkin	Mack	Sasser
Hatfield	McCain	Shelby
Heflin	Metzenbaum	Simon
Hollings	Mikulski	Specter
Inouye	Mitchell	Stevens
Jeffords	Moynihan	Symms
Johnston	Nickles	Wallop
Kasten	Nunn	Warner
Kennedy	Packwood	Wellstone
Kerrey	Pell	Wirth
Kerry	Reid	Wofford
Kohl	Riegle	
Lautenberg	Robb	

NAYS—19

Chafee	Kassebaum	Rudman
Cochran	Lott	Seymour
Cohen	Lugar	Simpson
Dodd	McConnell	Smith
Garn	Murkowski	Thurmond
Grassley	Pressler	
Hatch	Roth	

NOT VOTING—2

Helms	Pryor

So, the motion to lay on the table the amendment (No. 262) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. On the following votes, under previous order votes have been reduced to 10 minutes each.

AMENDMENT NO. 264

The PRESIDING OFFICER. The question now is on agreeing to the motion to lay on the table amendment of the Senator from Oklahoma [Mr. NICKLES]. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—54

Adams	Durenberger	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Pell
Bingaman	Graham	Riegle
Boren	Harkin	Robb
Bradley	Heflin	Rockefeller
Breaux	Inouye	Roth
Bumpers	Johnston	Rudman
Burdick	Kennedy	Sanford
Byrd	Kerry	Sarbanes
Cohen	Kohl	Sasser
Cranston	Lautenberg	Shelby
Daschle	Leahy	Simon
DeConcini	Lieberman	Wellstone
Dixon	Lott	Wirth
Dodd	Metzenbaum	Wofford

NAYS—44

Bond	Gorton	Murkowski
Brown	Gramm	Nickles
Bryan	Grassley	Packwood
Burns	Hatch	Pressler
Chafee	Hatfield	Reid
Coats	Hollings	Seymour
Cochran	Jeffords	Simpson
Conrad	Kassebaum	Smith
Craig	Kasten	Specter
D'Amato	Kerrey	Stevens
Danforth	Levin	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Exon	McCain	Warner
Garn	McConnell	

NOT VOTING—2

Helms	Pryor

So the motion to lay on the table the amendment (No. 264) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 265

Mr. MITCHELL. Mr. President, I move to table the Hatch amendment, and I inquire whether or not the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered on the motion to table.

Mr. HATCH. We did ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered on the Hatch amendment.

Mr. HATCH. It was my understanding this was going to be voted up or down. That was the understanding.

Mr. MITCHELL. I do not know who the understanding was with. It was not with me.

Mr. HATCH. It was my understanding your side was going to clear it for up or down. That is the way I want it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I move to table the Hatch amendment, and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Hatch amendment No. 265. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—57

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Gore	Nunn
Biden	Graham	Packwood
Bingaman	Harkin	Pell
Bradley	Heflin	Reid
Breaux	Hollings	Riegle
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burdick	Johnston	Sanford
Byrd	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Stevens
Dixon	Levin	Wellstone
Dodd	Lieberman	Wirth
Exon	Metzenbaum	Wofford

NAYS—41

Bond	Garn	Murkowski
Boren	Gorton	Nickles
Brown	Gramm	Pressler
Burns	Grassley	Roth
Chafee	Hatch	Rudman
Coats	Hatfield	Seymour
Cochran	Kassebaum	Simpson
Cohen	Kasten	Smith
Craig	Kohl	Specter
D'Amato	Lott	Symms
Danforth	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Durenberger	McConnell	

NOT VOTING—2

Helms	Pryor

So the motion to lay on the table the amendment (No. 265) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, may I have the attention of the Senate.

Mr. President, upon disposition of the pending bill, the Senate will turn to consideration of the fast-track legislation. The time for consideration of that measure is 20 hours. However, following consultation with the distinguished Republican leader, the chairman of the Finance Committee, and the distinguished chairman of the Commerce Committee, who is opposed to the legislation, there is general agreement now on a reduction of that time to 5 hours. It is my hope that we will be able to further reduce it once we get on the measure.

I will now propound an agreement to reduce the time for consideration to 5 hours. Accordingly, Mr. President——

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor. The Senate will please be in order so the Chair can hear the majority leader.

Mr. MITCHELL. Mr. President, I may have misunderstood. We have had a number of discussions ongoing. I was under the impression it was agreed there would be 5 hours equally divided.

Mr. HOLLINGS. My distinguished leader has a wonderful sense of humor.

Mr. MITCHELL. I withdraw my request. We will continue with the next vote. We will attempt to get back to this subject after this vote.

AMENDMENT NO. 270

The PRESIDING OFFICER. Pursuant to the earlier agreement, the question is on agreeing to the motion to lay on the table the amendment of the Senator from Kansas, amendment 270. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], is absent due to a death in the family.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—57

Adams	Exon	Lugar
Akaka	Ford	Metzenbaum
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Graham	Nunn
Boren	Harkin	Pell
Bradley	Heflin	Reid
Breaux	Hollings	Riegle
Brown	Inouye	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kennedy	Sanford
Burdick	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Conrad	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wellstone
Dixon	Levin	Wirth
Dodd	Lieberman	Wofford

NAYS—40

Bond	Gramm	Pressler
Burns	Grassley	Roth
Chafee	Hatch	Rudman
Coats	Hatfield	Seymour
Cochran	Jeffords	Simpson
Cohen	Kassebaum	Smith
Craig	Kasten	Specter
D'Amato	Lott	Stevens
Danforth	Mack	Symms
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Durenberger	Murkowski	Warner
Garn	Nickles	
Gorton	Packwood	

NOT VOTING—3

Cranston	Helms	Pryor

So, the motion to lay the amendment (No. 270) on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 272

The PRESIDING OFFICER. The question occurs on the motion to table McConnell amendment No. 272. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—56

Adams	Ford	Metzenbaum
Akaka	Fowler	Mikulski
Baucus	Glenn	Mitchell
Bentsen	Gore	Moynihan
Biden	Graham	Nunn
Bingaman	Harkin	Pell
Boren	Hatfield	Reid
Bradley	Heflin	Riegle
Breaux	Hollings	Robb
Bryan	Inouye	Rockefeller
Bumpers	Johnston	Sanford
Burdick	Kennedy	Sarbanes
Byrd	Kerrey	Sasser
Conrad	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Wellstone
Dixon	Leahy	Wirth
Dodd	Levin	Wofford
Exon	Lieberman	

NAYS—41

Bond	Gorton	Packwood
Brown	Gramm	Pressler
Burns	Grassley	Roth
Chafee	Hatch	Rudman
Coats	Jeffords	Seymour
Cochran	Kassebaum	Simpson
Cohen	Kasten	Smith
Craig	Lott	Specter
D'Amato	Lugar	Stevens
Danforth	Mack	Symms
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Durenberger	Murkowski	Warner
Garn	Nickles	

NOT VOTING—3

Cranston	Helms	Pryor

So the motion to lay on the table the amendment (No. 272) was agreed to.

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

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. BOREN. Mr. President, in order to conserve the time of our Members, we have, as I understand it, three additional amendments, after we act on the Danforth amendment, that might require a vote: Two amendments by the Senator from Kentucky, upon which there is 30 minutes of time equally divided on each, and an amendment by the Senator from Texas [Mr. GRAMM] who has indicated to me he will take a time limitation of 10 minutes on his amendment equally divided.

I ask unanimous consent that any votes ordered in relation to these three remaining amendments be stacked to occur when all time has expired for debating the amendments and for debating the bill.

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

Mr. McCONNELL. Mr. President, I say to my friend from Oklahoma, on my two amendments I would be more than happy to reduce the time further or we can yield it back and just go ahead.

Mr. BOREN. Mr. President, I ask unanimous consent that the time allotted, which under the previous unanimous-consent request was 1 hour on final passage of the bill, on the bill itself, be reduced to 15 minutes equally divided.

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

Mr. BOREN. Mr. President, under the previous orders entered into, I believe at this point I am to be recognized for 1 minute to discuss the Danforth amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct. Under the previous order the Senator from Oklahoma is recognized for 1 minute on the Danforth amendment, amendment No. 271.

AMENDMENT NO. 271 TO AMENDMENT NO. 242

Mr. BOREN. Mr. President, we have discussed the Danforth amendment previously. It represents the hard work of the Commerce Committee and of the Senator from Missouri to have a more workable definition of lowest unit rate and to do so in a balanced way which would give the definition but constrict the time to a certain number of days under which this lowest unit rate would prevail. I think this is a meritorious amendment. We are prepared to accept it on this side and I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 271) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 273 TO AMENDMENT NO. 242

(Purpose: To repeal public financing of party conventions)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 273 to amendment No. 242.

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

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

The amendment is as follows:

At the end of the amendment insert the following:

SEC. . REPEAL OF FUNDING FOR PARTY CONVENTIONS.

(a) IN GENERAL.—Section 9008 of the Internal Revenue Code of 1986 (relating to payments for presidential nominating conventions) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 9006(c) of such Code is amended by striking ", 9008(b)(3),".

(2) Section 9009(a) of such Code is amended by inserting "and" at the end of paragraph (2), by striking the semicolon at the end of paragraph (3) and inserting a period and by striking paragraphs (4), (5), and (6).

(3) Section 9012(a)(1) of such Code is amended by striking the last sentence.

(4) Section 9012(c) of such Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(5) Section 9037(a) of such Code is amended by striking "and for payments under section 9008(b)(3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to conventions held after the date of the enactment of this Act.

Mr. McCONNELL. Mr. President, I will not take very long to describe this amendment. Let me just summarize it for my colleagues. What this amendment would do would be to strip public funding for the nominating conventions. These quadrennial festivals that we call the nominating conventions are, in fact, great big parties paid for by the taxpayers, as we all know. You probably have to go back to 1952 to find the last time one of the nominating conventions really had any suspense attached to it at all. In fact the Presidential primaries determine who the nominee is going to be. It has always seemed to this Senator to be a particular outrage that public dollars are used to fund the national political conventions.

In 1988, for example, taxpayers had to cough up $18 million to put on these two big parties, $9.2 million for the Republicans, $9.2 million for the Democrats.

This was not part of the electoral process. This was the two nominating conventions, great big parties, these quadrennial parties when we get together to lay the hands on our respective nominees. It is estimated that the

1992 conventions will cost taxpayers $21 million. There are better ways to use taxpayer dollars.

As our friends on the other side of the aisle are fond of pointing out, Republicans raise considerable funds from volunteer contributors. We should not be forcing taxpayers to pay for the Democrats and Republicans to have a party for a week.

Let us just look at the history of convention funding. In 1976 the two conventions, Presidential nominating conventions, cost the taxpayers $7.8 million; $3.9 million each. In 1980 the two nominating conventions cost the taxpayers $8.8 million. In 1984, the two conventions cost the taxpayers $16 million. In 1988, as I indicated earlier, it cost the taxpayers $18 million, and in 1992 it is estimated that these two conventions will cost the taxpayers $21 million.

We have already spent $50 million, taxpayers dollars, on putting on the party conventions, the quadrennial social gatherings of the two great American political parties. We are slated to spend $21 million more in 1992. Enough is enough. I think we ought to give the taxpayers a break.

I reserve the remainder of my time. My friend from Oklahoma appears not to be on the floor. If he would speak briefly we could move onto the next amendment.

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

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

Mr. McCONNELL. Mr. President, I ask that the time under the quorum call I am about to enter be charged equally to both sides on the McConnell amendment.

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

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

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

Mr. BOREN. Mr. President, I yield myself as much time as I might require.

Mr. President, I will not prolong the debate on this issue. I apologize for keeping my colleagues waiting. I had to step away from the floor a moment.

This amendment I believe would plunge us back in the wrong direction as far as the way we finance political conventions. Voluntary checkoff as part of the Presidential system for a number of years was adopted to try to avoid the influence of large special interests or people with substantial sums of money who might try to influence the process.

That is why funds from the voluntary checkoff are used to fund the political conventions. There is a concern if we left it wide open, as we had it in the past, that a few individuals, very wealthy individuals or special interest groups might get together and pay the costs for financing the conventions completely and then seek political favors in return.

I think it would be a mistake for us to return to the bad days of the pre-Watergate period. I think the reforms that were put in place at that time make sense.

This is another effort basically to change the fundamental procedures that we have under the Presidential system. I do not think we want to go back to the days of having conventions financed in ways that are not in the open, but particularly in ways in which certain interests could bundle together large sums of money and try to have undue influence within the nominating process and within the operations of our political parties and Presidential campaigns. So I think this is a step in the wrong direction.

Let me say also it is really, again, not fair from the point of view of equality between the two parties. As it is well known, the Republican National Committee, for example, has significantly greater resources available to it than are available on this side, a ratio of 4 to 1, according to the Federal Election Commission in the last election cycle. I think it would be a mistake.

We have had long experience with the Presidential system with this checkoff. There are elements in it that need to be fixed, such as closing the soft money loophole in terms of allowing coordinated campaigns through the guise of sending money to State party organizations.

Our bill takes care of those problems. It closes that soft money loophole, but I think to end the operation now to assure the conventions will be financed in an evenhanded way, will not be dependent, the two parites, on special interest financing for the national Presidential nominating conventions. I think to throw those post-Watergate reforms out the window and go back to the period before we had this system would be a serious mistake.

Mr. President, at the appropriate time I will move to table the McConnell amendment.

Mr. McCONNELL. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Oklahoma is.

Mr. BOREN. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BOREN. I move to table the McConnell amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 274 TO AMENDMENT NO. 242

(Purpose: To prohibit the use of taxpayer funds for subsidizing Senate campaigns until the Federal budget is balanced)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 274 to amendment No. 242.

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

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

The amendment is as follows:

At the appropriate place in title I, insert the following new section:

SECTION 1. CAMPAIGN SUBSIDIES PROHIBITED UNTIL BUDGET IS BALANCED.

(a) FINDINGS.—The Congress finds that—

(1) according to section 2 of the conference report on the concurrent resolution on the budget for fiscal year 1992 which was filed on May 21, 1991—

(A) the amounts of the deficits for the Government of the United States are—

(i) for fiscal year 1992, $351,200,000,000,

(ii) for fiscal year 1993, $302,300,000,000,

(iii) for fiscal year 1994, $268,100,000,000,

(iv) for fiscal year 1995, $183,400,000,000, and

(v) for fiscal year 1996, $197,100,000,000; and

(B) the appropriate levels of the public debt for the Government of the United States are—

(i) for fiscal year 1992, $3,982,200,000,000,

(ii) for fiscal year 1993, $4,353,200,000,000,

(iii) for fiscal year 1994, $4,696,600,000,000,

(iv) for fiscal year 1995, $4,955,800,000,000, and

(v) for fiscal year 1996, $5,226,600,000,000; and

(2) payment of benefits provided under this title to candidates for election to the office of United States Senator will require millions of dollars in outlays from the Treasury of the United States Government.

(b) PROHIBITION.—No person shall accept, and no officer of the United States shall authorize or disburse, any—

(1) reduced rate for mail under section 3629 of title 39, United States Code (as added by section 104 of this Act),

(2) payment from the Senate Election Campaign Fund (as established by section 101 of this Act), or

(3) voter communication voucher (as authorized by section 101 of this Act)

for any election in any year in which the outlays of the United States Government are projected to exceed revenues to the United States Government.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "outlays" means "total budget outlays", and

(2) the term "revenues" means "Federal revenues"

as those terms are defined and used for any year in the most recent concurrent resolution on the budget (as required by section 301 of the Congressional Budget Act of 1974, as amended), as such resolution was adopted by the Congress.

Mr. McCONNELL. Mr. President, this amendment simply lists the estimated deficits for the Government of the United States. In fiscal year 1992, the deficit is estimated to be $351 billion; in fiscal year 1993, it is estimated to be $302 billion; fiscal year 1994, $268 billion; fiscal year 1995, $183 billion; fiscal year 1996, $197 billion.

Second, the amendment notes the fact that the benefits provided to politicians in this bill will require millions of tax dollars. I might say the low-ball figure provided by CBO on S. 3 ought to provide some clue as to why we have a budget deficit in the first place.

Third, in consideration of our dangerously high Federal budget deficit, my amendment prohibits any person from using the public subsidies contained in S. 3 until we can balance the Federal budget.

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

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I yield myself as much time as I might require.

Mr. President, I think it is pretty obvious the purpose of this amendment. We all know the size of the deficit that we have in this country right now. We know that we are on a path through the budget agreement to hopefully reduce those budget deficits.

I am one of those Members who time and time again has supported fiscal restraint and restraint in spending. I have been a part of the balanced budget caucus and coalition since I have come to the Senate, supporting a constitutional amendment for a balanced budget among other measures, supporting line-item veto for the President. Again and again, I have voted for those measures that I think would help bring us toward a balanced budget.

Unfortunately, that is not a problem we can solve in this bill by itself. I think if we were to take the position that nothing could be enacted until the budget is balanced, unfortunately, it would bring things to a halt. I think we have to move ahead with those items that are necessary.

This is clearly a red herring. It is simply a way of saying that we are going to postpone doing something about campaign reform. The two issues in my mind are totally unrelated. Whether or not we want to clean up campaigns, whether or not we want to stop the money chase, whether or not we want to put a limit on campaign spending having candidates going out and seeking millions of dollars with which to finance their campaigns, more and more of it coming from special interest groups, more and more of it coming outside their home States, whether that is good for the process is a totally separate and distinct issue from whether or not we want to balance the budget.

If we want to have a proposal for a constitutional amendment for a balanced budget, this Sentor is prepared to vote for that. If we want to have amendments to move us on an accelerated path for a balanced budget amendment, this Senator is willing to vote for that. If we want to vote to have Presidential line-item veto, this particular Senator is prepared to vote for that.

That is not the issue. The issue is whether or not we are going to clean up campaigns, whether we are going to have more delaying tactics. We have waited years already.

Senator Goldwater and I started this effort years ago trying to put limits on runaway special interest campaigns. The problem continue to grow worse. Just because we have not been able to successfully balance the budget is a separate side issue, a very important one that I do not diminish, but it should not cause us to also fail to act in this important area of cleaning up the way we finance campaigns as well.

We made it very clear on this side of the aisle with the adoption of the amendment of the Senator from Nebraska and the Senator from Michigan, with the adoption of any amendment which I offered in terms of a sense-of-the-Senate resolution as part of this measure on the first day of debate indicates that those of us on this side of the aisle do not wish to finance this particular bill, or any of the incentives contained in it by increasing general taxes on the public or by increasing the deficit.

There are many other alternatives, and we set forth those alternatives. They include using the voluntary checkoff for people to make contributions over and above their tax liability, reducing expenditures of the Congress itself by cutting back on our own mailing privileges and our newsletter costs.

We take a step in the right direction toward that in this bill, taxing political action committees themselves, perhaps, reducing the huge tax subsidies that are now given to lobbying organizations, special interests, vast sums of money. That alone is a tax subsidy of $100 million a year out of the Treasury that is being given.

So there are many, many ways of passing a bill to establish limits on runaway campaign spending without putting a burden on the taxpayer. It is a smoke screen. It is a red herring of an issue. It is an effort simply by those who do not want to see us go forward on having real campaign reform, who want to put it over for as long as they possibly can because they are fundamentally opposed to putting a limit on the runaway money chase that now inflicts American politics and is undermining our system of politics. So this is simply a separate issue.

No one should be deemed to be favoring budget deficits or not being in favor of balancing the budget if they vote against this amendment. A vote against this amendment is simply a way of making sure that we do not postpone indefinitely taking some action to correct the current problems with the campaign financing system.

As I have said, Mr. President, how long are we going to wait? Are we going to wait until the average cost of a Senate race is $10 million, $20 million, $30 million, $50 million, $100 million, in States like California and other populous States? We should not wait any longer. There should be no excuses given.

Mr. President, I will at the appropriate time move to table the McConnell amendment. I see no reason to prolong debate on this matter. I am prepared to yield back time on this side.

Mr. McCONNELL. Mr. President, we are about ready to move ahead on this.

Let me say this amendment is about priorities. In consideration of our dangerously high Federal budget deficit, the amendment simply prohibits any person from using public subsidies contained in S. 3 until we balance the budget. The subsidies in S. 3 include a special mail discount for politicians—paid for by the taxpayers, voter communications vouchers, the food stamps for politicians, direct Treasury payments to help candidates like David Duke fend off independent expenditures.

Mr. President, it is pretty clear that there is plenty of public funding in this amendment. What this simply says is, in terms of our priorities, we are going to balance the budget before we start dipping into the Federal Treasury to fund our own campaigns.

Mr. President, I am prepared to yield back the remainder of my time if the Senator from Oklahoma is.

Mr. BOREN. Mr. President, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. The vote on occurs on the amendment by——

Mr. BOREN. Mr. President, I move to table the McConnell amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed for 1 minute as if in morning business and not to charge this against the time on this bill.

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

Mr. CRAIG. Mr. President, I send a bill to the desk and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1151) to restore an enforceable Federal death penalty to curb the abuse of habeas corpus, and so forth, and for other purposes.

Mr. CRAIG. Mr. President, I ask that it be read for the second time.

Mr. BOREN. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The bill will go on the calendar pursuant to rule XIV to be read the second time on the next legislative day.

Mr. CRAIG. I thank the Chair.

I yield back the time.

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. BOREN. Mr. President, under the unanimous-consent request entered into earlier, it is my understanding that the vote on the two tabling motions which have been made and also the vote on or in relation to the Gramm amendment which will shortly be offered would be stacked to occur at the conclusion of debate on final passage of the bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BOREN. So the sequence would be there would be the conclusion of debate on these three amendments, followed by 15 minutes of debate on final passage of the bill, followed by three votes on the three, on or in relation to the three amendments and then the question would be the vote on final passage then automatically immediately following the other three votes?

The PRESIDING OFFICER. Presumably, the Senate would have to vote on the substitute amendment first and then on the bill.

Mr. BOREN. Mr. President, I ask unanimous consent that following the three votes on the amendments, we then proceed immediately to a vote on the substitute, and on the adoption of the bill. I guess that would be the bill as amended by the substitute at that point.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. GRAMM. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator is recognized on his reservation.

Mr. GRAMM. Mr. President, let me just pose a question to our distinguished floor manager. Are we going to cast a vote on the substitute or are we going to cast a vote on the bill? They are the identical issue, and my view is we ought to just do one of them.

Mr. BOREN. I would ask unanimous consent then that we would have a—our intention is to voice vote the substitute and then have the rollcall actually on the bill at that point. So that there would be one rollcall vote.

But my request here, the effect of my request here, would be that the votes on the substitute and the final passage would be stacked to occur immediately after the votes on the three amendments.

I would further ask unanimous consent that the vote on the first amendment be a 15-minute rollcall vote, the vote on the following two amendments be 10-minute rollcall votes. As we would not be pushing on to other business immediately at that point, I would suggest that final passage then or the action on the substitute, on whichever one the roll would be called would be a 15-minute rollcall vote.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

AMENDMENT NO. 275 TO AMENDMENT NO. 242

(Purpose: To require disclosure of certain information concerning the expenditure of union dues, corporate funds, and funds of tax-exempt orgranizations for political activities)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 275 to amendment 242.

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

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

The amendment is as follows:

On page 88, between lines 12 and 13, insert the following:

SEC. 232. LABOR ORGANIZATIONS, CORPORATIONS, AND TAX-EXEMPT ORGANIZATIONS.

Title III of FECA, as amended by section 106, is amended by adding after section 304A the following new section:

"DISCLOSURE OF INFORMATION CONCERNING EXPENDITURE OF UNION DUES, CORPORATE FUNDS, AND FUNDS OF TAX-EXEMPT ENTITIES FOR POLITICAL ACTIVITIES

"SEC. 304B. (a) IN GENERAL.—An organization that intends to make an expenditure of $5,000 or more on activities described in subsection (b)(1) shall, not later than 10 days prior to making the expenditure, file with the Commission a written report disclosing the intended expenditure.

"(b) CONTENTS.—A report under subsection (a) shall—

"(1) disclose the amount intended to be spent—

"(A) on direct activities, such as cash contributions, to candidates and committees of political parties;

"(B) on internal and external communications relating to specific candidates, political causes, and political parties;

"(C) internally by the organization to maintain, operate, and solicit contributions for a separate segregated fund; and

"(D) on voter registration drives, State and precinct organizing on behalf of candidates and political parties, and get-out-the-vote campaigns;

"(2) for each of the categories of information described in paragraph (1) (A), (B), (C), and (D), identify the candidate for public office on whose behalf the expenditure will be made or the political cause or purpose for which the expenditure will be made;

"(3) list all contributions made to the organization for purposes of activities described in subsection (b)(1) since the date of the most recent report of the organization under this section, stating the amount contributed and the contributor's name, address, and occupation; and

"(4) in the case of a labor organization, list all contributions and expenditures made by separated segregated funds established and maintained by the labor organization since the date of the most recent report of the organization under this section.

"(c) DEFINITIONS.—For the purposes of this section, the term 'organization' means a labor organization, a corporation, or an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986."

Mr. GRAMM. Mr. President, we have had two opportunities to deal with what I believe is the clearest campaign abuse that exists in America today, and that is the whole issue of soft, nonreported money. I think the example of soft, nonreported money, which is most often used in favor of campaign finance reform, is the $850,000 in corporate money that Charles Keating gave to a tax-exempt organization that engaged in voter registration, for all practical purposes, on behalf of a party and a candidate.

Mr. President, I would think, if our legitimate effort is to reform the system, that the first thing we would want to do is have full disclosure of soft money. I have an amendment, the last opportunity that we are going to have on this bill, to deal with this problem.

This amendment does not ban such spending. All this amendment says is that if corporate money or union money or money from a nonprofit group is going to be used in a soft-money expenditure, that group has to file a report with the Federal Election Commission at least 10 days before they spend the money. The report must state what they are going to do with it, say who they are going to support with it, say how much money they are going to spend, and from whom they received the money.

Mr. President, if our objective is campaign reform, how can we not force someone to report that he is contributing $850,000 on behalf of somebody's candidacy? If our objective is campaign reform, why should we allow corporations to come in at the last minute with phone banks, door knocking, and

other activities on behalf of a candidate, spend millions of dollars to affect the outcome of the election, and yet not allow everybody to know what is occurring until the election is over?

Mr. President, if our objective is fairness and openness in elections, why not require a labor union that comes into a State and makes tens of thousands of telephone calls, to report that activity so that the public can be aware of who is supporting which candidate.

Mr. President, we have had a lot of debate about taxpayer funding of elections. How does that deal with this problem? It does not. We have had a lot of debate about limiting the ability of Aunt Sarah to contribute to somebody's campaign but we do not have a provision in this bill that deals with the real problem with which we claim to be dealing. So this amendment simply says if you are going to spend more than $5,000 to affect the outcome of an election, you can do it. You can use soft money loophole, although I would like to eliminate it. You just have to tell the public you are doing it, what you are doing, who you are doing it on behalf of and where you got the money.

I feel sorry for someone who feels obligated to oppose this reform which is so reasonable and so logical as to cry out for support from those who truly want to deal with campaign abuse rather than simply try to tilt the political balance of power.

So I hope my colleagues will accept this amendment and will not require us to have a rollcall vote on it.

I reserve the remainder of my time.

Mr. BOREN. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Oklahoma has 15 minutes, the Senator from Kentucky 11 minutes.

Mr. BOREN. Mr. President, I yield to myself as much time as I might require.

Mr. President, I will not prolong debate on this matter. I know we are hoping to move forward to a vote on final passage as soon as possible. Let me just make a few comments.

When I first heard about this amendment from the Senator from Texas, It was my hope it was an amendment we could accept, because certainly many of us on this side of the aisle, many of us indeed on both sides of the aisle, have a very common feeling about very soft money. I feel very strongly soft money should be disclosed, from whatever source it comes, and I feel that in a very evenhanded way.

It makes no difference to me whether it was a soft money expenditure, for example, of a business corporation or a soft money expenditure of a labor union. It does not matter which side of the fence it is on or which side of the cause it is on.

I feel we should try to reduce the impact of soft money as much as possible and, No. 2, to disclose it wherever we can in an effective way without becoming unduly intrusive into the right of free speech and free expression.

That is why, for example, in S. 3 we really tighten up what is defined as soft money. The big loophole in the past, for example, the Presidential elections, and to some degree in the senatorial and congressional elections, has been for people to get around the limitation on what they can give to candidates by giving large sums of money to parties. This was done, as has been indicated during our debate.

It is a matter that the Senator from Kentucky has often spoken about—the $100,000 contributors in the Presidential election process by giving money, laundering money in essence, through State party organizations and having money spent through coordinated campaigns as soft money in essence. Both the parties have engaged in this practice and, as far as I am concerned, it is wrong whether it is done by the Republican Party or the Democratic Party.

That is a loophole that needs to be closed. We close that loophole in S. 3. We say these kinds of contributions laundered in essence or made in essence through a conduit of State party organizations shall be treated as if they are not soft money contributions but hard money actually changing hands for the purpose of influencing a Federal election and therefore they fall under the total limitation as to how much money could be given.

Under S. 3 no launder would be possible to make these $100,000 contributions, for example, through the conduit of State party organizations for the purpose of influencing Presidential elections. No longer would it be possible to do that for the purpose of influencing congressional elections.

So, in general, I would like to see us find a way—perhaps we did do so in conference to strengthen these provisions even further, as I say, to extend them as much as we can without being instrusive to groups in addition to political parties that service conduits for soft money contributions. I have no quarrel with that. I would like to see us find a way to do that.

That is the reason when I first heard about this amendment I hoped we might be able to accept it. But in looking at the amendment and in researching the amendment particularly as it applies to 501(c)(3) groups, I find there are real problems with it.

I think there are problems with it even as it relates to political organizations as well in terms of the 10-day advanced notice. This is a tremendous burden that is going to be placed on any organization or group to say 10 days in advance, and rapidly changing political situations, exactly what they intend to do.

So I think it would certainly be an intrusion into the affairs of private orgnizations and requiring 10 days of advance notice would be burdensome in many, many ways.

But some of the things are already covered. The amendment requires reporting of direct contributions to candidates by corporations, labor unions, and 501(c)(3)'s.

All of these activities are already illegal under current law. I assume no one would report them because they are illegal. It requries reporting of external communications relating to specific candidates and political parties. That is also illegal under current law. It requires reporting the cost of maintaining a political action committee. If S. 3 becomes law that would also be illegal.

So that would be nothing to report there because our bill, if it is enacted, in a few moments, and if it finally goes through the House and is signed by the President, would make that practice illegal.

The amendment requires reporting of "get out the vote" campaigns and voter registration drives on behalf of specific candidates. That also is barred, at least for 501(c)(3)'s by current law, and we make additional restrictions on "get out the vote" drives that are contributed to by candidates, financed by candidates under S. 3.

We certainly have common ground when we are dealing with that. We deal with it in S. 3 not by requiring the disclosure of it, but by prohibiting it altogether.

What concerns me is this. The amendment would require reporting 10 days in advance of external comunications with respect to poltical causes. The definition of a political cause at this point would be very difficult under the act. I would be concerned to leave something that important to the Federal Election Commission or some other body or to the courts to determine what a political cause might be.

This could be an unprecedented assault on the free speech rights of private organizations. It would have nothing to do with political campaigns. Under this amendment, not only a labor organization or a corporation, but a 501(c)(3) educational organization could not communicate its position with respect to a political cause without 10 days advanced notice.

We have been hearing from some of these organizations already. For example, let us a suppose the Sierra Club wanted to notify its members or run an ad, for example, on clean air legislation. Under this provision they would not be able to do it, that being a political cause, without 10 days' advanced notice.

Corporations could not place an ad, for example, against apartheid or against higher taxes or even against reducing the Federal budget deficit without providing 10 days' advanced notice

to the Federal Election Commission, especially since it is so uncertain as to how we would define a political cause.

Mr. President, I think that many of the aspects of the proposal from the Senator from Texas are well-intentioned. But as in the case of the earlier amendment by the Senator from Kentucky which acted upon the tax-exempt status of 501(c) organizations—and I realize this is debatable as we look at the law to interpret the law—it ran the severe risk of reducing the ability of organizations to communicate with their own members. It is my fear, genuine fear, that under the definition of what a political cause would be, including 501(c)(3) organizations as well as labor unions and corporations, this could have a chilling effect on the ability of these groups to really exercise their free speech rights to communicate in terms of a stand they wish to take.

I do not think a corporation decides it wishes to no longer, let us say, invest in a society where apartheid is practiced, wants to communicate its feeling by running an ad on that, has to give advanced notice.

I do not think the Sierra Club or some other organization, NRA, whatever group it might happen to be, should be put in the position of giving that much advance notice if they decide they want to take a public position and try to call all their members around the country to unite behind a particular activity or a position on a particular bill.

Sometimes organizations simply do not find out about things, even things pending in the Congress, until it is almost time to act upon them. If they were constrained to take action on something deemed to be a political cause for a 10-day period, it might well be too late for them to weigh into the debate.

So I think, in all honesty, the amendment is well-intentioned but I cannot support it because I think it does overreach what I believe is the intent of the sponsor in terms of the way it is drafted.

I would say to my good friend from Texas that again this is a matter with which I will certainly be willing to work with him in the future. I do not want him to read my opposition to this amendment as being in philosophical disagreement with the basic points he makes, because I am not. We could find a way to continue to work on this bill. This process is not over. We will be having a conference committee, as Senator DOLE has said, and it is at that point in time when we will be hopefully reaching an agreement with the White House in developing a bipartisan compromise that will enable campaign reform to become law this year.

I would be more than willing and enthusiastic about working with the Senator from Texas between now and that time to see if we can fashion some language that would be acceptable to both of us and would do what we are trying to do; that would hit the target without hitting a lot of other things, as well, and it would avoid unintended consequences.

So, while I regret having to take this position, let me say that I feel obligated to move to table the amendment of my able friend from Texas when the time has expired.

I reserve the remainder of my time.

Mr. GRAMM. Mr. President, let me make it clear that I can answer each of the issues that have been raised by my dear colleague from Oklahoma. First of all, my amendment has nothing to do with advocating a position, advocating an activity of membership, or opposing injustice. My amendment has to do strictly with advocating the election or defeat of people running for public office and candidates of political parties.

So all the argument about corporations and unions communicating to their members has no bearing. Unless they are communicating in such a way as to advocate the election or defeat of a candidate or a party, they would be unaffected.

Mr. President, I think that in the response to this amendment, we see why this is a totally partisan bill, why it will be vetoed by the President, if it is ever adopted by the House, or if the conference report is ever adopted, and why it should be defeated.

First of all, we are talking about soft money, not direct contributions, which our colleague tells us are banned by unions or corporations. That does not have anything to do with this amendment. This is about money that is spent on behalf of candidates and parties.

Mr. BOREN. Will the Senator yield on my time?

Mr. GRAMM. I will be happy to, but let me finish my points, and then I will be glad to yield.

We have banned one source of soft money; that is from political parties. I hope my colleagues understand that that is clearly intended to affect one political party, and that is the party that uses the party mechanism. The party that uses special-interest groups, and 501(c)(3)'s, and labor unions is totally and absolutely exempt in this bill from an form of regulation.

All I am asking is that we let the public know what these special-interest groups are doing. We talk about the chilling effect on 501(c)(3)'s. Should we not ask for a report from the 501(c)(3) that takes $850,000 from somebody who clearly is advocating an interest?

Let me remind my colleagues that I would like to ban such activity, but the other side has already rejected that. The public has a right to know when someone gives, for example, $850,000 to assist a candidate. Let the public decide whether they want to be affected by that or not.

Under current law, someone can go out and spends millions of dollars, and the public never knows they do it. So, Mr. President, we are talking about soft money that is spent by nonpolitical parties.

All I am asking is if you are going to advocate the election or defeat of somebody, give public notice 10 days before you do it, tell them who you are supporting or opposing, what you are going to do, and where you got your money. That seems to me, Mr. President, as legitimate as any possible amendment could be.

I yield the remainder of my time.

Mr. MCCONNELL. I thank my friend for offering what will now be the third amendment in this debate, going back to last summer. And the majority rejected, both last summer and a few moments ago, efforts by this side to eliminate soft money altogether. Not that it would restrict the activit of individuals. They would simply set up a nonconnected PAC and participate in that way.

Now the Senator from Texas has come forward and said, if you are not willing to ban it, at least are you willing to disclose it? As I understand the amendment of the Senator from Texas, we hear that even here there is opposition from the other side.

Mr. President, you cannot have a bill that calls itself campaign finance reform that leaves this kind of gaping loophole. In fact, I say to my friend from Texas that this bill we are going to vote on was designed by the Democratic National Committee to nail parties, to nail individual donors, to dip into the Treasury, and to allow all of the groups, which my friend from Texas would at least like to disclose, to operate completely freely, unlimited, undisclosed. If that is not sewer money, I do not know what it is. The failure to accept these amendments that have been offered by the Senator from Texas and the Senator from Kentucky make this bill ridiculous, if it is going to be called campaign finance reform.

I retain the remainder of my time.

Mr. BOREN. How much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Oklahoma has 5 minutes, 42 seconds. The Senator from Kentucky has 5 minutes, 54 seconds.

Mr. BOREN. I will not prolong the debate. Let me say that I almost think that my colleague was a little suspicious, having heard the last remarks that were made. Let me say, I think no one would be more surprised than the Democratic National Committee, if they were to hear that they were the architects of this proposal. I have been getting phone calls almost every day from the Democratic National Committee telling me that they are vio-

lently opposed to the provisions of this bill that would cose what I regard as a loophole, in terms of preventing soft money from being contributed through the State party organization and other party organizations as conduits. S. 3 goes a long way—in fact, as far as you go—and it was our intent to totally close off any activity such as those that were allowed to happen by Mr. Keating. We do not allow people to make huge contributions to party organizations anymore, to pass soft money through in that way. We do not allow Members to raise money nor 501(c)(3) organizations that are aimed at getting out the vote in terms of influencing elections. We would tighten up the bundling requirements so you could not have an individual like Keating go out raising money from a lot of other people and bundling it together in a bundle to give to a candidate saying, "Look, I have given you $100,000 and $200,000, because I have gone out and raised this money, bundled it together, and given it to you." So provision after provision after provision in S. 3 would put a stop to that kind of activity.

So, indeed, I point out to my colleagues on the other side of the aisle that there has been nothing, absolutely nothing, introduced in any of the bills by those on the other side of the aisle that would do anything to stop the use of the party organizations as conduits for this kind of soft money. In fact, it is both political parties that have done it, not just the Republican Party. I will be quick to say that. The Democratic Party has done it, too, getting $100,000 contributors, for example, and giving to Presidential campaigns and to say they are giving it to the State party organizations and having the State parties run the advertising, for example, in an attempt to influence the Presidential election, no, that is not just the Republican Party that has done that. I do not think they should attempt to take on all that guilt. The Democratic Party has done so as well. I say very plainly that this is a bipartisan problem, and we need a bipartisan solution to it.

I will go to page 2 of the amendment of the Senator from Texas, if I could have his attention for a minute. On page 2, paragraph (b), which is down on line 16 of the amendment of the Senator from Texas, this is what concerns me. It talks about: a report would be required 10 days in advance on internal and external communications relating to specific candidates, political causes, and political parties.

That is what I was talking about a minute ago. If the Sierra Club notifies its members about getting geared up to come and be for clean air legislation, or if some business organization that thinks that bill is burdensome wants to notify people to be against it, or if a corporation wants to run an ad against apartheid, or higher taxes, or budget deficits, is that not an external communication in my last example, or internal in the case of the Sierra Club, or National Rifle Association, or Farmers Union, or any other group contacting its own members about a bill, is that not an internal communication about a political cause? I assume it is a political cause. The cause of trying to pass or kill legislation is certainly a political cause. I assume a communication for or against apartheid or budget deficits would be a political cause. Would that not be required to have a 10 days advanced notice report? And who would, in fact, define the term "political cause" under the Gramm amendment? Would we leave that to the discretion of the Federal Election Commission and the courts, or how would that be defined?

Mr. GRAMM. Mr. President, if the distinguished Senator will yield, we would leave it to the same group that defines all of these other terms that we use in election law. That is the Federal Election Commission to which we give vast new powers under this bill, to which we give a massive new budget under this bill.

Why is it that we can give them all this power to limit political parties which are formed for the sole purpose of electing people to public office, and yet we give them no power to deal with sewer money? That is what I do not understand and that is what the American people will never understand. Our dear colleague is doing a masterful job in presenting a position that is totally and absolutely indefensible.

Mr. BOREN. Mr. President, with all due respect I appreciate the compliment of the masterful job I am doing. It is not masterful when you get up, state the facts, and tell the truth about what we do. We close the loophole in what somebody called sewer money in terms of what Mr. Keating has done. We make it illegal, illegal for him to operate through a 501(c)(3) organization in terms of money being raised by a candidate for a get-out-the-vote drive; we make it illegal for him to bundle together contributions; we make it illegal for someone like Mr. Keating to make contributions of soft money through using the party committees as a conduit; and no proposals from the other side of the aisle would do that.

I can only say that I believe, to paraphrase the television show of some years ago, I have just given the facts, nothing but the fact, and there is nothing masterful about it. It is just the truth and we may have the very same intention, but I would just say again to my friend from Texas, we have heard so much about the chilling effect on free speech and how we have to be careful about free expression and require 10 days advanced notice about any organization wishing to make some comment about a political cause. I think that is so wide open that it really could have a chilling effect.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

The Senator from Texas has remaining 5 minutes and 45 seconds.

Mr. GRAMM. Mr. President, this bill bans soft money expenditures by only one group, by only one group, and that group consists of the political parties which are formed for the sole purpose of electing candidates. No one is deceived as to what the Republican Party is trying to do or what the Democrat Party is tryng to do. In fact, all of the expert campaign finance negotiators agreed that we should strengthen the parties not weaken them.

This bill bans political parties from doing these things but, remarkably, it does nothing to limit the ability of corporations, labor unions or nonprofit organizations from doing these things. This bill does attempt to close a little bit of the loophole about get-out-the-vote, but nothing in this bill would stop a labor union or a corporation or an individual from giving $1 million to a 501(c)(3) to do voter registration or party ID or other activities that are virtually important in campaigns.

If a labor union comes into a State, as happens every single year in small States—labor unions come in and spend hundreds of thousands of dollars on telephones, calling up people, advocating the election or defeat of candidates, and people who vote never get to know it—how is allowing that in any way reasonable when you ban a political party from doing it? All we are asking here is that people know the facts.

I do not understand the so-called chilling effect. If people are afraid to tell the public what they are doing, maybe they ought not to be doing it. I do not understand a chilling effect. If I am going to spend $1 million to elect someone, people have a right to know who I am and what I am doing. Then they can judge whether to elect the candidate or not.

I understand the distinguished assistant Republican leader wished to speak on this subject.

Let me just conclude then by saying, Mr. President, we have a bill before us that, remarkably, bans political parties from soft money political activities but leaves everybody else able to do it. There is only one reason that a bill would do something like that and that is when a bill is motivated by partisan advantage. My amendment is a fairness amendment. It should have been accepted. I hope my colleagues will vote for it.

I am not deceived. I know that Members on the other side are going to vote to table it. I think this again is more living proof that despite the fact that there is room for legitimate reform, we ought to be doing it, we agree on some

fundamentals, but that is not going to happen here because we are seeing a determined effort to unfairly tilt the election process.

Mr. MCCONNELL. How much time remains on the Gramm amendment?

The PRESIDING OFFICER. Two minutes and thirty seconds.

Mr. MCCONNELL. I yield that time to Senator SIMPSON for some comments on the bill.

Mr. SIMPSON. Mr. President, I rise in opposition to the so-called campaign finance reform substitute amendment. At the heart of this legislation is the same "beat up" and tired old refrain that the majority Democratic Party in Congress has been softly crooning to us for several years now. They call this old tune the "Reformer's March" when the real title of their ragged song and dance should be "the incumbent protection plan shuffle." I will outline my objections to this legislation and explain why I am proud to be a co-sponsor of various Republican alternatives.

In the Buckley versus Valeo decision, the Supreme Court upheld the Federal Election Campaign Act of 1971 with respect to limiting of the maximum amount an individual could contribute to a campaign. However, the Court held that any limits on personal campaign expenditures were unconstitutional. The lower court had said the $1,000 maximum contribution was constitutional based on the Government's interest in reducing the appearance of corruption. This Government interest was sufficiently important to overcome a person's freedom to make an unlimited contribution. However, the Supreme Court struck down spending limits and said that the Government could not restrict the speech of some persons in order to enhance the First Amendment speech rights of others. Nor could the Government restrict speech to make the election process more fair. Such spending limits would only be constitutional if they were purely voluntary. Because spending limits are limitations on speech—they cannot be coerced. The question then arises: Does this legislation meet the constitutional muster of the Buckley case? Under this bill, candidates who abide by the spending limits would receive generous public subsidies in the form of Government-funded broadcast vouchers, and subsidized mail rates. I like what my friend, Senator MITCH MCCONNELL—who has deservedly established his reputation for expertise in this area, calls these subsidies—food stamps for politicians. Candidates who do not agree to the spending limits not only do not get any public subsidies if they go over their limits, their opponents get additional public money as a penalty. Instead of then establishing a system where candidates are encouraged to comply with spending limits, this bill is a guillotine aimed at the neck of those candidates who do not—all subsidized by the U.S. taxpayer. Recently I received an interesting letter from the American Civil Liberties Union expressing their opposition to this legislation. The ACLU said:

> S. 3 not only grants conditional benefits to those who elect "voluntary" spending limits but effectively penalizes communications of candidates who do not abide by such limits. * * * We urge the defeat of S. 3 in its current form. The goal of legitimate reform cannot be reached through constitutionally illegitimate steps.

So, as a constitutional matter, there is nothing "voluntary" about the campaign finance system established by the pending legislation. It is coercive. It would impose draconian penalties on anyone who refuses to comply, and it flies directly in the face of the Supreme Court's holdings in Buckley.

Who then stands to benefit most from spending limits? With the powers of incumbency and the perks of political office, it is a gut hard fact of life that only incumbents would benefit. With Democrats having the majority in both House and Senate, I think the American people can pretty clearly see the ulterior motives in their recurring tear-stained plea for spending limits. With a re-election rate of nearly 97 percent, it simply cannot be denied that the current rules of the game favor incumbents and not challengers.

I believe that real reform must provide incentives for competitiveness in congressional elections and "level the playing field" for challengers. Last year, the Republican leader and the majority leader appointed a six-member bipartisan panel of campaign finance experts. The panel concluded that to accomplish real reform of the current campaign finance system—the target should be the source of the campaign money. The panel suggested a flexible approach to limiting campaign spending. The panel recognized that special interests, like PAC's and individuals living outside of the candidate's State, were gaining an increasing role in congressional campaigns and that limiting the impact of these special interests meant limiting the source of their funds.

The bills which I have cosponsored attack the specific sources which the panel found suspect. Our alternative would eliminate PAC's and would reduce the maximum an individual living outside the candidate's State could contribute. The Republican proposal tracks the recommendations of the bipartisan panel. We provide for flexible fundraising targets. Exempted from those targets would be in-state contributions and out-of-state contributions of $250 or less. As the panel suggested, we also encourage greater party participation.

The real problems in the system are special interest PAC's that seek to buy access with their contributions, while abandoning any semblance of supporting a particular political ideology. My real problems are with those groups that set up those phone banks on the outskirts of town that engage in character assassinations of candidates—all funded by contributions that aren't even required to be disclosed to the Federal Election Commission. Such funds are called "soft money" and it constitutes a terrible abuse of this system. Last year the New York Times referred to these funds as "sewer money". A better name. Our proposal gets rid of it once and for all. Theirs does nothing to address the real source of most of the sewer money: Labor and 501(c) organizations. I have seen estimates that unions collect $5 billion annually in compulsory union dues. They then use some of that money to pay the overhead for their PAC's and set up those phone banks to spread the lies and babble about candidates they oppose in the guise of "getting out the vote." It is as partisan a use of funds as surely exists, and yet not a dime is currently reported. Nor will it be under the Democratic bill. The alternative I support would provide that a union could not force a member to pay dues which fund extensive political activities.

Another real problem with the current system is the collection of huge sums of money from folks who live outside of your State, who don't even vote for you, and who seek to influence your vote. Our bill would reduce that influence by reducing the maximum contribution from individuals living out of State from $1,000 to $500.

Why should one individual from Wyoming who lives there, works there, votes there, pays taxes there, be entitled to contribute to my campaign and another be prohibited from contributing by virtue of an arbitrary collection limit? Our proposal would not limit the participation of in-state contributors to a congressional campaign—other than the current levels on maximum contributions of $1,000 per individual. It makes no sense to provide a cap on the collection of contributions from folks you represent. We are not talking about PAC's. We are not talking about sewer money. We are talking about constituents. That was the focus of the bipartisan panel of experts: The real evil in the system lies in the source of the money.

The Republican proposals empower the individual—particularly the instate voter. We eliminate PAC's and sewer money. We reduce the clout of those who can't vote for us. As reported by the Senate Rules Committee, CBO estimated that this legislation would cost the Federal Government about $91 million in fiscal year 1994 and about $81 million in fiscal year 1996. However, other estimates are much higher. Included in the minority views of the committee report was this statement:

The cost of these subsidies [in the bill] is estimated to be over $1 billion during a complete Senate election cycle. Well over half of these costs are to be paid by the taxpayer. This estimate assumes that House Members will insist on similar support for their campaign, should the Senate bill pass.

As in the past, the centerpiece of the Democrat campaign finance reform bill is public financing. It includes public financing benefits such as broadcast vouchers equaling 20 percent of the general election spending limit—which will range from $950,000 to $5.5 million under this bill—and reduced postal rates. Despite these dazzling and wonderful goodies, the bill does not specify who will pay for these broadcast vouchers. I can make a pretty darn good educated guess as to just who is going to foot the bill for this—the American taxpayer.

There are other major differences in the approach the Democratic leadership has taken and the concepts which I support. I support legislation to require broadcasters to sell candidates nonpreemptible time at the lowest unit rate. This substantially differs in cost from giving a candidate a voucher, paid for by the taxpayer of up to 20 percent of the general election limit to obtain free advertising. To level the playing field, I support legislation that would provide challengers with seed money by allowing political parties to match early, in-state contributions up to a total of $100,000. This is in accord with the principles of our alternative. To achieve reform, give more power back to in-state voters and parties, which must then report in some detail their activities. The Democratic plan provides no special incentives for challengers or any greater role for political parties. The legislation that I have cosponsored requires new standards for congressional reapportionment a redistricting, including the full and fair enforcement of the voting rights act. The Democratic plan is silent on reforming the blatant Democrat gerrymandering process.

In summary, I do not support a so-called campaign finance reform plan which foists the cost of congressional elections on the American taxpayer. I do not support campaign finance reform which is in reality a process to provide a form of eternal incumbent protection by reducing the opportunities for challengers to beat any and all entrenched incumbents. What I do actively support is legislation which follows the guidance of some very able experts selected by the leaders of both sides of the aisle, which will assist us in achieving a fair, reasonable and sensible campaign finance reform bill. Let's get on with that—not this partisan cannonball of a bill before us now.

Mr. President, I certainly subscribe to what the good Senator from Texas is saying.

I must say I commend Senator MCCONNELL who has done a magnificent job through many years, and so has the Senator from Oklahoma. But there is a real thing here and we do not want to miss it. It is like the old thing, keep your eye on the rabbit, and, boy, I have for years here and I am opposed to this.

At the heart of all of this marvelous refrain is the same beat up and tired old notes and music that the majority Democratic Party in the Congress has been softly crooning to us now for several years. Marvelous thing to listen to. It is a lilt. It is Sinatra with oak leaf clusters. And they call this old tune "The Reformers March." That is the way we have scored it. It is like a Purcell piece. The real title of this ragged old song and dance—there is a dance to it too—should be "The incumbent Protection Plan Shuffle." That is what we are really talking about. When you clean all the underbrush out of the place, we are really talking about just that.

This is to ensure that the Republicans who once sniffed the fair flowers of the majority here for about 6 years will never get a whiff of it again for about 40. That is what this measure is. I have a rather remarkable array of arguments why I think it is bad. But I think I summarized it pretty well.

I have the greatest respect for the people involved, but this is really, really something that is destined solely to protect the incumbency, and it happens that the incumbents happen to be Democrats. I do not know what will happen in the House where they have a lot of those kind, but I tell you it will be fun to watch them dealing with PAC's. The very mother's milk of the the U.S. House of Representatives is political actions committees.

So we have sent them half a vampire and we will see what kind of leaching they get out of that. It will be an interesting conference, but it is very bad stuff and it is partisan to the hilt.

The PRESIDING OFFICER. All time has expired.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I move to table the amendment of the Senator from Texas [Mr. GRAMM] and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

Mr. BOREN. Mr. President, I inquire of the Chair, as I understand it, we now have 15 minutes of debate equally divided on final passage?

The PRESIDING OFFICER. The Senator is correct.

Mr. BOREN. Mr. President, I yield to myself 3½ minutes.

Mr. President, I have just heard from my good friend and colleague—and he is one of my best friends in this body—describe this bill in a way in which I certainly do not recognize it. He has talked about what the heart and soul of this bill is. What is the heart and soul of it? What is the real issue? What are we talking about when we talk about campaign finance reform? What is the real issue?

We are talking about whether we ought to do something to stop unlimited spending of money on political campaigns. Those of us who are supporting S. 3 say yes, that is what is wrong with the political system, too much money is pouring into it, too many campaigns are being decided about how much money is being spent and that is not healthy and that is not good for the process.

This is not about financing. It is not about taxpayer financing. We have already adopted the amendment of the Senator from Nebraska and the Senator from Michigan that makes it clear other alternatives will be found to finance the major portion of any incentives provided under this bill to accept spending limits that do not affect individual taxpayers or increase the deficit or increase the burden on individual taxpayers. There are many other alternatives we can utilize to fund the incentives provided in this bill.

This bill is about whether or not we are going to stop the money chase in American politics. And, Mr. President, before we vote we ought to ask ourselves this question; we ought to ask ourselves simply this: Is the current system working? Is spending more and more money on politics and campaigns in America a good thing, or is it a bad thing? Is it a good thing there is no limit on how much we spend on campaigns?

Is it a good thing for America that the cost of winning a U.S. Senate race has gone from $600,000 12 years ago to $4 million last year? Is that a good thing?

If you can say yes to that, well then you should not be for S. 3. If you can say I think it is a good thing that Members of Congress ought to be spending their time figuring out how to raise that $4 million in the average size State instead of dealing with the problems of the country, if you can say yes to that then, yes, you should not be for S. 3, you should oppose it, you should say I think runaway spending is a good thing. If you can really say that you think more and more money pouring into American politics has encouraged competition, then of course you should oppose S. 3 and spending limits.

But when you look at the facts, I do not see how you can answer the question that way. When you have 97 percent of the Members of the House being reelected, and 96 percent of the Members of the Senate being reelected, how can you say that runaway spending has promoted competition in campaigns? When you have political action committees and special interest groups giv-

ing $16 to incumbents—I do not care if they are Republicans or Democrats—for every dollar they give to challengers, how can you say that runaway campaign spending without any limits is promoting competition in American politics?

How can you say when you look at the facts—and this is not hypothetical—how can you say what we just heard a minute ago, that this bill would protect incumbents? No. This bill would give challengers a chance. It is the current system that protects incumbents because incumbents on average have been raising eight times as much money than challengers in the House, and three times as much money as challengers in the Senate.

Clearly, runaway spending, more and more money being poured into this process, having competition in politics based upon who can raise the most money, not who has the best ideas for solving the problems of this country, is not helping America. Nor is it helping this institution.

It is a fact that over half of the Members elected to Congress last year received more than half of their money not from the people in their home States but from special interests in other places.

How does it help the Senate? How does it help the country for us to be going to other States, talking to people we do not even know trying to raise the millions of dollars it takes to finance campaigns? How does it help the reputation of this body when some of those people pouring in that money turn out not to have the best reputations themselves when we finally find out all about them? It does not.

Mr. President, how long are we going to wait to stop the money chase in American politics and return this Government back to the people? We have a chance. Are we serious about it? Do we want to limit spending or do we not? That is the issue.

Do we want to stop the money chase or do we not? Or do we want to throw up all sorts of excuses about the incentives that are provided in this bill, or other kinds of excuses?

I say let us take action, let us not wait. We are, after all, the trustees of the American political system. We have an obligation to do something about this serious problem.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to particularly thank a number of staff members on this side of the aisle who have done a gret job in this lengthy debate on this issue. From my staff, Steven Law, Tamara Somerville, Kurt Branham, Victor Gallo; from Senator DOLE's staff, Dennis Shea; from Senator STEVENS' staff, Mark Mackie; from Senator NICKLES' staff, Lincoln Oliphant; and from Senator PACKWOOD's staff, Penny Schiller. All of these folks did a really fine job during the course of this debate.

Mr. President, what this is all about is how we view America. People on the other side of the aisle have said time after time after time that all those influences out there in America are tainting us. They look out at Americans and they see people who are trying to take advantage of us in an improper way.

On this side of the aisle we look out at America and we see a lot of hard-working people who want to participate in the political process, as many of them as would like to, by contributing limited and fully disclosed contributions to our campaigns. Under Federal law you cannot give very much. These are people who just want to participate in the process because in this day and age that is the way you participate.

People do not go to the courthouse steps any more and listen to us talk. A lot of people wish they would. They are too busy. They are not interested. The way in which you participate today in the American political system is to make a small and disclosed contribution to your favorite candidate. We do not see anything harmful about that.

No. 2, this bill is blatantly unconstitutional. As I have said on a couple of occasions this bill has about as much chance of surviving the Supreme Court as Saddam Hussein would have surviving in an Army-Navy game. If we were stupid enough to pass this bill I guarantee the courts would save us from ourselves, because it punishes people for exercising their first amendment rights. There is absoultely nothing voluntary about the spending limits that are in this bill.

As soon as you encroach above the arbitrary line all hell breaks loose. You lose your broadcast discount, you lose your direct mail subsidy, the Treasury rewards your opponent, and if some group of independent Americans, say B'nai B'rith, wanted to go into Louisiana and oppose David Duke, David Duke would get money out of the Treasury to answer B'nai B'rith. Nothing illustrates the absurdity of this proposal any more than that.

We just had, or were about to have one more amendment on soft money. This bill does not do anything about soft money. It does not do anything about sewer money. Nothing. We had a vote earlier today on the subject, on an amendment of mine; and a vote on an amendment by Senator HATCH. We are about to have a vote on Senator GRAMM'S amendment. I bet we will not get a single Democrat who wants to do anything at all about sewer money. It is a scandal.

This bill is a farce, because it leaves a gaping loophole of unreported and unlimited money in the system. This bill is a farce. It goes on to restrict parties, as the Senator from Texas pointed out just a minute ago.

One of the few things the bipartisan group of six appointed by Senator DOLE and Senator MITCHELL last year agreed upon was that parties ought to be strengthened. They are the one entity in America that will stand up for challengers. They will contribute to challengers.

So what does this bill do? It further shackles the political parties. So, between spending limits and shackling the parties, the challengers get it in the neck one more time.

With public funds, of course, we are also going to have fringe candidates, and every crackpot in America who woke up in the morning, looked in the mirror and said, "By golly, I think I see a Congressman" is going to be able to reach into the cookie jar and get some of that good Federal money to run for office. There are going to be fringe candidates springing up all across America, like Lenora Fulani, and Lyndon LaRouche, who have been running for President.

So this bill is not going to become law because this bill is not real campaign finance reform. We have referred to it and put it in the RECORD earlier, but I received a letter from President Bush yesterday that makes it absolutely clear, any bill that has spending limits, or public finance, or any bill that treats political action committees, for example, differently between the House and the Senate, is not going to become law.

So I hope the conference will produce a bill that can become law. We would like to see some campaign finance reform on this side of the aisle, but we would like to see real reform, not one that seeks to tilt the balance in the other direction. The other side is already in pretty good shape. They have a majority here and a majority in the House. Let us have some bipartisan campaign finance reform.

This bill will, no doubt, be largely decided on party lines here today. But we have some consolation on this side of the aisle. We can be comfortable, based on this letter from the President of the United States, that no bill like this bill will become law.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. MCCONNELL. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back this time?

Mr. BOREN. Mr. President, I wish to retain my time. Mr. President, I wish for just one moment to suggest the absence of a quorum and not have the time charged to either side.

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

The clerk will call the roll.

The legislative clerk called the roll.

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

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

Mr. MITCHELL. Mr. President, how much time remains of the time of the distinguished Senator from Oklahoma?

The PRESIDING OFFICER. The Senator has 3 minutes 20 seconds remaining.

Mr. MITCHELL. Mr. President, I would like to make just brief comments restating what I said earlier in this discussion as we approach a vote on final passage.

There is one overriding issue in this debate. There is one major difference between us and that is the issue of spending limits. We Democrats favor spending limits; our friends and colleagues on the Republican side oppose spending limits. That is the issue.

The issue is not public financing or taxpayer subsidies. Despite all of the statements that have been made by our friends and colleagues on the Republican side, it is very clear that they do not dislike taxpayer subsidies and public financing. It is very clear that they are the recipients of hundreds of millions of dollars of taxpayer subsidies and public financing which they use at this very moment to their benefit.

Mr. President, and I say to the Members of the Senate—I repeat—each year the Republican Party receives millions of dollars in postal subsidies with direct mail solicitations, and uses it, I might say, very effectively.

Mr. President, and I say to Members of the Senate, the Republican Presidential candidates and the Republican National Committee have received millions of dollars since 1976 to pay for Presidential campaigns—more than $240 million, nearly a quarter of a billion dollars, received by Republican candidates which they have used to their very great advantage and benefit.

Mr. President, the distinguished Senator from Mississippi, a member of the Republican leadership, pointed out to all of our colleagues on the Senate floor the other day that every Senator—every Senator, including every single Republican Senator—receives in the neighborhood of $9 million in taxpayer money, $9 million in public financing for every Republican Senator, which is used very effectively by all Senators for their benefit.

So clearly, Republicans do not object to taxpayer subsidies and public financing. Why, they are raking it in in the hundreds of millions of dollars and using it very skillfully to their political benefit.

So the public financing taxpayer subsidy is a red herring. It has nothing to do with this debate. This debate is over spending limits. We favor them; they do not. We respect the difference. But that is the issue here. No one should misunderstand what the issue is. It is not taxpayer subsidies or public financing. It is spending limits.

A Senator who favors spending limits, who favors doing something about our campaign finance system should vote for this bill. A Senator who is opposed to public financing, a Senator who is opposed to spending limits, opposed to cleaning up this process who thinks it is a good system, should vote against this bill. The issue is clear. It could not be more clear.

I hope my colleagues, I hope a strong majority of my colleagues on both sides of the aisle will join to make a clear statement in favor of spending limits, in favor of ending the seemingly endless money chase in which Members of the Senate must, in the most demeaning manner, conduct themselves and do something, finally, about cleaning up the system by which we elect Members of the Senate.

It will be good for Members on both sides. It will be good for incumbents and challengers and, most important, it will be good for American democracy. And that is what our central objective should be—what is best for our democracy and for the people of this country. I submit this bill will go a long way.

Mr. President, I yield back the remainder of my time. I understand we are prepared to vote.

AMENDMENT NO. 273

The PRESIDING OFFICER (Mr. KERREY). Under the previous order, the question is on agreeing to the motion to lay on the table amendment No. 273 offered by the Senator from Kentucky [Mr. MCCONNELL].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—53

Adams	Dixon	Leahy
Akaka	Dodd	Levin
Baucus	Ford	Lieberman
Bentsen	Fowler	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Gore	Mitchell
Boren	Graham	Moynihan
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bumpers	Hollings	Reid
Burdick	Inouye	Riegle
Byrd	Johnston	Robb
Conrad	Kennedy	Rockefeller
Cranston	Kerry	Sanford
Daschle	Kohl	Sarbanes
DeConcini	Lautenberg	Sasser
	Simon	Wirth
Shelby	Wellstone	Wofford

NAYS—45

Bond	Garn	Murkowski
Brown	Gorton	Nickles
Bryan	Gramm	Packwood
Burns	Grassley	Pressler
Chafee	Hatch	Roth
Coats	Hatfield	Rudman
Cochran	Jeffords	Seymour
Cohen	Kassebaum	Simpson
Craig	Kasten	Smith
D'Amato	Kerrey	Specter
Danforth	Lott	Stevens
Dole	Lugar	Symms
Domenici	Mack	Thurmond
Durenberger	McCain	Wallop
Exon	McConnell	Warner

NOT VOTING—2

Helms	Pryor

So the motion to lay on the table the amendment (No. 273) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 274

The PRESIDING OFFICER. Under the previous order, the motion to table amendment 274 offered by the Senator from Kentucky is now in order. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Kentucky.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—53

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Pell
Boren	Harkin	Reid
Bradley	Heflin	Riegle
Breaux	Inouye	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kennedy	Sanford
Burdick	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Cranston	Kohl	Simon
Daschle	Lautenberg	Wellstone
DeConcini	Leahy	Wirth
Dixon	Levin	Wofford
Dodd	Lieberman	

NAYS—45

Bond	Craig	Gramm
Brown	D'Amato	Grassley
Burns	Danforth	Hatch
Chafee	Dole	Hatfield
Coats	Domenici	Hollings
Cochran	Durenberger	Jeffords
Cohen	Garn	Kassebaum
Conrad	Gorton	Kasten

Lott	Packwood	Smith
Lugar	Pressler	Specter
Mack	Roth	Stevens
McCain	Rudman	Symms
McConnell	Seymour	Thurmond
Murkowski	Shelby	Wallop
Nickles	Simpson	Warner

NOT VOTING—2

Helms Pryor

So, the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 275

The PRESIDING OFFICER. Under the previous order, the motion to table amendment No. 275 offered by the Senator from Texas [Mr. GRAMM] is now in order. The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the amendment of the Senator from Texas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—54

Adams	Dodd	Metzenbaum
Akaka	Exon	Mikulski
Baucus	Ford	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Pell
Boren	Harkin	Reid
Bradley	Heflin	Riegle
Breaux	Inouye	Robb
Bryan	Johnston	Rockefeller
Bumpers	Kennedy	Sanford
Burdick	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Conrad	Kohl	Shelby
Cranston	Lautenberg	Simon
Daschle	Leahy	Wellstone
DeConcini	Levin	Wirth
Dixon	Lieberman	Wofford

NAYS—44

Bond	Gorton	Nickles
Brown	Gramm	Packwood
Burns	Grassley	Pressler
Chafee	Hatch	Roth
Coats	Hatfield	Rudman
Cochran	Hollings	Seymour
Cohen	Jeffords	Simpson
Craig	Kassebaum	Smith
D'Amato	Kasten	Specter
Danforth	Lott	Stevens
Dole	Lugar	Symms
Domenici	Mack	Thurmond
Durenberger	McCain	Wallop
Fowler	McConnell	Warner
Garn	Murkowski	

NOT VOTING—2

Helms Pryor

So the motion to lay on the table the amendment (No. 275) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ROBB. Mr. President, I rise today in support of the Senate Election Ethics Act of 1991, a bill which will go a long way toward improving the way we conduct Senate campaigns. I support the bill because it offers comprehensive reform and spending limits. I think the Republican alternatives, which focus primarily on banning Political Action Committees [PAC's], are both incomplete and counterproductive.

PAC's grew out of the post-Watergate reform movement as a mechanism to make contributions aboveboard, limited, and disclosed. Today, PAC contributions continue to be far preferable to contributions from wealthy individuals, whose disclosure requirements are less stringent. I suspect that PAC's have come under attack in the media and elsewhere precisely because the contributions are open and easy to identify. It would be highly ironic, however, if we moved first to eliminate the most regulated type of contribution.

According to a recent study published by Citizen Action, the true hidden power in the current system lies not with PAC's but with large individual contributors. While the President and many Republicans condemn PAC contributions, Citizen Action found that contributions over $200 accounted for $164 million during the 1989-90 election cycle, more than the aggregate amount contributed by all PAC's combined. According to the study, one-tenth of 1 percent of the voting age population gave nearly half—46 percent—of the total amount given to congressional candidates.

While the pending Boren-Mitchell bill moves us forward in a comprehensive fashion, the alternative approach, which bans PAC's without imposing spending limits, places renewed importance on contributions from wealthy individuals whose interest in particular legislation is far more difficult to ascertain on the basis of the information made available as part of the public record. If we're going to increase accountability, the Republican approach moves in the opposite direction.

Mr. President, I am pleased to support S. 3 and urge my colleagues to do the same.

I yield the floor.

Mr. DASCHLE. Once again, Mr. President, this body has turned to consideration of proposals to end the campaign money chase.

For the third time in as many Congresses we seek to reform the relentless pursuit of money, a pursuit that has overtaken and so often corrupted our political process.

And for the third time, the third straight time, we seek to end the money chase with many Republicans still insisting there is no need to limit the number of dollars being pursued.

With all of America agreeing that dollars are what do the damage, some in this body continue to argue that limiting the number of dollars which can be spent in campaigns is not necessary.

They say the money chase can be ended with no limit whatsoever on the amount of money we must chase.

How, Mr. President?

How in the world do we, without limits, seriously put an end to the money chase when a Senator must raise $13,000 a week, every week, for 6 long years.

How can anyone in the current system stay the stench of political money that is gagging America when the odor is coming from a pile $445 million high?

It is a contradiction in terms, Mr. President, a contradiction in terms that every opponent of spending limits is unable or unwilling to comprehend.

They continue to insist, as they have insisted for the past three Congresses, for 6 years, that they have the secret for ending the corruption of politics by money without limiting the amount of money that is corrupting politics.

And how will they do it? Why, it's simple, they say, we are just going to turn dirty money into clean money.

That's right. No limit on the money chase. No limit on the dollars that are turning our politics into a smelly joke all across this land. Just launder the money. Turn it from dirty into clean and everything will be great.

Just take that $445 million spent by Congressmen and Senators in 1990, 400 percent more than was spent in 1976, and clean it up.

How you ask? It's easy. Just ban PAC's. That's what the GOP says, just ban PAC's.

That is the simple Republican panacea. If you just ban the PAC's and make all the money in politics into money from political parties and individuals, then there is no need for a spending limit at all.

Why? Because that money is clean money they say. PAC money is dirty, but money raised from political parties and individuals is clean.

The argument is so absurd to anyone who has ever run for anything that it is hard not to be incredulous in reply. "In your dreams" is the response a person in the real world wants to give.

But let me try to make the argument more seriously because the claim that we can clean up political money and thus make spending limits unnecessary is backed by a George Bush veto threat

and it has killed campaign reform twice before.

So let's look at the premises. The first is that PAC money is dirty. Well, some of it is. Some of it comes with strings attached and seeks to buy influence.

But some of it is not at all dirty. How soon we forget that PAC's were created to give the little guy a chance to compete with individual citizens like W. Clement Stone, billionaires who in 1972 were giving politicians like Richard Nixon $1 million a pop. How easily we wave the anti-PAC wand and lump the $10 or $20 given by an environmentally concerned middle-class family to the Sierra Club's PAC with the thousand dollars given by a handful of oil executives to an oil company PAC lobbying to evade clean air standards.

The argument that PAC money is bad, when that money comes in tiny contributions from thousands of citizens, citizens whose voices can be heard along with those of the millionaires only because their PAC exists, is ridiculous on its face. PAC money is not always bad or always good. The problem comes when the amount of money politicians must chase is so huge that they must pander for every dollar they can find, anywhere, bad or good.

So the first excuse of those who would turn us away from spending limits is wrong. Clearly PAC money is not the bad guy. But is individual money and party money, as they say, the good guy? Is it always clean money, money we can safely pursue in unlimited amounts in the name of reform.

Ask the notorious big givers about that. Charlie Keating didn't have a PAC, didn't want one. It would have cramped his style. He would have had to report what it gave to the FEC and limited what he gave to one politician to just $5,000.

No, some big givers know all too well how to play the system. They do it with individual money. What our friends across the aisle call clean, individual money. Lots of it. In thousand dollar hunks from scores of executives at places like Lincoln Savings & Loan.

That's what the S&L scandal is about. Not PAC's at all. It was created by individual contributions from wealthy special interest donors who bundled their donations in a way that is repeated hundreds and hundreds of times each and every election cycle.

I suspect the ardent advocates of banning PAC's know this. Everyone does. They are intelligent professionals who know the system as we know it and, because they know it, they know perfectly well that political dollars aren't bad or good, they are just dollars.

The problem is that it takes too many of them to run for office nowadays. Way too many. So candidates are tempted to take whatever they can get wherever they can get it. They go after both good and bad PAC dollars, good and bad individual dollars, good and bad political party dollars.

On the question of how well my Republican colleagues understand this fact, and how serious their good money—bad money magic might really be, I would add just one more fact.

They say political party money is good and guess what, they have about five times as much of it as Democrats do.

They say individual money is good and they raise it with ease from their wealthy friends and direct mail donors.

But they tie PAC money to all manner of evil, and that is the one area where Democrats are competitive in raising funds.

So Mr. President, let me make a plea here today that this body get serious.

We can either scapegoat the PAC's, pretend we can turn bad, corrupting PAC dollars into good individual ones, or we can enact a serious reform with a real limit on total political spending.

We can either play political games with the pretense that money from national political parties is somehow cleaner than money from the Friends of the Earth, or we can admit that the real problem is money period.

It is serious to propose lowering TV costs because that reduces the dollars we need to seek office. It is serious to propose cheaper mail or any other change that can cut the need for political dollars.

But the only reform that can truly end the reign of dollar terror in politics, the only thing that can end the money chase is to limit the dollars a politician must chase.

That goal can be reached only by giving candidates all the dollars they need, or by limiting the number of dollars they are allowed to spend. In the current budget climate, full-public financing is difficult.

But a real spending limit is not. It is the only hope we have for ending the money chase. I urge that it be adopted as the centerpiece of our reform. It is the only one worthy of the name.

But I fear we will continue to hear the chorus of opposition from the other side. So, in anticipation of the continued objections of those who pretend spending can be reformed without being limited, let me briefly address each of their limited arguments.

The first, and most frivolous, is that a spending limit favors incumbents. Precisely the opposite, Mr. President. Unlimited spending protects incumbents. It allows them to bury their opponents in money that they alone are able to raise. In 1990 Senate incumbents outspent challengers $129 million to $47 million. If a spending limit would have hurt the challengers, who spent $47 million, but not the incumbents, who spent $129 million, we are in an upside down world indeed.

Then there is the argument that spending needs no limit because it is not going up as fast as it did a couple of years ago. There are two problems with that argument. The first is that spending has soared out of control and is much too high, even though it has slowed slightly. The second is that the apparent slowing of Senate campaign spending is partially a mirage, created by the fact that large States have had fewer competitive Senate campaigns in the last two cycles. The rise in the cost of an average Senate campaign will resume its upward spiral with a vengeance in the 1991-92 cycle when both California and Pennsylvania will have two Senate races and New York will have a competitive one as well.

And finally, there is the argument that academic experts supposedly oppose a campaign spending limit. Some may. But the overwhelming onsensus among distinguished campaign finance experts is that spending limitation is necessary and indeed indispensable to true campaign reform.

So I urge again, let us dispense with the charade. Let this Congress be the one that finally recognizes the simple and self-evident central fact of politics in America today.

There is too much money in this system. It costs too much to run for office. Money makes campaigns long. It creates the overwhelming appearance of control and corruption by special interests. Sometimes it causes actual corruption. The money chase must be ended. Other reforms are needed too, but none can work so long as the unlimited chase of the campaign dollar is allowed to continue.

If we limit the number of dollars that must be chased to have a chance to win, then we will have reform. If we do not, we will have no reform. The choice is ours.

Mr. GLENN. Mr. President, I rise today to support a major overhaul of the way in which candidates for the U.S. Senate raise and spend money for election campaigns.

Nothing is more important to our system of representative government than the guarantee of free and fair elections. I believe that many in our Nation feel that the credibility of free and fair elections has been eroded by election campaigns whose costs have skyrocketed and whose public purposes are paid by private dollars. I believe that the bill before the Senate brings vast improvement to our current system. It will provide many of the improvements we brought to Presidential elections in the 1970's.

I have been a candidate for office more than a few times. In the course of each campaign I have found it necessary to raise money.

In my early campaigns, less money was raised and spent, political action committees were few, contributions were almost unrestricted, and report-

ing requirements were all but nonexistent. Today, millions of dollars are raised through direct mail, PAC's, and endless dinners, receptions, and telephone calls.

Once raised, extraordinary amounts of money are spent on consultants, polling, computerized demographic analyses of constituencies, and television advertising.

We all remember the Watergate era that led to the current campaign finance rules. Reform was long overdue at that time. Now, we again confront the question of money in politics. In the 1970's we sought to reduce the impact of special interests by limiting contributions. The rise of PAC's, bundling, and soft money, has seriously eroded the credibility of past reform.

Mr. President, if campaigns are too expensive and fundraising detracts from the main purpose of the campaign, then let's limit campaign spending. No meaningful reform can be enacted without limits.

If political action committees exert too much influence, then let us limit them.

If soft money has undermined reporting requirements and allowed large contributions, then let us limit soft money.

If contributions from private sources are suspect as campaign funds, then let us provide public funds to ensure that no special interests can contribute.

The measure before us is an improvement and provides substantial reform to our current system. It limits spending, it bans PAC contributions, it eliminates soft money, it provides public funding for mailing costs and broadcasting expenses. I believe that we should bring to Senate campaigns the improvements we already have in Presidential campaigns—voluntary public funding contributed by the checkoff on tax returns. No question could be raised about the source of campaign funds when taxpayers voluntarily choose to contribute.

Our current campaign finance structure is flawed. It encourages suspicion. It distracts candidates from the issues that are truly important in a campaign.

Mr. President, it is past time to act. Public confidence in our electoral processes has been seriously damaged. We must correct the shortcomings. We have that opportunity today.

Mr. DURENBERGER. Mr. President, I rise today to explain my reasons for supporting final passage of S. 3, the Senate Election Ethics Act.

There are two reasons that meaningful campaign finance reform should be enacted in this session of Congress. First, the time has come to affirm the principle that confidence—not money—is the lifeblood of our political system. When people lose faith in the system, we lose the most important asset of a democracy—broad-based participation. In its place, a minority rules.

And second, we must improve the role the campaigns play in debating issues and educating candidates and voters. We should establish clearer mandates to address the critical issues of our day. Elections today do not do that, and as a result, democracy suffers.

Taken as a whole, the package before us makes some incremental strides toward restoring public confidence in Federal elections. For this reason, I am supporting final passage of this bill.

I am encouraged by the provisions of S. 3 that reform of our campaign spending system by encouraging money from clean sources, discouraging contributions from special interests, and controlling the escalating costs of campaigns.

S. 3 encourages candidates to seek the clean source of small in-state contributions by extending the spending cap up to 25 percent for these contributions. I believe that we can go much further by inviting these contributions through tax incentives. For this reason, I recently introduced legislation, S. 1075, that will allow a 50 percent tax credit for small in-State contributions.

S. 3 discourages many types of contributions that have impaired public confidence in elections. Under this bill, contributions from political action committees are banned. And for those who accept the public benefits under S. 3, the amount that candidate can contribute to his or her own campaign is limited to only $25,000. I have long been in favor of closing the millionaire's loophole—the self-financing of campaigns by wealthy candidates.

I am also pleased that this bill addresses the issue of soft money—a term of art that refers to political contributions that are not regulated or required to be reported to the Federal Election Commission. I am concerned, however, that S. 3 only bans soft money from political parties, while ignoring the issue of soft money from labor unions, corporations, and trade associations. Squeezing down soft money in one place may encourage it to rise up in other areas.

The costs associated with running a campaign over the past few years have escalated almost as fast as the price of designer sneakers. S. 3 makes a contribution to controlling these costs by giving participating candidates a 50 percent discount on broadcast rates and providing vouchers for 1- to 5-minute TV advertisements. After watching the recent trend of 30-second sound bites that elevate negative attacks over substantive debate, I would prefer a requirement that these political ads be at least 5 minutes long.

I also support the efforts of this campaign finance reform proposal to address the advantage of incumbents over their challengers. During an election year, incumbents will be prohibited from using the franking privilege for mass mailings. Any candidate that abides by the voluntary spending limit will be eligible for lower postal rates on first and third class mail. And as I mentioned before, S. 3 bans PAC contributions, which tend to flow disproportionately to incumbents.

I do remain concerned about some of the provisions in this bill. This was reflected in my votes on several amendments to S. 3, many of which were not adopted.

I do not support the system of taxpayers financing that this bill creates. No one doubts that Americans are overwhelmingly in favor of reforming our system of campaigns. But I think that most Americans would wince at the idea of using taxpayer-funded subsidies to reform the system, especially during a time when our Nation is facing a huge budget deficit and other critical Federal programs are going unfunded

The President has promised to veto any campaign finance reform bill that contains spending limits and taxpayer financing. I hope that my colleagues on the conference committee will be able to construct a final package that will address the concerns of the President and gain strong bipartisan support.

In conclusion, although not perfect, I believe that this bill addresses many of the problems in our current system. S. 3 deserves passage in this body and a chance to be improved through the rest of the legislative process.

I hope that S. 3 does not suffer the same fate as last year's campaign finance proposal, which died in conference committee. I believe that the time has come for public servants in both Chambers of Congress, on both sides of the aisle, to set aside partisan differences and work toward a final proposal that will restore public faith in the political process.

Mrs. KASSEBAUM. Mr. President, along with a number of my colleagues on both sides of the aisle, I am sorry to see that we still have not reached a bipartisan consensus on the issue of campaign finance reform. As the debate and the votes over the past few days have demonstrated, there still are fundamental differences that divide us and make it appear unlikely at this point that any real progress can be made.

I have great respect for the two floor leaders in this debate, the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Oklahoma [Mr. BOREN]. With the expertise and knowledge they bring to this issue, I had hoped we could come to an agreement with broad support. Unfortunately, we have not.

Mr. President, I think it is clear that our deadlock is the result of a genuine disagreement over key features of the bill before us—specifically spending limits and public funding of Senate

campaigns. As the Senator from Kentucky has argued very eloquently, spending limits raise very serious concerns on this side of the aisle.

While I do not agree with Senator MCCONNELL'S view of spending limits—in fact, I support spending limits—I do not dismiss his concern about the difficulties a spending limit would create for a Republican challenger facing an entrenched Democratic incumbent in the South, where one-party traditions still strongly favor a Democrat.

However, Mr. President, my own concern about S. 3 is its inclusion of public financing of our campaigns. Even with the bill's limits on this use of tax funds, public financing of our campaigns would be a significant new spending program. I cannot support creation of such a program when we are running a record Federal deficit in the midst of a recession.

Even more important than the spending argument, to me, is the question of what public funding of campaigns ultimately will do to the political process. While it is proposed as a way to end the appearance of corruption in the present system, I am deeply concerned that it would have another kind of corrupting influence simply by further removing political campaigns from the body politic.

I believe grassroots support, including financial support, should be the key to our political campaigns. Our campaigns already have become too distant and too detached from the people and, to me, public financing would only accelerate that trend by insulating politicians from the need to build genuine, grassroots support for their ideas and their candidacy.

All of the legal experts on this issue tell me I want something the Supreme Court already has rejected, spending limits without public financing. I do not doubt that is true, but given the choice between spending limits with public financing and no spending limits, I am forced to vote, as I have, for no limits.

What we have missed, it seems to me, is the chance to construct a better choice than the one before us. Frankly, our debate this year has been a rather hollow one, punctuated by numerous votes on symbolic amendments with little real value to the question at hand. All of us have to share the blame for that failure and for the fact that it now appears very unlikely that we will have serious campaign finance reform this year.

Mr. President, on most of the votes we have taken so far, I have voted my party's position. I have done so because I believe very strongly that fundamental changes in our campaign finance laws cannot be dictated by one party. We must come to a bipartisan consensus on this matter or no real progress can be made.

It would be my fervent hope, Mr. President, that a conference of the leadership will be able to shape the bipartisan consensus that has eluded us so far. I believe it is possible. However, as long as public financing remains a feature of the bill, I must cast my vote against S. 3.

Mr. PRESSLER. Mr. President, today we vote on final passage of the Senate Election Ethics Act of 1991. This is far from being a perfect bill. In fact, if this were the ultimate vote, I might well vote against it. But voting for it at this stage seems to be our best chance to keep campaign reform legislation alive, hopefully, to pass a more acceptable bill later in the session. Since I am strongly in favor of campaign reform, I will vote for this legislation to keep the process going forward; but I do so with extreme reluctance.

This bill is riddled with imperfections. Greatest of all its shortcomings are the provisions providing for public financing. I do not favor an expansion of taxpayer financing of elections. But the U.S. Supreme Court has said that mandatory spending limits on campaign spending are unconstitutional. Our Highest Court has ruled that only voluntary spending limits are consistent with first amendment freedom of speech protections.

To date, the only mechanism that a majority of Congress can agree will provide sufficient incentive for voluntary compliance with spending limits is candidate access to the U.S. Treasury to finance campaigns.

In prior Senate action, I voted for successful amendments which:

Ban the payment of honoraria to Senators;

Limit Senators' outside earned and unearned income to 15 percent of their Senate salary; and

Tighten penalties for foreign influencing of political action committees [PAC's].

I also voted not to table amendments which would have:

Eliminated all public financing for Federal election campaigns;

Required candidates using public financing to disclose this fact in political ads;

Eliminated broadcaster subsidization of political advertising;

Required unions to disclose to their members how much of their dues were spent for political purposes;

Limited candidates accepting public financing to two consecutive terms;

Allowed political party committees to match early in-state contributions received by challengers of incumbents;

Increased campaign spending limits by 50 percent for any candidate opposed by an incumbent Senator; and

Toughened conditions on the use of soft or sewer money.

These amendments were killed. Time after time, efforts to improve and bring some balance to this bill were thwarted.

After intense debate and numerous attempts to improve the bill, we end up with essentially the same bill we had at the beginning. I voted for a different campaign finance reform package last year. Like today, I did so then with the hope that the legislation would be improved by the conference committee charged with reconciling the different versions of the legislation passed by the Senate and the House of Representatives. As we all know, the conferees last year could not come to an agreement, and no campaign reform bill became law.

I now reiterate my hope that the House and the subsequent conference committee will do what the Senate has failed to do with this year's bill. My vote today is not for this bill; it is against the present system.

Unfortunately, the way this legislation now stands, the President will probably not sign it. We will revisit this legislation upon his veto. I want to make it very clear that should this bill come back to this body without its major imperfections corrected, I very likely will vote against it and sustain a Presidential veto. For now, I will vote for it to keep the process going. Our current system needs reform, but it should be balanced, progressive reform.

Consequently, I hope that the bill we pass today will be improved as it continues forward in the process. The House and the conference committee will have the last opportunities to craft a final bill the President can sign. I hope the process will present to the President a final product that resolves the partisan and other problems contained in this measure. I want reform, but it must be effective. There is no sense in repeating yesterday's mistakes.

Mr. GRASSLEY. Mr. President, I rise today in opposition to the Senate Election Ethics Act of 1991.

I supported the McConnell amendment to strike the public financing provisions and spending limit provisions from the Democrats' bill because I oppose the diversion of taxpayers' money to support politicians. Since that amendment failed, I cannot support S. 3.

It is simply wrong to give the taxpayers' money to candidates whom they do not support. Proponents of the taxpayer financing contend that taxpayers voluntarily checkoff their contribution to the campaign fund. But Mr. President, the proponents do not tell you that the voluntary checkoff is in fact subsidized by other taxpayers. The subsidy occurs because additional tax revenue is required to make up the difference in spending that would otherwise be utilized for other programs or to reduce the Federal deficit. The proponents also don't tell you that public financing of congressional campaigns

will take more taxpayer funds from other programs. This is not fiscal responsibility.

Mr. President, in this environment of Federal deficits and pay as you go, all new programs must undergo strict scrutiny to determine if it is worth the challenge of funding it. This new program, an entitlement for Members of Congress, certainly does not hold up under that scrutiny.

I'd like to quote from a newsletter by the Americans for a Balanced Budget:

Every year at this time the vast majority of Americans tell the Government that they don't want their hard-earned tax dollars funneled into politicians' campaign accounts. Every year fewer and fewer taxpayers check the box on their tax returns that sends $1 of their taxes to the Presidential campaign fund; last year more than four-in-five taxpayers refused to check that box.

Mr. President, I would not be surprised if participation would be even lower if the remaining one in five persons fully realizes that his or her funds are being diverted from other programs to support fringe candidates and political party conventions.

If other Members of this body receive as many letters and phone calls as I have, it should be obvious that our constituents are eager to see effective campaign finance reform. I share many of the concerns of my constituents about the expense of political campaigns.

But, Mr. President, the need to reform the manner in which campaigns are financed is not the focus of this debate. All Members of this body already support change in the current campaign finance system.

We have the responsibility, however, to pass responsible reform—not just any campaign finance reform. I ask my colleagues on the other side of the aisle—do they want a fair and equitable and bipartisan campaign finance reform package? Or do they want something to guarantee their majority status? If they insist on the latter, the President has already promised a veto.

Through the power of the ballot, the good citizens of this Nation have elected us as their representatives. And we ought not compromise our electors' right to support their candidates of choice through their preferred method of participation.

Mr. President shortly before this body concluded action on S. 3, it turned to the conference report of the budget resolution for the 1992 fiscal year. How ironic that Congress would turn to the very legislation which limits spending immediately before debating legislation creating an entitlement for ourselves. That is not a vote I am willing to take. While I support reform of our election laws, I cannot spend the taxpayers' hard-earned funds to do so.

Mr. LEVIN. Mr. President, I support final passage of this campaign finance reform legislation. If enacted into law, this legislation will help clean up the campaign process and help restore public faith in Government.

Although it will take more than one piece of legislation to completely restore the public faith, this bill, while far from perfect contains several substantial improvements over current law. First and foremost, the spending limits in this bill will finally put a stop to the ever-escalating cost of campaigns. Second, by providing for standby financing in the event that a candidate exceeds the voluntary limit, the bill provides a fair and powerful incentive for candidates to accept the limit.

Finally, the addition of the Exon/Levin amendment which prohibited taxpayer financing will curb public cynicism while preserving nontaxpayer financing options for the vouchers.

The time for campaign finance reform is long overdue. I sincerely hope the Senate will pass the legislation and that it will become law.

Mr. FOWLER. Mr. President, I rise today in strong support of the Senate Election Ethics Act of 1991.

My support for this important legislation stems from my firm belief that the inordinate influence of big money in the American political process threatens to bankrupt representative democracy as we know it.

The voice of the average American—the man or woman who puts in a good day's work for a good dollar paid, and who has little more than that dollar and some personal time to contribute to a political candidate—is being drowned out by a cacophony of well-heeled contributors carping about their causes.

The faces of the American people—once bound eagerly together at political rallies to express their desire for honest, fair, and representative Government—have been replaced by faceless associations of special interests bent on preserving their own piece of the Government pie.

And the minds of American voters—once open and attentive to the flow of the new ideas inherent in spirited political debate—have been bombarded into disinterest and disillusionment by the waves of negative advertisements bought with big political bucks.

Mr. President, the time has come to restore the voice of the American voter, to return to them their identity as individuals, and to reopen their minds to the merits of frank and positive political debate.

In short, Mr. President, the time has come for real campaign finance reform in this country—reform which will renew public confidence in our political system by limiting the influence of big money and special interests.

Discussions in this body of campaign finance reform always remind me of Mark Twain's contention that, "Nothing so needs reforming as other people's habits."

With characteristic wit, Mark Twain's words capture the essence of the problem we in the American Congress often face as we attempt to get our own house in order. Mr. President, I say to you and to my esteemed colleagues in this body today that none of us stand innocent in this debate, and that it is indeed our own habits that are in most need of reform.

Who among us has failed to extend their hand from one side of this great Nation to the other in search of the funds needed to finance a political campaign? Who among us has shown the willpower and the resolve to say enough is enough when our campaign war chests or those of our colleagues have swollen to obscene proportions? Who among us had resisted the desire to simply outspend an opponent, rather than to rely solely on the value of our ideas and convictions as a means of gaining public office? Mr. President, the sad answer is that far too few of us pass these important tests.

As we debate this bill today, plenty of fingers will be rightly pointed at individuals and institutions outside of Congress. But if we are to be honest with ourselves and honest with the American people, the first step toward real reform lies in our own self-restraint.

This legislation's call for voluntary spending limits gets to the heart of the matter. It is the members of this body, Mr. President, who must set the example, who must become practitioners as well as preachers, who must lead rather than follow.

The proposed voluntary flexible spending limits are reasonable to say the least. If you don't agree with that, Mr. President, ask a plantworker, or a teacher, or a policeman in your State how they feel about sending millions of dollars up in blue smoke and mirrors every November while our Nation continues to fall behind in productivity, education, and public safety.

By establishing a system of campaign finance based firmly on the principle of voluntary spending limits, we have an opportunity to prove to the American voters that the Congress is capable of living up to its word. We can regain their faith as guardians of the public trust by exercising prudence and moderation in our own personal political affairs.

We have a profound responsibility to our constituents—and to ourselves—to curb our own appetite for massive funds to cover the growing costs of modern campaigning.

This process is aided by the bill's emphasis on low-dollar, in-State contributions that should rightly form the heart and soul of any Member's support base. By tying candidate benefits to proven success in small donor fundrais-

ing, small dollar contributors increase their influence on the process as a whole. That moves the power back to the people—and that is what representative democracy is supposed to be all about.

Mr. President, the Members of this body have a chance today to breathe new life into the American political process and to bring the democracy we are sworn to uphold back from the brink of decay.

Campaign spending is out of control—and the American people know it.

They have seen the big money translated over the airwaves into a new and vicious brand of negative politics that can only hurt and divide our Nation. They have rejected the idea of a Government that is beholden only to those organized enough to open an office in Washington. And, not surprisingly, they have held this institution and its Members in contempt for their involvement in a morally bankrupt process.

Mr. President, if we are to reestablish the faith in Government and the belief in representative democracy that our forefathers held so dear, we must hear the voice of the American people, we must see their faces once again, and we must heed their collective thought. To that end, we must act today to end the devastating influence of big money on the political process in America by passing this important bill.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of S. 3 and a firm believer in the need for campaign finance reform.

There is strong evidence that the high cost of running for office seriously threatens the principles which underlie our democratic system of government. The public trust in Congress and our political system has been severely damaged by the perception that the pursuit of ever larger amounts of campaign money is in turn distorting the legislative process.

Over the last decade, the cost of running for Federal office has increased dramatically. The need to raise increasing sums of money has had several negative consequences. It discourages people of modest means from running for public office, and it can create the impression that Members of Congress are more concerned with raising money to get reelected than addressing the issues that face this country.

The trends in campaign financing and spending over the last several years are deeply troubling. The average cost of winning a seat in the Senate in 1976 was $600,000. That figure has now risen to $4 million. This gives a great advantage to candidates with enormous personal wealth—and many Members of the U.S. Senate today are persons of great personal wealth—or with extraordinary access to large amounts of money. Those individuals have a much greater opportunity to run for the Senate and in many cases to be elected. But for most Americans who do not have access to those kinds of special assets, the prospect of running for the U.S. Senate has been moving steadily out of reach.

I think the country loses when that is the case. Campaign spending reform is needed to encourage much broader participation in our legislative system and to make it possible for challengers to have a fair chance of winning, regardless of their personal economic circumstances. There has been a lot of talk during this debate about whether voluntary limits hurt or help challengers. But the facts show that incumbents outspend challengers in the vast majority of cases. In the 1990 elections, incumbents outspent challengers 3 to 1. And incumbents' ability to raise large amounts of money actually scares off challengers. The truth is, reasonable spending limits will encourage competition by making it possible for a challenger to compete on more equal footing with an incumbent—and it will open the electoral system up to a much greater number of citizens.

Campaign finance reform is also needed to make sure that the Senate will remain a place where our time and effort is devoted to solving our Nation's problems. Because elections are so costly, Members of Congress who cannot finance their campaigns with their own personal wealth must spend an ever-increasing amount of time raising funds to finance their reelection campaigns. A Senator today has to raise an average of $13,000 a week in order to run for reelection. That inescapable task is an enormous drain on one's time and energy and fosters skepticism in the public about the motives of those who run for office, and that hurts the credibility of this institution.

I have been a strong and consistent supporter of efforts over the last few years to make fundamental changes in our campaign financing system. I believe the ultimate solution is to provide public funding for campaigns because that reform would reduce the advantage for wealthy candidates and eliminate the potential for conflicts of interest—real or perceived—attaching to the vast sums of money needed for contemporary campaigns. Despite this clear virtue, it may not be possible to enact public financing at this time.

Short of adopting public financing, I am firmly convinced that the current system must then be changed in other ways. Specifically, I believe the following steps are essential:

First, establishing voluntary limits on spending, reinforced with incentives for compliance. This is key if we are to foster candidacies by individuals of modest means.

Second, limiting large, out-of-State donations. This will encourage greater emphasis on small, individual contributions from individuals in a candidate's home State. Governor Chiles of Florida has shown this approach can be made to work—even in a large State like Florida.

Third, banning PAC's. While I do not believe PAC's are bad in and of themselves, or exert undue influence on the legislative process, I agree that the funding they provide contributes to the appearance problems currently facing this institution. I would point out, however, that providing public financing would eliminate the need for PAC funding and avoids the constitutional question of whether it is legal to ban PAC funding.

While we are grappling with the difficult questions of campaign financing, we should also look at the larger picture of campaigns in general, and the impact they have on people's confidence in our electoral system. There has been a great deal of discussion over the last few years about negative campaigning and the shortcomings of the 30-second sound bite. As we are all aware, advertising techniques have been moving toward harsh attack images aimed at putting candidates on the defensive, rather than encouraging real debate on the key issues facing this country.

Provisions in this legislation to provide vouchers for broadcast advertising and to reduce the cost of advertising will reduce the overall cost of campaigns, and marks a small step toward encouraging candidates to use larger blocks of time to discuss the issues in greater detail. I think we should go even further. Free air time for political debates would encourage more substantial airing of issues, and free air time to respond to negative advertising would discourage unscrupulous candidates from engaging in these kinds of smear campaigns.

In addition to supporting these changes in the law, last year I adopted my own personal guidelines for my future fundraising. I have pledged that, regardless of whether campaign finance reform legislation is enacted or not, I will no longer accept contributions from any company whose principal business is under the jurisdiction of any committee or subcommittee which I chair and I will not accept any personal contributions from individuals who are CEO's of these companies.

Mr. President, we have one of the greatest legislative systems in the world—one that has been admired and copied by other nations. One of the most important strengths of our system is that it is based on the principle of inclusion. This is a government by the people. But the escalating demands of raising large sums of money to run for public office is putting serious strains on our system of citizen government. We must make sure that our Government is reflective of all Americans, not just the wealthy or a privileged few who find an individual strat-

egy to raise several millions of dollars for their Senate campaigns. Campaign financing reforms of this kind must be adopted if we are to stop the money chase and restore fair competition to our political campaigns.

Mr. CHAFEE. Mr. President, we have been debating comprehensive campaign finance reform legislation for several days. I want to commend those on both sides of the aisle—especially Senator MCCONNELL, Senator BOREN, Senator DOLE, and Senator MITCHELL—who have played a key role in shaping this legislation. I am pleased to see that some new areas of agreement have been reached, particularly the restrictions on political action committees and bundling of contributions by lobbyists, substantially reduced broadcast rates for political advertisements, and some of the provisions that would deter independent expenditures.

There are four goals that I believe a campaign finance reform bill should meet. First, it should limit the ability of special interests to influence the actions of those in Government through political campaign contributions. Second, it should improve competition in congressional campaigns, in which incumbents currently enjoy a number of advantages which inhibit the ability of challengers to compete. Third, it should reduce the rising costs of campaigns, which exert tremendous pressure on all candidates to undertake virtually ceaseless solicitation activities. And fourth, it should be a bipartisan bill which does not put in place a system with build-in advantages or disadvantages for one political party.

Some progress toward true campaign reform has been made in this bill. The restrictions on political action committees and bundling of contributions by lobbyists and the reduced broadcast rates are steps in the right direction. Unfortunately S. 3 fails to increase competition between challengers and incumbents, leaves in place the loopholes that enabled Charles Keating's activities to bring into question the integrity of those who serve in Congress, and fails to address the key issue in reform, which is where the contributions come from.

During the past several days we have heard a lot of discussion about the need to improve competition in campaigns. While there has been rhetorical agreement about this need, the outcome of votes on three amendments clearly indicates a reluctance to give challengers the same opportunities that are available to incumbents.

Recognizing that incumbents have built-in advantages, such as name recognition and mailing privileges, an amendment was offered and rejected that would have raised the spending limit for challengers. Later, an amendment which would have allowed the political parties to provide "seed money" or matching funds to challengers in the early weeks of their campaigns, was resoundingly defeated. Interestingly, the seed money amendment was based on a recommendation by the bipartisan task force on campaign reform that was named by the majority and minority leaders last year. My colleagues even rejected an amendment that would have required successful candidates to turn back unused funds, instead of starting the next campaign with a warchest left over from the previous campaign. The Senate rejected competition in campaigns not less than three times during this debate.

S. 3 has been promoted as a reform measure chiefly because it would put in place limits on the amounts that can be spent by congressional candidates. This would be a dramatic step for our democracy to take—to impose an arbitrary limitation on the amount a candidate can spend in an election. It may be a step that would be worth taking, if it were part of a system that truly was a level playing field. The system under S. 3 would leave the playing field tilted toward the incumbent.

Spending limits alone are not a panacea for improving our campaign system. If we are going to limit what a candidate can spend in an election, fairness directs that we limit all the other spending that goes on during elections; including funds spent by those who are not candidates.

When viewed with this in mind, S. 3 is by no means fair. Its proponents point to the limits which the bill imposes on use of so-called soft money—funds that are raised by entities that are not subject to Federal reporting requirements, yet spent in behalf of Federal candidates. S. 3 is selective in the type of soft money it prohibits. It would outlaw such expenditures by the Republican and Democratic Party organizations, yet permit the same expenditures by large corporations and labor unions. Thus, candidates and political parties would be limited in what they could spend, while special interest entities—labor unions, corporations, and trade associations—could spend whatever they wish to influence the outcome of an election, and no one would know that the money had been spent until the election was over. In my view, our failure to impose any limits on those expenditures is the most disappointing aspect of this debate.

The last amendment that we voted on would have required special interests that influence the process by slipping in through the back door with soft money contributions, to report their intentions to the Federal Election Commission 10 days prior to the expenditure. This amendment didn't even go as far as banning soft money. It simply required the reporting of union and corporate soft money expenditures. Incredibly, this simple amendment was not considered to be reform.

I hope that we will have another opportunity to reach a bipartisan accord on this issue after the House takes action on campaign finance reform. The progress that has been made gives me hope that finally we will be able to eliminate soft money abuses and develop a fair and competitive system.

Mr. DASCHLE. Mr. President, as we complete action on S. 3, the Senate Election Ethics Act, it is important that we take note of the role that large individual donors play in the election process.

The impact of large donors was recently analyzed in a report issued by Citizen Action. This report documented the fact that large contributors are the single largest source of campaign funds to House and Senate candidates.

The 1990 election cycle saw $164.2 million in large, individual contributions to House and Senate candidates, an amount that exceeds the total amount contributed by all political action committees.

In addition, Citizen Action revealed that 46 percent of all contributions made to congressional candidates was made by large donors, a group comprising one-tenth of 1 percent of the voting age population.

Through a combination of spending limits and partial financing, S. 3 would reduce the influence of large donors in the election process. In order to facilitate a thorough understanding of the impact of large donors in the political process, I ask unanimous consent that the Citizen Action report be printed in the RECORD.

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

[From Citizen Action, May 1991]

HIDDEN POWER: CAMPAIGN CONTRIBUTIONS OF LARGE INDIVIDUAL DONORS, 1989–1990

HIDDEN POWER: SUMMARY AND CONCLUSION

Countless reports documenting the role of political action committees (PACs) in the legislative process have produced the widespread perception that the current campaign finance system is corrupting the democratic process. This has led to bipartisan efforts to develop reform programs. Political action committees have become the symbol of this campaign crisis, and all efforts seek either elimination or stronger regulation of PAC contributions. Hidden Power provides a comprehensive examination of the entire landscape of giving to Congressional candidates. The report reveals that PACs are only the most readily visible evidence of much more influence by special interests. Political action committees contributed 31 percent of the money raised by House and Senate candidates in 1989 and 1990. At the same time, large contributors—those who made contributions of more than $200—contributed even more.[1]

[1] In this report, the term "large donor" or "large contributor" applies to those who make contributions of $200 or more to a particular PAC, party or candidate. All information reported is for the 1989–1990 election cycle.

Findings

Large Contributors are the Single Largest Source of Campaign Funds

Large individual political contributions to candidates accounted for $164.2 million—more than the total amount contributed by political action committees.

Large individual contributors accounted for an additional $71.9 million in indirect contributions through their giving to political action committees which in turn contributed to Congressional candidates.

In all—directly to candidates and indirectly through their PACs—large contributors gave $236.1 million.

Large Contributors are Special Interests

One tenth of one percent of the voting age population accounted for 46 percent of the total money raised by Congressional candidates. A mere one twentieth of one percent of the voting age population accounted for all the large donor money received by winning Senate candidates.

The finance, health, agriculture, transportation, energy and insurance industries' PACs and large donors that could be identified were the leading contributors to Congressional candidates during the 1990 election cycle. The complex of industries which gained the most from lax financial regulations in the 1980s—the finance, real estate and building industries—contributed at least $46.4 million of which the finance industry accounted for at least $24.7 million. Health industry PACs and large donors accounted for at least $19.6 million. These are very conservative estimates due to the difficulty in identifying the interests of contributors for whom no disclosure was made.

Large individual contributors associated with business interests gave more than 20 times the amount to Congressional candidates as large contributors associated with labor interests. Even if PAC giving is added to individual donations, business PACs and their large donors gave at least 6 times the amount as labor PACs and labor large individual donors gave.

Most large donor money comes from a few centers of political influence in California, Washington and New York. Large donor contributions from these centers accounted for more than half of all out of state large donor contributions. At the other extreme, candidates in 14 states received more large contributions from donors outside their states than they did from donors from their home states. The top ten zip codes in the country accounted for 5 percent of all large donor giving.

Money raised from special interests—large donors and PACs—accounted for 67 percent of the money raised by members of the Senate and 72 percent of the money raised by members of the House of Representatives.

Special interest donors already circumvent spending limits through donations by family members. At least $30.6 million was contributed to candidates in this way. For example, the Gallo family contributed more than $294,100, including $20,000 to one candidate on a single day.

Disclosure of Individual Contributions is a Failure

Candidates failed to disclose the employers—as required by law—of the contributors who gave them over half the money they raised from large donors. Fully 18 percent of all the large donor money raised had no disclosure whatsoever other than name and address.

Money reported by candidates, political parties and independent PACs with no, or worthless, disclosure amounted to 31 percent or two thirds the amount given by PACs.[2]

The extent of general evasion is illustrated by the fact that the most frequently reported occupation was housewife (or some variation). According to FEC records, housewives contributed $19 million in amounts of $200 or more.

Notwithstanding the fact that candidates for federal office, political parties and PACs failed to disclose the occupation or employer of donors who accounted for more than $100 million in contributions in the last election cycle, and well over one quarter of a billion since the law requiring them to do so was passed, only a handful of candidates and PACs have been investigated and prosecuted by the FEC.

Public Financing Is the Only Solution to Special Interest Influence

Eliminating or restricting political action committees without providing public financing will make matters worse for three reasons:

Eliminating PACs will increase the power of the wealthy at the expense of small donors:

Those special interests who already give large amounts to candidates directly through large contributions will retain their disproportionate influence over the millions of Americans who give $15 or $20, but whose contributions are often unrecognized unless made through small donor PACs.

Large donors are more likely to rewrite their $1,000 checks directly to targeted candidates than small donors. More importantly, candidates will be more likely to seek and appreciate the large checks than the small ones.

Eliminating PACs will hide the special interest sources of campaign contributions. The public knows which PACs contribute to their representatives because PAC disclosure works. The public has almost no idea of who the special interest large donors to their representatives' campaigns are because it is impossible to make individual disclosure work.

Eliminating PACs will increase the importance of the influence industry—lawyer, lobbyists and public relations firms. Lawyers and executives with these firms contributed more than $19 million to candidates. The identity of influence industry interests is the most difficult to determine and strengthens the special interests who can afford to hire these firms to represent them.

Campaign spending limits, without public financing, are as likely to hurt as they are to help:

Nearly every senator elected in 1990 in a competitive race raised, or came close to raising, the spending limit for their state in large donor contributions. Thus, it is predictable that most senators would be able to meet their spending limits raising little or no small donor money even if PACs are banned outright. The evidence suggests that limits being considered are low enough for candidates backed by special interests to raise the limit in large donor contributions and high enough to make it impossible or very difficult for candidates who eschew wealthy special interests to raise the limit.

Spending limits will enhance the power of the biggest special interests at the expense of the smallest. Since campaigns will be especially interested in minimizing fundraising costs if there are spending limits, they will be more open to those special interests who can mobilize the largest numbers of large donors.

Full Public Financing Is the Only Solution. History and common sense prove that regulation of campaign spending does not work. Special interests will always find ways around regulation because they have so much at stake in the legislative process. Public financing is the only solution because it provides the resources for a candidate who is willing to run without special interest backing to reach the electorate. The special interests may find ways to out-spend that candidate—as yet undreamed of elaborations on independent expenditures, soft money and bundling—but that candidate will still be heard.

Acknowledgement

Citizen Action wishes to acknowledge the assistance provided by the Center for Responsive Politics. The Center provided Citizen Action with its classification system for political action committees.

THE RULES OF DISCLOSURE AND THE MYTH OF PACS

Why the Public Hates PACs But Remains Ignorant of Wealthy Contributors

Although contributions by political action committees represented only one-third of the total money raised by Congressional candidates in 1990, PACs have drawn almost all of the public's attention because of the rules of disclosure. Federal election law requires each political action committee to register with the Federal Election Commission. Each political action committee must identify any corporation, union or organization to which it is connected and provide information such as the name of the treasurer of the committee and the committee's address and phone number. Each political action committee must file regularly with the Federal Election Commission; the largest PACs must file monthly. The Federal Election Commission routinely computerizes these filings. While the system of disclosure and recordkeeping is not perfect, these rules have made tracking PAC contributions relatively easy. Even when the interest of a PAC is not apparent from its name, the address and phone number enable citizens and reporters to contact the PAC directly to learn more about its interests and to give the public a sense of which special interests provide the most PAC dollars to a particular candidate.

A citizen or reporter outraged by savings and loan contributions can walk into the Federal Election Commission's office, look up the code number for the Lincoln Savings and Loan PAC and in a very short time the FEC's computer can print out a list of all of the candidates receiving Lincoln largess. In recent years, the relatively prompt computerization of the data has enabled large news and public interest organizations to do fairly sophisticated analysis of PAC contributions. Reports have been done that aggregate the contributions of PACs by industries or special interest. Some reports compare the contributions of a particular industry to voting on an issue of concern to that industry. Other reports classify candidate's total PAC contributions by a number of important special interests.

Comparing these rules of disclosure for PACs with the rules of disclosure for contributions from individuals makes plain why the public has heard a lot about contributions from PACs and virtually nothing about contributions from individuals. Candidates

[2] No disclosure means that no occupation or employer was disclosed. Worthless disclosure means that something was disclosed, but it was of no possible value in ascertaining an economic interest, such as "executive." For definitions of no, and worthless disclosure, see the text.

running for office are required to disclose the name, address and employer of anyone giving them a contribution of $200 or more. Even if compliance with that requirement were universal, tracking individual contributions would be much more difficult than tracking political action committee contributions. Since no unique code is assigned to individual contributors or their disclosed employer (as they are to all PACs) there is no straightforward way to aggregate contributions made by particular individuals or by particular companies or interests. For example: are J. Henry Smith and Henry Smith the same person or two people living in the same high rise? Are the Donald Trumps living in New York City and Palm Beach the same person? Without unique codes, it is impossible to be certain whether ABC Inc. is the television network or the local plumber. Although it is highly likley that the Smiths and the Trumps are the same person, and that ABC is the media powerhouse, FEC disclosure leaves that in doubt.

Finally, short of complex programming, there is no way to aggregate contributions from Chevrolet employees with those of Pontiac to compute a total for General Motors.

These problems would exist in the ideal world. But the world of individual donor disclosure is far from ideal. First, the FEC does not computerize the addresses of individual donors, making aggregation of individual contributions more difficult and the detection of household aggregate nearly impossible. (Household aggregates would include contributions made by all members of a particular household, important because of the frequency with which the wealthy circumvent limits on contributions by making them in the names of their spouses and children). Second, many contributors ignore the requirement to disclose their employer and campaigns are not penalized for failing to report contributor's employers. Third, even when an employer is reported, the disclosure is often worthless or nearly so.

With these obstacles, it is little wonder that reporters and citizens groups have focused their attention on political action committee contributions rather than on large individual contributors.

The Failure of Disclosure

For the purpose of this report, employer disclosures for contributions of more than $200 were divided into five categories: No disclosure, worthless disclosure, weak disclosure, company disclosure and the influence industry. Each of these categories is defined in the box at the end of this section.

In the 1990 election cycle, $258 million in contributions were made to Congressional candidates, political parties and to independent PACs in amounts of $200 or more.[1] An astonishing $107 million in contributions were made with no, or worthless, disclosure. *Thus, an amount equal to more than two-thirds of the amount given to candidates by political action committees was given in contributions of $200 or more with no indication whatsoever of the financial interests of the donors.* At the other extreme, $128 million—49 percent of the amount given by these contributors—disclosed a company. The political parties did the poorest job in reporting the employers of their contributors. The table on the following page breaks down these contributions by level of disclosure.

Despite the fact that candidates, parties and PACs reported receiving more than $100 million in contributions of $200 or more in 1989 and 1990 with no or worthless disclosure (and more than one quarter billion dollars since the law was enacted) the FEC has investigated and prosecuted few candidates, PACs or parties.

The table also points up two other special disclosure problems. The influence industry—lawyers, lobbyists and public relations executives—contributed $28 million, 12 percent of the large donor money received by Congressional candidates. In addition, influence industry PACs contributed $4.4 million, for a total of $23.0 million just to candidates. Even when members of this industry report their firm's name, the value of the disclosure is nearly worthless as most firms have many clients and it is impossible to attribute their contributions to particular special interests. A significant percentage of contributions made by large donors are made by lawyers, lobbyists, and public relations executives whose primary interest in making their contributions is ensuring access for their clients rather than affecting any issue that directly impacts their industries. Since the largest influence industry companies have long and frequently changing client lists, there is no way for the public to connect the contributions made by these hired guns to their lobbying interests.

The extent of general evasion is illustrated by the fact that the most frequently reported occupation is housewife (or some variation). According to FEC records, housewives contributed $19 million in amounts of $200 or more, or approximately one-half of the total amount given by organized labor through its PACs.

Conclusion

Whatever other effects eliminating or reducing the role of political action committees will have, it is indisputable that such action will dramatically reduce the public's awareness candidates' special interest backers. No recordkeeping reform short of requiring large donors to register at the FEC and submit forms that disclose their contributions, just as political action committees do now, would avoid this loss of information.

LEVELS OF DISCLOSURE—1990 ELECTION CYCLE

[In millions of dollars]

	Candidates		Parties		Independent PACs		Total	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
None	30	18	21	30	5	20	55	21
Worthless	32	20	16	23	4	18	52	20
Weak	14	9	7	10	2	8	23	9
Company	88	54	27	38	13	54	128	49
Influence industry	19	12	6	8	3	13	28	11
Housewives	14	8	3	4	1	6	18	7

Definitions: Disclosure—No entry is made—the employer field in the FEC computer database is blank. Worthless Disclosure—Instead of an employer, an occupation or state of being is disclosed. It is impossible to infer anything about the particular interests of the contributor. Examples include housewife, student, and self-employed. Weak Disclosure—Instead of an employer, an occupation is disclosed that at least suggests what economic interests the contributor has. Examples include, "farmer," "oil producer," and "investor." This kind of disclosure is minimally helpful in that someone who disclosed that they were an energy producer could be suspected of being interested in energy policy, but if an issue of concern divided the energy industry, this disclosure would be worthless. Company Disclosure—An actual company is disclosed. Often the value of this disclosure is little more (or even less) than a weak disclosure because the company's name is common and there is no way to be sure which of several companies with like names the contributor is associated with. The Influence Industry—Lawyers, lobbyists and public relations executives.

Sources: Federal Election Commission, Citizen Action calculations.

THE HIDDEN POWER OF LARGE GIVERS

The realities of campaign finance, and the fallacy that political action committees are the sole source of special interest influence in the political system, can be plainly seen in the following case. A number of savings and loan executives contributed to PACs and directly to candidates. Who could believe that the PAC check is tainted, but the personal check is pure? And who could believe that if Congress outlaws PACs that these executives would not merely send the money they had contributed directly to candidates?

But the exaggerated distinction between PACs and large donors is even more absurd than the previous example suggests. Consider this: when ten executives of the ABC corporation respond to a fundraising letter for the company PAC by each making $1,000 contributions, and ABC PAC makes a contribution to candidate X of $10,000, it is well disclosed PAC contribution. When those same executives respond to an invitation to a $1,000 per head fundraiser for candidate X, nothing has changed except that the contributions are less visible, and candidate X is less stigmatized for accepting the money. When ABC's Washington lawyer calls each of these executive suggesting that they should contribute to candidate X, nothing will change except that the special interest purpose of the contribution will be even more difficult to detect. And finally, when partners in ABC's Washington law firm—a firm with dozens of clients—each take some of the proceeds of their fees to ABC to make a contribution to candidate X, the connection between company and candidate is as valuable for the company as it ever was but is now all but invisible to the public. None of this is illegal, and no fundraiser or Washington lawyer could deny with a straight face that any of these practices are common today. Therefore, a leap of imagination is not necessary to see that if PACs are abolished or restricted, large donors will suffer only minor inconvenience in rerouting their contributions.

The public has clearly been misled. Instead of caring about how much a candidate receives from PACs versus how much they receive from individuals, the public should care about how much money a candidate has received from special interests regardless of whether the check is from a PAC or the chairman of a company.

The next three sections of this report take a fresh look at campaign finance by focussing on the role of large contributors. This section quantifies the role played by these donors. The next section evaluates special interests on the basis of their large donor strength. The third section examines members of Congress on the basis of how much money they are receiving from large contributors—directly and indirectly.

Why Large Contributions are Special Interest Contributions

A basic premise of this report is that large donor contributions should be considered special interest contributions. They are in some cases, such as Charles Keating's contributions, about which no one would argue. On the other hand, many would believe this case to be the exception—what most people who donate large amounts to candidates are simply public spirited people of means who are not looking for special favors. There are two arguments against this. The first is provided by the weight of the rest of this report. Patterns of large donor contributions are nearly identical to those of PACs. A significant portion of large donor money is collected in ways that barely differ from the

[1] This does not include large donor contributions to connected PACs. Since the FEC act limits these PACs to soliciting employees or members, the lack of disclosure of the source of these contributions is less serious than it is for candidates and independent PACs.

way in which PAC contributions are collected. For example, when a law firm sets up a PAC and solicits for it from its partners, it is a well disclosed PAC contribution. When the same law firm holds a cocktail party for the candidate, and the partners give $200, it is no different to the candidate.

The second argument strikes at the heart of one's conception of America's democracy. Even donors who genuinely believe they are contributing out of civic mindedness are supporting candidates who share fundamental world-views that may be different from the rest of the electorate not fortunate enough to be able to match their contributions. It is not surprising that, not withstanding the overwhelming evidence of the proportional shift in tax burden from rich to poor in the last decade, that Congress continues to contemplate further capital gains cuts even as it rejects a cut in the FICA tax. In an era of budget cutting members of Congress understand that cutting some programs will provoke personal outrage among their donors while cutting others does not affect the interests of their donors.

The Hidden Power of Large Donors

Contributions of more than $200 dominate the political process. In the 1990 election cycle, $485 million was spent by candidates for the House of Representatives and the Senate.[2] Of this amount, direct contributions of $200 or more accounted for 34 percent of the total and contributions of $500 or more accounted for 27 percent. Large donor contributions to PACs and to parties—committees which in turn made contributions to candidates—amounted to another $143 million, 29 percent of the amount raised by candidates. Even without counting contributions to the parties, large donors—directly through checks they wrote to candidates and indirectly through checks they wrote to PACs who wrote checks to candidates—contributed 49 percent of money spent by candidates in the last election cycle. The following table summarizes the aggregate role of large contributors.

LARGE DONOR CONTRIBUTIONS BY LEVEL OF CONTRIBUTION, 1989–90

[In millions of dollars]

	Congress		Party		PACs		Total	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
$200 to $499	34	21	11	16	20	28	66	21
$500 to $1,000	129	78	21	29	25	35	174	57
More than $1,000	1	1	39	55	27	37	67	22
Total	164	100	71	100	72	100	307	100

Sources: Federal Election Commission, Citizen Action calculations.

LARGE DONOR CONTRIBUTIONS BY STATE 1989–90

[Dollars in thousands]

	Giving						Receiving			Net effect	
	To candidates			To party	To PAC's	Total	From in State	From out of State	Total	Net exports	Percent of United States out of State
	To in State	To out of State	Total								
Alabama	$2,900	$299	$3,200	$725	$762	$4,687	$2,900	$1,065	$3,965	−$765	1
Alaska	242	128	370	135	93	598	242	372	613	−244	0
Arizona	669	271	940	992	787	2,719	669	110	779	+161	1
Arkansas	1,327	190	1,517	350	459	2,326	1,327	292	1,619	−102	0
California	11,291	7,885	19,176	11,202	11,270	41,648	11,291	1,799	13,090	+6,086	15
Colorado	2,049	619	2,668	900	841	4,410	2,049	1,141	3,189	−522	1
Connecticut	1,503	1,224	2,726	1,644	1,985	6,356	1,503	726	2,228	+498	2
Delaware	458	111	569	411	253	1,233	458	841	1,299	−731	0
District of Columbia	209	5,241	5,450	2,387	2,212	10,049	209	146	355	+5,094	10
Florida	4,954	2,876	7,830	4,447	3,454	15,731	4,954	850	5,804	+2,026	5
Georgia	2,270	691	2,961	1,305	1,623	5,889	2,270	835	3,105	−144	1
Hawaii	1,723	70	1,793	444	306	2,543	1,723	672	2,395	−602	0
Idaho	468	37	504	108	149	762	468	364	831	327	0
Illinois	5,419	2,676	8,094	2,825	3,830	14,749	5,419	2,735	8,153	59	5
Indiana	3,304	288	3,591	909	722	5,222	3,304	981	4,285	693	1
Iowa	1,755	82	1,837	676	443	2,956	1,755	1,857	3,612	−1,775	0
Kansas	531	193	725	484	568	1,777	531	312	843	−119	0
Kentucky	2,555	153	2,708	931	579	4,218	2,555	1,187	3,742	−1,034	0
Louisiana	2,584	450	3,034	726	838	4,598	2,584	1,153	3,738	−703	1
Maine	676	82	758	233	198	1,188	676	608	1,283	−526	0
Maryland	1,535	2,449	3,984	1,259	1,653	6,897	1,535	491	2,026	+1,958	5
Massachusetts	3,824	1,728	5,553	3,010	1,615	10,177	3,824	2,599	6,423	−871	3
Michigan	3,873	671	4,543	2,777	1,371	8,691	3,873	2,876	6,749	−2,206	1
Minnesota	2,016	493	2,509	910	1,422	4,841	2,016	2,081	4,097	−1,588	1
Mississippi	1,132	95	1,227	473	290	1,990	1,132	288	1,420	−193	0
Missouri	1,472	598	2,070	1,064	1,337	4,471	1,472	549	2,022	+49	1
Montana	547	29	576	197	73	846	547	815	1,362	−786	0
Nebraska	1,455	78	1,533	338	320	2,191	1,455	791	2,246	−713	0
Nevada	902	248	1,150	408	524	2,082	902	209	1,111	+39	0
New Hampshire	951	191	1,143	397	294	1,834	951	1,107	2,059	−916	0
New Jersey	5,264	1,887	7,151	2,622	2,512	12,286	5,264	4,935	10,200	−3,408	4
New Mexico	787	84	871	257	213	1,341	787	489	1,276	−405	0
New York	4,994	10,730	15,724	7,823	9,325	32,872	4,994	1,389	6,383	+9,341	20
North Carolina	3,674	336	4,010	774	892	5,677	3,674	4,220	7,894	−3,883	1
North Dakota	32	22	54	50	146	250	32	158	190	−135	0
Ohio	1,341	1,014	2,355	2,593	2,308	7,256	1,341	400	1,741	+614	2
Oklahoma	1,755	323	1,987	531	401	2,919	1,755	831	2,586	−599	0
Oregon	1,187	212	1,399	430	511	2,339	1,187	1,090	2,278	−879	0
Pennsylvania	3,681	1,521	5,201	2,310	3,215	10,726	3,681	1,220	4,901	+300	3
Rhode Island	1,247	169	1,416	325	253	1,992	1,247	1,360	1,607	−1,192	0
South Carolina	740	238	978	348	514	1,840	740	797	1,537	−559	0
South Dakota	326	38	365	322	98	784	326	1,189	1,515	−1,150	0
Tennessee	932	394	1,326	749	1,208	3,283	932	880	1,812	−486	1
Texas	12,906	2,303	15,209	4,687	5,082	24,978	12,906	1,931	14,837	+372	4
Utah	476	63	539	213	188	940	476	321	797	−528	0
Vermont	172	65	237	78	77	393	172	173	345	−107	0
Virginia	2,146	2,593	4,739	1,751	1,868	8,358	2,146	1,178	3,324	+1,415	5
Washington	766	451	1,217	648	1,011	2,876	766	395	1,162	+55	1
West Virginia	712	88	800	245	151	1,196	712	1,310	2,022	−1,222	0
Wisconsin	910	288	1,198	796	754	2,748	910	652	1,562	−364	1
Wyoming	274	53	326	104	63	494	274	407	681	−354	0

Sources: Federal Election Commission, Citizen Action calculations.

The Geography of Large Donor Contributions

The influence of large donors extends far beyond the borders of their home precincts. Roughly one-third of all large donor contributions are made to candidates running in other states. The table on the next page examines large donor giving by state. However, the most revealing elements of the table are those that show the flow of money from state to state. First, the table shows that 37 states received more large contributions from donors in other states than their large donors made contribution to candidates in other states. Indeed, candidates in 14 states received more in large contributions from donors in other states than they raised from donors in their own states. Most revealing, however, is what might be called the "market share" of the donors in states that spent the most money influencing elections in other states. Large donors in California, New

[2] Various totals have been used for the total amount raised during the election cycle. The totals used in this report differ from those generally reported by the FEC in that they include money raised election in 1990. Most significantly, this includes Senators raising money for 1992 and 1994 races, as well as incumbents "retiring debt." This policy is used because it is felt since the central focus of this report is giving by large donors, it is better to take ferences with the FEC reported figures are very

York, and the Washington Metropolitan area made over half of all the out of state contributions made during the 1990 election cycle.[3]

In other words, raising enough money to run a competitive race for Congress is not simply a matter of winning the acceptance of large donors, it is a matter of winning the acceptance of distant large donors whose interests can be far different from those of the local electorate.

The following table shows that political giving is more concentrated geographically than even the state analysis would suggest. The table on the following page is particularly instructive. It lists the zip codes from which the most money was given in the 1990 elections. The top zip codes are uniformly either the nation's wealthiest residential addresses—ranking well above the 90th percentile nationally—or the nation's major financial and legal centers.[4] The top ten zip codes accounted for 5 percent of all large donor giving, and the top 100 zip codes accounted for 21 percent of all large donor giving. In most of these zip codes, nearly half of the contributions to candidates were made to candidates in other states. Large donors in a single Manhattan zip code, (10021), contributed more—$3.5 million—than all the large donors in 28 states.

LARGE DONORS, TOP 25 ZIP CODES—1989–90

[Dollar amounts in thousands]

Zip, city	Percent—				Total
	Congress	Party	PAC's	Out of State	
10021 (New York, NY)	55	24	20	42	$3,515
10022 (New York, NY)	44	36	20	35	2,717
20036 (Washington, DC)	44	22	35	43	1,775
90210 (Beverly Hills, CA)	57	17	26	36	1,697
20007 (Washington, DC)	55	24	21	53	1,417
10020 (New York, NY)	16	18	66	13	1,155
60611 (Chicago, IL)	55	15	30	30	1,140
77002 (Houston, TX)	55	25	20	14	1,127
20006 (Washington, DC)	57	27	15	56	1,104
90067 (Los Angeles, CA)	46	23	31	26	1,038
10028 (New York, NY)	56	19	25	42	1,036
10019 (New York, NY)	47	28	24	40	1,009
90049 (Los Angeles, CA)	54	19	28	31	985
10017 (New York, NY)	51	28	21	40	906
10004 (New York, NY)	35	22	43	31	895
90024 (Los Angeles, CA)	46	27	27	32	877
20016 (Washington, DC)	58	26	15	56	869
20008 (Washington, DC)	53	22	25	49	858
10128 (New York, NY)	64	13	23	53	851
20037 (Washington, DC)	49	31	20	47	835
33480 (Palm Beach, FL)	45	31	24	35	821
48013 (Bloomfield Hills, MI)	53	28	18	12	812
06830 (Greenwich, CT)	41	36	23	31	764
20854 (Potomac, MD)	58	16	26	50	742
63124 (St Louis, MO)	42	18	39	19	732

Sources: Federal Election Commission, Citizen Action calculations.

FAMILY PACS

How Many Large Donors?

The purpose of this chapter is to explore the issue of how many large donors there are in America today. According to the FEC, during the 1990 election cycle there were 516,000 contributions of $200 or more. These contributions totalled $307.0 million. Of these contributions, $164.2 million were made to candidates for Congress. Even if each of these contributions were made by a different person, this would mean that one-third of all direct contributions to candidates came from less than 1 percent of the voting age population. As discussed in the chapter about the rules of disclosure, the FEC does not make it easy to determine whether two listed contributors are in fact the same person. However, given the relatively small size of the large donor universe, a common sense approach can provide enormous insight.

A computer program was written to match contributors using the following basic and conservative assumptions: (1) two listed contributors with exactly the same last name, and nearly identical first names living in the same zip code were matched (Mike, Michael and Micheal are examples of nearly identical first names—the first two being variations, and the second being a misspelling); and (2) two listed contributors with identical last names and first names living in the same zip area were matched. And pairs that matched either of these conditions were rejected if there was contradictory information such as one being "Jr" and the other being "Sr." It is obvious that these rules exclude far more true matches than they accept false matches. For example, many of the largest donors might give from two or more addresses. There are tens of thousands of listings with either no zip code or typographical errors, and the program would not match common similar first names such as Jack and John that have some probability of being different people.

Based on this matching process, there were actually no more then 179,677 large donors to federal candidates. In other words, 34 percent of the money spent by federal candidates was directly contributed by no more than one-tenth of one percent of the voting age population. If the indirect giving of large donors is factored in, than the result is that one-seventh of one percent of the voting age population contributed 49 percent of the money spent by federal condidates. These results are in the table on the next page.

Another program was written to make an estimate of giving by households since many large donors circumvent the contribution limits by making contributions in the name of other family members, and others leverage or bundle the contributions of other family members. A program to produce a comprehensive result is impossible given how little information is provided. However, there is a strategy that does produce accurate matches. Contributors who listed their occupations as housewife and had exactly the same last name as a male contributor living in the same zip code were considered to be from the same household. While this procedure includes a few incorrect matches, it obviously misses an enormous number of matches such as couples with different last names, spouses who give from different addresses (i.e. one from the office, the other from home) and all giving by children. Even this extremely conservative approach found that at least 60 percent was given by housewives who matched a contributing husband. And when contributions made by these women without any disclosure are counted, their total giving grows to at least $33.0 million.

NUMBER OF LARGE DONOR CONTRIBUTORS TO FEDERAL CANDIDATES—1989–90

Assumption	Number of contributors	Percent of voting age population	Amount of contributions (millions)	Percent of money spent
Direct contributions to Federal candidates:				
Every contribution by a different person	311,288	0.170	$164.2	34
Two contributors with the same name in the same place are the same person.	179,677	.100	164.2	34

NUMBER OF LARGE DONOR CONTRIBUTORS TO FEDERAL CANDIDATES—1989–90—Continued

Assumption	Number of contributors	Percent of voting age population	Amount of contributions (millions)	Percent of money spent
Housewives are related to contributors in the same place with the same last name.	168,850	.090	164.2	34
Direct and indirect contributions to candidates:				
Every contribution by a different person	433,804	.240	236.1	49
Two contributors with the same name in the same place are the same person.	239,296	.130	236.1	49
Housewives are related to contributors in the same place with the same last name.	227,563	.120	236.1	49

Source: Federal Election Commission, Citizen Action.

The Largest Donors

Even the household matches produce a somewhat exaggerated view of how broad the political fundraising base is in the United States. The following table breaks down the large donor universe by total given and shows that the large donor world is dominated by less than 10,000 donors who gave more than 30 percent of the total given by large donors to candidates.

DISTRIBUTION OF LARGE DONOR GIVING—1989–90

Level of contributions	Number of contributors	Amount of contributions (millions)	Percent of large donor money
$10,000 or more	3,299	$60.5	20
$5,000 to 9,999	5,280	34.5	11
$1,000 to 4,999	85,933	140.0	46
Less than 1,000	184,909	72.1	23

Source: Federal Election Commission, Citizen Action calculations.

Family PACs

Although it is impossible to systematically construct all the large donor families in the United States, there are ways to conservatively estimate the role these families play. One approach is based on making the assumption that if two or more people with exactly the same last name give $2,000 or more to the same candidate on the same day they are from the same family. Unless a candidate held a fundraiser that targeted people with the same last name, the number of incorrect matches using this procedure is obviously extremely small. On the other hand, the number of missed matches is enormous—husband and wife would merely have to have given on different days to have been excluded. Altogether, $30.6 million was raised by candidates in amounts of $2,000 or more from people with the same last names on the same day, or 19 percent of the total amount that large donors gave to candidates.

One way to get some perspective of the significance of those contributions is to compare them with PAC contributions. The following table shows that family members giving more than $2,000 to the same candidate on the same day gave nearly half as much as did all business PACs.

There were 34 times when a candidate raised $10,000 or more from people with the same last name on the same day. The biggest family pay day seems to have been April 13, 1989 when Alan Cranston collected 20 $1,000 checks from the Gallo family members.

It would appear that the Gallos constitute the largest family PAC in the country. Family members contributed at least $294,100

[3] This includes contributions from the Maryland and Virginia suburbs.

[4] Evaluation of income percentiles based on Source-book of Demographics and Buying Power for Every Zip Code in the United States, CACI.

during the cycle, more than all but 93 business PAC's.

Family PACs versus business PAC's, 1989–90

Contributions of $2,000 or more to candidates:	
Family PAC's (millions)	30,600,000
Business PAC's (millions)	74,400,000
Family PAC's as percent of business PAC's (percent)	41

Source: Federal Election Commission, Citizen Action calculations.

SPECIAL INTEREST WINNERS AND LOSERS

Whenever the election rules change there are winners and losers. Incredibly, many advocates of reducing or eliminating PACs act as though once PAC contributions were restricted, all of the people who wrote checks to their PACs would lose interest in politics and stop contributing. Of course, this is not the case.

It is fairly predictable that if PAC contributions are eliminated or reduced, the winners will be those special interests which can most easily persuade their PAC donors to write their checks directly to candidates. Just as predictably, the losers will be those special interests who will have the greatest difficulty redirecting their PAC contributors directly to candidates. Although it is impossible to predict with certainty which special interests would be most successful in redirecting their PAC donors directly to candidates, it is reasonable to believe that PAC donors who make out large checks now are much more likely to rewrite their checks to specific candidates than those who write out small checks. It is also reasonable to believe PAC donors with a continuing relationship with government will have a larger incentive to keep writing checks. It is also obvious that those special interests whose members are currently giving the most through large contributions directly to candidates will also be winners since PAC restrictions will not deter those donors at all.

Business Vs. Labor

During the 1990 election cycle, business and trade association PACs gave $113.4 million to Congressional candidates, compared with $34.8 million given by labor PACs. However, when direct large donor giving by business is added to PAC giving, business interests accounted for at least $233.4 million in contributions. Direct large donor giving by labor union members is virtually non-existent. Even if every dollar of contributions by government employees and educators were considered union money, only $5.9 million would be added to labor's PAC total. This means that, at best, labor PACs and their large donors are outspent by business PACs and their large donors by a margin of six to one. The following table summarizes the comparison between business and labor interests.

This table also makes clear why labor will be the biggest loser if PACs are eliminated or restricted. Virtually all of the contributions made to labor union PACs are in small contributions. By comparison, at least 44 percent of business PAC contributions come in amounts of $200 or more. Thus, direct and indirect business large donor giving is nearly twenty times greater than labor's large donor giving.

This analysis shows that PACs have enhanced organized labor's strength relative to business, but that labor still lags far behind. This analysis also indicates that if PACs are severely restricted or abolished without adopting public financing, the balance of legislative power will tip even further in the direction of management.

The contrast between the United Auto Workers and the Auto Dealers for Free Trade is illustrative. The former received no contributions of more than $200, while in terms of their contributions to Congressional candidates. The industries that gained the most from tax regulation in the 1980s—the finance, real estate and building industries contributed at least $46.4 million to candidates during the last election cycle alone. Congress and the Administration have failed to squarely address the health care crisis despite costs being out of control, and strong support in public opinion polls for a national health program. The two industries opposed to such a plan—the health care and insurance industries—contributed $31.4 million to Congressional candidates in 1988 and 1990.

LEADING INTEREST GROUPS RANKED BY TOTAL 1989–90 CONTRIBUTION TO CANDIDATES

[In million of dollars]

Interest group	Identified large donor contributions	PAC contributions	Minimum total contributions
Financial	12.8	11.9	24.7
Health Care	8.8	10.8	19.6
Agriculture	4.7	10.6	15.3
Transportation	4.8	10.0	14.9
Energy	4.6	10.1	14.6
Insurance	3.0	8.8	11.8
Real Estate	7.7	3.6	11.3
Builders	5.3	5.1	10.3
Telcommunications	1.1	6.4	7.5
Defense	0.5	6.3	6.8

Notes;

(a) Due to methodological problems it was too difficult to develop a comprehensive estimate for the large donor giving by the defense industry. If its large donor giving were included the defense industry would be higher on the list.

(b) Industry definitions:

Finance: Commercial banks, bank holding companies, savings and loans, savings banks, credit unions, credit agencies and finance companies, investment banking, mortgage bankers and brokers, security brokers and investment companies, venture capitalists, accountants, commodity brokers and dealer.

Health: Physicians, psychiatrists, dentist, health practitioners, hospitals, pharmacists, pharmaceutical companies, medical laboratories, medical research and nursing homes.

Energy: Oil and gas producers, refiners, pipelines and distributors, utilities, oilfied service and equipment, gasoline service stations, coal mining and distribution, gas and electric utilities.

Agriculture: Cotton, sugar, tobacco and tobacco products, vegetables, fruits, nuts, wheat, corn, soybean, other crops, poultry and eggs, animal feed and health products, sheep and wool producers, feedlots, livestock services, farm machinery and equipment, grain traders and terminals, and commercial fishing.

Insurance: Accident, property, casualty, life and health insurance, insurance brokers and agents.

Real Estate: Real estate developers, subdividers, agents, and managers, title insurance and title abstract offices, building operators.

Building and Construction: Builders, mobile home construction, electrical contractors, plumbing, air conditioning, landscaping and excavation service, architectural services, surveying, stone, glass and concrete products, and other construction related products.

Transportation: Airlines, aircraft manufacturers, aircraft parts and equipment, general aviation, air freight, aviation services and airports, trucking companies and services, truck and trailer manufacturers, bus services, taxicabs, railroads, manufacturers of railroad equipment, railroad services, ship building and repair, sea freight and passenger services, and express delivery services.

Telecommunications: Telephone utilities, long distance telephone and telegraphy service, paging and cellular phone and services, telephone and communications equipment.

Sources: (1) Sources used to identify company interests: Center for Responsive Politics, Business Week, Dun and Bradstreet, Washington Representatives, National Law Journal. (2) Sources used to place specific industries into broader categories: Campaign Research Center, Business Week (3) Campaign data source: Federal Election Commission. (4) Calculations: Citizen Action.

Note.—Industry totals may vary somewhat with other published reports by Center for Responsive Politics because of adjustments to accommodate classifications of individuals.

BUSINESS VERSUS INTERESTS—1989–90

[In millions of dollars]

	Business	Labor	Business labor ratio
PAC and Large Donor Contributions			
PAC contributions	$113.4	$34.8	3:1
Direct large donor contributions	120.0	[1] 5.9	20:1
Total contributions	233.4	40.7	6:1

BUSINESS VERSUS INTERESTS—1989–90—Continued

[In millions of dollars]

	Business	Labor	Business labor ratio
Large Donor Strength			
Indirect through PACs [2]	49.7	2.8	18:1
Direct large donor contributions	120.0	[1] 5.9	20:1
Total contributions	169.7	8.7	20:1

Note:

[1] Less than $100,000 in direct large donor contributions could be found from union members to Congressional candidates, including all those who disclosed occupations that are at all unionized. This figure reflects the full amount of contributions by educators and government employees and certainly exaggerates large donor giving by union employees.

[2] Indirect through PACs equals the amount received by PAC's from large donors.

Source: Federal Election Commission and Citizen Action calculations.

Interest By Interest Strength

The Center for Responsive Policies classifies PACs into some 300 categories. This system served as the foundation for the classification used in this report. The vagueness of disclosure, as well as the diversified nature of many of the nation's largest business dictates that broad categories be used. While reasonable people might disagree about whether a particular company belongs in one or another category, the distribution of contributions is so dramatic that it is clear that almost any classification system would generate similar conclusions. The rankings are based entirely on direct contributions to Congressional candidates and do not include contributions to leadership PACs, party PACs or presidential candidates.

CONGRESSIONAL WINNERS AND LOSERS

This section examines the recipients of campaign contributions. First, there is an overview discussion of the characteristics of recipients of special interest campaign contributions. This is followed by an examination of the role that special interest money plays in competitive races.[5] The results of this section reenforce the point made in the previous section that an elimination of PACs will most likely result in a significant shift in the balance of special interest and partisan power but will not diminish the dominance of special interest money.

The following overview table shows that there is quite a bit of difference between the regular channels used to deliver special interest money to members of the House of Representatives and Senators but not much difference in the overall dependence on special interest money. Members of the Senate receive more proportionately from large donors than Representatives who rely more on PAC contributions. But special interest money in total makes up three fourths of the total for both Representatives and Senators. Incredibly, no more than 70,000 people accounted for contributions to each body, a mere four one-hundredths of one percent of the voting age population.

OVERVIEW OF SOURCES OF CONTRIBUTIONS OF WINNERS OF 1990 ELECTIONS [1]

[in percent]

	U.S. Senate	House of Representatives
Less than $200	25	18
$200 or more	41	26
PAC's	26	47
Other	8	9
Total	100	100
Special interest	67	72
Out of State large donor	19	6
Number of contributors	70,249	70,656

[5] A competitive race is one in which the winner received less than 60 percent of the vote.

OVERVIEW OF SOURCES OF CONTRIBUTIONS OF WINNERS OF 1990 ELECTIONS [1]—Continued

[in percent]

	U.S. Senate	House of Representatives
Percent of voting age population	0.040	0.040

[1] Winners of 1990 elections and incumbent senators who did not run for reelection in 1990.

Sources: Federal Election Commission, Citizen Action calculations.

Special Interest Spending in Competitive Races

Special interests make contributions for two reasons: to assist candidates who enthusiastically endorse their programs (or who are at least more supportive than their opponents) and to influence those who do not. This mixture of purpose has helped to obscure from the public basic realities in the financing of elections. The observed special interest fundraising "parity" between Democrats and Republicans is a product of Democratic leadership positions. The following table shows that in competitive races, special interests, especially those associated with business; favor Republicans by a lopsided margin in all races except those in which the incumbent is a Democrat. Importantly, in those races, the Democratic incumbent, on average received more from business interests than they did from labor interests.

SPECIAL INTEREST SPENDING IN COMPETITIVE ELECTIONS 1989–90

[In thousands of dollars]

	Dem. incumbent		Republican incumbent		Open Seat	
	Democrat	Republican	Republican	Democrat	Democrat	Republican
U.S. SENATE						
Less than $200	$1,330	$554	$2,447	$917	$563	$580
$200 or more	2,493	847	1,606	936	644	1,428
PAC's	1,072	593	950	425	351	1,705
Total	5,107	2,912	5,232	2,625	1,953	4,180
Business PAC's	556	481	747	77	18	1,222
Labor PAC's	259	2	2	214	145	12
HOUSE OF REPRESENTATIVES						
Less than $200	91	67	153	39	97	101
More than $200	147	97	155	49	158	157
PAC's	330	47	238	69	245	169
Total	614	290	579	194	571	527
Business PAC's	171	28	198	7	67	115
Labor PAC's	112	1	9	44	115	0

Note: A competitive race is one in which the winner received less than 60 percent of the vote.

THE ONLY SOLUTION: PUBLIC FINANCING

If a lobbyist hands a member of Congress a bag full of cash in return for a vote or special favor, everyone agrees that that is corruption. the problem with the current campaign finance debate is that apologists for the current system have defined the debate by this standard. There is probably not a single member of Congress who would admit that a contribution changed his or her vote; the most a member will admit is that contributions buy access. But what is obvious to the public is obscure to the politicians: the problem is the private financing of elections. The solution is simple: public financing of elections. For two centuries, efforts to regulate private financing of elections have failed to diminish special interest influence. Regulation cannot work because we are a nation in which only the affluent have the discretionary income, the immediate personal stake and the expertise to systematically affect elections. Whatever the rules, large donors will find a way around them. Although it would be naive to believe that public financing would cause special interests to "give up" their efforts to influence elections and legislation, there is a critical difference between public financing and any regulatory scheme. Public financing provides sufficient resources for a candidate to make his or her case to the electorate without the need for support from special interests. This one difference offers the hope that, over time, the nation can develop a generation of political leadership which is as sensitive to the needs of voters as the current generation of political leadership is sensitive to the needs of special interest campaign contributors.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment (No. 242), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. BOREN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—56

Adams	Conrad	Graham
Akaka	Cranston	Harkin
Baucus	Daschle	Heflin
Bentsen	DeConcini	Inouye
Biden	Dixon	Jeffords
Bingaman	Dodd	Kennedy
Boren	Durenberger	Kerrey
Bradley	Exon	Kerry
Bryan	Ford	Kohl
Bumpers	Fowler	Lautenberg
Byrd	Glenn	Leahy
Cohen	Gore	Levin
Lieberman	Pell	Sarbanes
McCain	Pressler	Sasser
Metzenbaum	Reid	Simon
Mikulski	Riegle	Wellstone
Mitchell	Robb	Wirth
Moynihan	Rockefeller	Wofford
Nunn	Sanford	

NAYS—42

Bond	Gorton	Nickles
Breaux	Gramm	Packwood
Brown	Grassley	Roth
Burdick	Hatch	Rudman
Burns	Hatfield	Seymour
Chafee	Hollings	Shelby
Coats	Johnston	Simpson
Cochran	Kassebaum	Smith
Craig	Kasten	Specter
D'Amato	Lott	Stevens
Danforth	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McConnell	Wallop
Garn	Murkowski	Warner

NOT VOTING—2

Helms	Pryor

So the bill (S. 3), as amended, was passed, as follows:

S. 3

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 CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Ethics Act of 1991".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of FECA; table of contents.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

Sec. 101. Senate spending limits and public benefits.

Sec. 102. Ban on activities of political action committees in Federal elections.

Sec. 103. Broadcast rates.
Sec. 104. Preferential rates for mail.
Sec. 105. Disclosure by noneligible candidates.
Sec. 106. Reporting requirements.
Sec. 107. Other definitions.

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

Sec. 201. Cooperative expenditures not treated as independent expenditures.
Sec. 202. Equal broadcast time.
Sec. 203. Attribution of communications.

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

Sec. 211. Personal contributions and loans.
Sec. 212. Extensions of credit.

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

Sec. 215. Limitations on contributions to State political party committees.
Sec. 216. Provisions relating to national, State, and local party committees.
Sec. 217. Restrictions on fundraising by candidates and officeholders.
Sec. 218. Reporting requirements.

Subtitle C—Contributions

Sec. 221. Limits on contributions by certain political committees.
Sec. 222. Contributions through intermediaries and conduits.
Sec. 223. Contributions by dependents not of voting age.

Subtitle D—Reporting Requirements

Sec. 231. Reporting requirements.

TITLE III—FEDERAL ELECTION COMMISSION

Sec. 301. Use of candidates' names.
Sec. 302. Reporting requirements.
Sec. 303. Provisions relating to the general counsel of the commission.
Sec. 304. Retention of fees by the commission.
Sec. 305. Enforcement.
Sec. 306. Penalties.
Sec. 307. Random audits.
Sec. 308. Attribution of communications.
Sec. 309. Fraudulent solicitation of contributions.

TITLE IV—MISCELLANEOUS

Sec. 401. Restriction of control of certain types of political committees by incumbents in or candidates for Federal office.
Sec. 402. Polling data contributed to a senatorial candidate.
Sec. 403. Mass mailings.
Sec. 404. Extension of time period when franked mass mailings are prohibited.
Sec. 405. Sense of Senate regarding funding of Act.
Sec. 406. Debates by general election candidates who receive amounts from the Presidential Election Campaign Fund.
Sec. 407. Uniform honoraria and income limitations for Congress.
Sec. 408. Expedited review of constitutional issues.
Sec. 409. Uniform limitations for earned and unearned income.
Sec. 410. Prohibition of certain election-related activities of foreign nationals.
Sec. 411. Technical corrections to Ethics in Government Act of 1978.
Sec. 412. Sense of the Senate regarding application of provisions relating to PACs equally to candidates for the Senate and candidates for the House of Representatives.

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

Sec. 501. Study of systems to permit persons with disabilities to vote by telephone.

TITLE VI—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 601. Effective date.
Sec. 602. Authorization of appropriations.
Sec. 603. Severability.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 506;

"(4) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(6) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B);

"(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

"(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of United States Senator;

"(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of United States Senator;

"(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

"(12) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e); and

"(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"CANDIDATES ELIGIBLE TO RECEIVE BENEFITS

"SEC. 502. (a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 503(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 503(a).

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were

taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 503(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of—

"(I) the amount of the general election expenditure limit under section 503(b), reduced by the amount of voter communication vouchers issued to the candidate; plus

"(II) the amount of contributions from State residents which may be taken into account under section 503(b)(4) in increasing the general election expenditure limit; plus

"(III) the amount which may be maintained in a legal and accounting compliance fund under section 503(c);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(E) the candidate intends to make use of the benefits provided under section 504.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 503(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 503(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304A(b) (relating to independent expenditures in excess of $10,000).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

"(1) 10 percent of the general election expenditure limit under section 503(b); or

"(2) $250,000.

"(3) For purposes of this section and section 504(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 504(b).

"(3) For purposes of this subsection and section 504(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 504(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of subsection (d), the base period shall be the calendar year in which the first general election after the date of the enactment of this title occurs.

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) LIMITATION ON USE OF PERSONAL FUNDS.—The aggregate amount of expenditures which may be made during an election cycle by an eligible candidate or such candidate's authorized committees from the following sources shall not exceed $25,000:

"(1) The personal funds of the candidate and members of the candidate's immediate family.

"(2) Personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 502(f) (relating to indexing).

"(4)(A) The limitation under this subsection (without regard to this paragraph) shall be increased by the lesser of—

"(i) 25 percent of such limitation; or

"(ii) the amount of contributions described in subparagraph (B).

"(B) Contributions are described in this subsection if such contributions—

"(i) are made after the time contributions have been received in an amount at least equal to the threshold contribution requirement under section 502(e);

"(ii) are in amounts of $100 or less; and

"(iii) are made by an individual who was, at the time the contributions were made, a resident of the State in which the general election is held;

except that the total amount of contributions taken into account under subparagraph (A) with respect to any individual shall not exceed $100.

"(C) Except as otherwise expressly provided, any reference in any provision of law to the general election expenditure limit under this subsection shall be treated as a reference to such limit computed without regard to this paragraph.

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amount transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the

general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 504(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided after the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(C) Expenditures for the extraordinary costs of legal and accounting services provided in connection with the candidate's activities as a holder of Federal office other than costs for the purpose of influencing the election of such candidate to Federal office.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(B), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 509.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5)(A) A candidate shall terminate a legal and accounting compliance fund as of the earlier of—

"(i) the date of the first primary election for the office following the general election for such office for which such fund was established; or

"(ii) the date specified by the candidate.

"(B) Any amounts remaining in a legal and accounting compliance fund as of the date determined under subparagraph (A) shall be transferred—

"(i) to a legal and accounting compliance fund for the election cycle for the next general election;

"(ii) to an authorized committee of the candidate as contributions allocable to the election cycle for the next general election; or

"(iii) to the Senate Election Campaign Fund.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE

"SEC. 504. (a) IN GENERAL.—An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments from the Senate Election Campaign Fund in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), except as provided in section 506(d), the amounts determined under this subsection are—

"(A) the independent expenditure amount; and

"(B) in the case of an eligible candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 503(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible candidate which are required to be reported by such persons under section 304A(b) with respect to the general election period and are certified by the Commission under section 304A(e).

"(3) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to two-thirds of such limit applicable to the eligible candidate for the election; plus

"(ii) if the excess described in paragraph (1)(B) equals or exceeds 133⅓ percent of the general election expenditure limit under section 503(b), an amount equal to one-third of such limit applicable to the eligible candidate for the election.

"(B) In the case of an eligible candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The Secretary of the Treasury shall issue nontransferable voter communication vouchers to eligible candidates as provided under section 506(b).

"(2) The aggregate amount of voter communication vouchers issued to an eligible candidate under paragraph (1) shall be equal to 20 percent of the general election expenditure limit under section 503(b) (10 percent of such limit if such candidate is not a major party candidate), except that no vouchers shall be issued to any eligible candidate unless Congress provides that the amounts in the Fund to pay for such vouchers are derived solely from—

"(A) voluntary contributions or tax checkoff contributions that are not from any tax liability owed by the person to the Treasury; or

"(B) sources which do not affect individual taxpayers, corporate taxpayers, partnerships, and estates and trusts, other than with respect to their campaign activities or other activities with respect to influencing Federal legislation.

"(3) Voter communication vouchers shall be used by an eligible candidate to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate, except that each such broadcast shall be at least 1 but not more than 5 minutes in length.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 503(b).

"(2) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 502(c)(1)(D) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponents who is not an eligible candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 133⅓ percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(3) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 502(c)(1)(D) if—

"(A) a major party candidate in the same general election is not an eligible candidate; or

"(B) any other candidate in the same general election who is not an eligible candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 503(b).

"(e) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible candidate files a request with the Secretary of the Senate to receive benefits under sec-

tion 506, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 509.

"PAYMENTS RELATING TO ELIGIBLE CANDIDATES

"SEC. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(3) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary of the Treasury shall, subject to the availability of appropriations, issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall, subject to the availability of appropriations, pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 505 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of such excess.

"EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES

"SEC. 507. (a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible candidate under section 505(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 502(d); or

"(2) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditures.

"(e) ASSESSMENT OF CIVIL PENALTIES.—If the Commission determines that a candidate has committed a violation described in subsection (c) or (d)—

"(1) in the case of a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved, and

"(2) in the case of a violation described in subsection (b) where the expenditures exceeded the applicable limit by more than 5 percent, the Commission may assess a civil penalty against such candidate in an amount not greater than 300 percent of such excess.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(h) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"CRIMINAL PENALTIES

"SEC. 508. (a) VIOLATIONS.—(1) No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary and runoff expenditure limits under section 502(d); or

"(ii) the general election expenditure limit under section 503(b).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(b) USE OF BENEFITS.—(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, such benefit or such portion other than in the manner provided in this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) FALSE INFORMATION.—(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Secretary of the Senate or to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—(1) It is unlawful for any person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by any eligible candidate or the authorized committees of such candidate.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 509. (a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 509 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 511. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 as benefits available to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507 or 506(d)(2), and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1993.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1993, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1993, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1993, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—(1) Except as provided in this subsection, if title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

(2) Paragraph (1) shall not apply by reason of section 504(a)(3) of the Federal Election Campaign Act of 1971 (providing payments to eligible candidates) having been held invalid.

(3) If section 504(d) (2) or (3) of the Federal Election Campaign Act of 1971 is held to be invalid because the expenditure limits under sections 502(c)(1)(D)(i) and 503 (a) and (b) of such Act, or the contribution limits under section 502(c)(1)(D) of such Act, do not apply—

(A) paragraph (1) shall not apply, and

(B) during any period any such section is not in effect, such limits shall be increased by 100 percent.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year.".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be

deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$1,000" for "$5,000"; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) the greater of—

(i) $375,000; or

(ii) 20 percent of the sum of the general election spending limit under section 503(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible candidate (as defined in section 501(2)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The $825,000 and $375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1992.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. BROADCAST RATES.

(a) PROVISIONS RELATING TO LOWEST UNIT COST.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by adding at the end thereof the following new paragraph:

"(2) The charges made for the use of any broadcasting station by any person who is an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) for the United States Senate in connection with such candidate's campaign for nomination for election, or election, to such office shall not exceed—

"(A) during the forty-five days preceding the date of a primary or primary runoff election in which such person is a candidate, 100 percent, and during the general election period (as defined in section 501(5) of the Federal Election Campaign Act of 1971) in which such person is a candidate, 50 percent, of the lowest unit charge of the station, determined at the rate applicable to broadcasts of 30 seconds for the same time of day and day of week; and

"(B) at any other time, the charges made for comparable use of such station by other users thereof.

In the case of a primary or runoff election, a candidate who has filed the declaration under section 502(b) (and has not exceeded any limitations contained in such declaration) shall be treated as an eligible candidate for purposes of this paragraph.".

(b) PREEMPTION RULES; ACCESS; VOUCHERS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f) and by inserting after subsection (b) the following new subsections:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) or (2) are in effect, of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b) (1)(A) or (2).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

"(d)(1) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time to such candidate without regard to the rates charged for such time.

"(2) No broadcast time purchased through the use of voter communications vouchers shall be required to be provided without at least 4 days advanced notice.".

(c) CONFORMING AMENDMENT.—Section 315(b) of the Communications Act of 1934 is amended—

(1) by striking "The charges" and inserting:

"(1) Except as provided in paragraph (2), the charges"; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(d) APPLICABILITY OF LOWEST UNIT CHARGE REQUIREMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking "forty-five" and inserting in lieu thereof "thirty";

(2) by striking "sixty" and inserting in lieu thereof "forty-five"; and

(3) by striking "class and".

SEC. 104. PREFERENTIAL RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for certain Senate candidates

"(a) The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1).

"(b) Subsection (a) shall cease to apply to any candidate for any campaign when the total amount paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) of subsection (a) exceeds 5 percent of the amount of the general election expenditure limit applicable to such candidate under to section 503(b) of the Federal Election Campaign Act of 1971.".

(b) AUTHORIZATION.—(1) Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)–(h)" and inserting "3626(a)–(h), and 3629".

(2) Section 3627 of title 39, United States Code, is amended by striking "or 3626" and inserting "3626, or 3629".

(c) CONFORMING AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates.".

SEC. 105. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Subparagraph (B) of section 318(a)(1) of FECA (2 U.S.C. 441d(a)(1)), as amended by section 308, is amended by adding at the end thereof the following:

"(iv) If a broadcast or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible candidate (as defined in section 501(2)), or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'."

SEC. 106. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible candidate under section 503(b). Such declaration shall be filed at the time provided in section 502(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible candidate under section 502; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 70 percent of the general election expenditure limit applicable to an eligible candidate under section 503(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 133⅓ percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓ percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 503(b), shall certify, pursuant to the provisions of subsection (e), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 503(b), certify (pursuant to the provisions of subsection (e)) to the Secretary of the Treasury such candidate's eligibility for payment of any amount under section 504(a).

"(b) INDEPENDENT EXPENDITURES.—(1)(A) Any person who makes, or obligates to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000 shall report to the Secretary of the Senate as provided in this subsection.

"(B) If 2 or more persons, in cooperation, consultation, or concert with each other, make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of $10,000, each such person shall report to the Secretary of the Senate as provided in this subsection with respect to the independent expenditures so made by all such persons.

"(2) Any person referred to in paragraph (1) shall report the amount of the independent expenditures made or obligated to be made not later than 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, such person shall report independent expenditures not later than 24 hours after each time the additional aggregate amount of such expenditures incurred or obligated (and not yet reported under this paragraph) exceeds $10,000.

"(3) Each report under this subsection shall be filed with the Secretary of the Senate and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii) of section 304; and

"(B) a statement under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat.

"(4)(A) A person may file a complaint with the Commission if such person believes the statement under paragraph (3)(B) is false or incorrect.

"(B) The Commission, not later than 3 days after the filing of a complaint under subparagraph (A), shall make a determination with respect to such complaint.

"(5) The Commission shall, within 24 hours of receipt of a report under this subsection, notify each eligible candidate (as defined in section 501(2)) in the election involved about such report.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any election for the United States Senate which in the aggregate exceed the applicable amounts under paragraph (2). The Commission shall notify each eligible candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (5) or (6) with respect to expenditures during a general election period, the Commission shall, pursuant to subsection (e), certify to the Secretary of the Treasury eligibility to receive benefits under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than $25,000 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible candidate in the general election involved about each such determination.

"(d) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(e) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 107. OTHER DEFINITIONS.

(a) ELECTION CYCLE DEFINED.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

SEC. 201. COOPERATIVE EXPENDITURES NOT TREATED AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF COOPERATIVE EXPENDITURES.—(1) Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "The term 'independent expenditure' shall not include any cooperative expenditure.".

(2) Paragraph (9) of section 301 of FECA (2 U.S.C. 431(9)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as an expenditure made by the candidate on whose behalf, or for whose benefit, the expenditure was made.".

(3) Paragraph (8) of section 301 of FECA (2 U.S.C. 431(8)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure was made.".

(b) COOPERATIVE EXPENDITURE DEFINED.—Section 301 of FECA (2 U.S.C. 431), as amended by section 107(a), is amended by adding at the end thereof the following new paragraph:

"(21)(A) The term 'cooperative expenditure' means any expenditure which is made—

"(i) with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of such candidate; or

"(ii) in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

"(B) The term 'cooperative expenditure' includes an expenditure if—

"(i) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;

"(ii) in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policy-making position; or

"(iii) the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(iv) the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office;

"(v) the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(vi) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(C) The term 'cooperative expenditure' includes an expenditure if such expenditure—

"(i) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that is established, administered, controlled, or financially supported, directly or indirectly, by a connected organization that is required to register, or pays for the services of a person who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that has made a contribution to the candidate or authorized committee.".

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates; and

"(iii) provide the licensee a copy of the statement described in section 304A(b)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)(3)(B)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid out of the Federal Election Campaign Fund pursuant to section 504(a)(3) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2) and subsection (c) or (d), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.".

SEC. 203. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)), as amended by section 308, is further amended by adding at the end thereof the following new paragraph:

"(3) A communication described in paragraph (1) that is paid for through an independent expenditure—

"(A) in the case of a television broadcast, shall include during the entire length of the communication a clearly readable video statement covering at least 25 percent of the viewing area of a television screen stating the information required in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the

city and State in which such organization is located;

"(B) in the case of any audio broadcast (including a television broadcast), shall include an audio statement at the conclusion of the broadcast stating the information described in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located; and

"(C) in the case of a newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising, shall include a statement of—

"(i) the information required in paragraph (1)(B);

"(ii) the following sentence: "The cost of presenting this communication is not subject to any campaign contribution limits."; and

"(iii) the name of the person who paid for the communication including, in the case of a political committee, the names of its president and its treasurer, and the name of its connected organization (if any) and the city and State in which located.".

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 211. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by inserting at the end thereof the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family (as defined in section 501(6)) may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 212. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mass mailings (including mass mail fund solicitations), or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period (not in excess of 60 days) for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished (the date of the mailing in the case of advertising by a mass mailing).".

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 215. LIMITATIONS ON CONTRIBUTIONS TO STATE POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000; or".

(c) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraphs (1)(C) and (2)(C).".

SEC. 216. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e).".

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (v) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;";

(B) in clause (xi)—

(i) by striking "direct mail" and inserting "mass mailing"; and

(ii) by striking the semicolon at the end thereof and inserting "and are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;"; and

(C) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (iv) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;"; and

(B) by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA, as amended by section 102, is amended by inserting after section 324 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on the date which is 60 days before the primary election for any regularly scheduled general election for Federal office; and

"(B) ending on the date of the general election.

"(c) TRANSFERS AND SOLICITATIONS OF COMMITTEES.—(1) Except as provided in paragraph (2), the limitations on contributions contained in paragraphs (1) and (2) of section 315(a) shall apply to transfers between and among political committees described in subsection (a).

"(2)(A) A national committee may not solicit or accept contributions not subject to

the limitations, prohibitions, and reporting requirements of this Act.

"(B) Subparagraph (A) and paragraph (1) shall not apply to contributions that—

"(i) are to be transferred to a State committee for use directly for activities described in subsection (b)(3); or

"(ii) are to be used by the committee primarily to support such activities.".

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)). This paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4). No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.".

(3) Paragraph (4) of section 315(a) (2 U.S.C. 441a(a)(4)) is amended by striking the first sentence thereof.

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 201(b), is amended by adding at the end thereof the following new paragraph:

"(22) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.".

SEC. 217. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 211, is amended by adding at the end thereof the following new subsection:

"(j) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, or are not from sources prohibited by this Act with respect to elections to Federal office.

"(2) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(3) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(4) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(k) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

SEC. 218. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325).

"(3) Any political committee to which section 325 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 325(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election (as determined by the Commission).

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported.".

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end thereof the following: "For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(f) REPORTS BY LARGE CONTRIBUTORS.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(f) REPORTS BY LARGE CONTRIBUTORS.—(1) Any individual who makes contributions subject to the limitations of section 315(a)—

"(A) shall report to the Commission within 7 days after such contributor makes contributions aggregating $10,000 or more during any calendar year; and

"(B) thereafter, shall report to the Commission within 7 days after each time such contributor makes contributions (not yet reported) aggregating $5,000 or more.

Any report shall include identification of the contributor, the name of the candidate or committee to whom the contributions were made, and the amount of the contributions. The Commission shall transmit a copy of any report received under this subsection which includes contributions made to a candidate for the United States Senate to the Secretary of the Senate within 2 working days of receipt of such report.

"(2) Any candidate for Federal office, any authorized committee of a candidate, or any political committee soliciting contributions subject to the limitations of section 315(a) shall include with such solicitation notice of—

"(A) the requirement to report under paragraph (1); and

"(B) the aggregate limitation on such contributions under section 315(a)(3).".

Subtitle C—Contributions

SEC. 221. LIMITS ON CONTRIBUTIONS BY CERTAIN POLITICAL COMMITTEES.

(a) LIMITATION ON AMOUNT OF CONTRIBUTIONS THAT MAY BE ACCEPTED.—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 216, is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (6), and (7)"; and

(2) by adding at the end thereof the following new paragraphs:

"(6) A congressional campaign committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which such committee may make pursuant to section 315(d)(3) during that election cycle.

"(7) A national committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed an amount equal to 2 cents multiplied by the voting age population of the United States, as certified under subsection (e).

"(8)(A)(i) Any expenditure made by a national or State committee of a political party, a congressional campaign committee, or any subordinate committee of the preceding committees, for general public political advertising which clearly identifies a candidate for Federal office by name shall be subject to the limitations of paragraphs (1) and (2).

"(ii) Clause (i) shall not apply to expenditures for mass mailings designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

"(B) For purposes of paragraph (3), any expenditure by a committee described in subparagraph (A) for any solicitation of contributions which clearly identifies any candidate on whose behalf such contributions are being solicited shall be treated for purposes of this paragraph as an expenditure in connection with the general election campaign of such candidate, except that if more than 1 candidate is identified, such expenditure shall be allocated on a pro rata basis among such candidates.".

(b) CONGRESSIONAL CAMPAIGN COMMITTEE.—Section 301 of FECA (2 U.S.C. 431), as amended by section 216(d), is amended by adding at the end thereof the following new paragraph:

"(23) The term 'congressional campaign committee' means the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee.".

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1992.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 222. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is—

"(I) a political committee other than an authorized committee;

"(II) an officer, employee, or agent of such a political committee; or

"(III) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(IV) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C) For purposes of this section—

"(i) the term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, including contributions arranged to be made in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; and

"(ii) the term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

SEC. 223. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 217, is amended by adding at the end thereof the following new subsection:

"(1) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

Subtitle D—Reporting Requirements

SEC. 231. REPORTING REQUIREMENTS.

(a) PERIODS FOR REPORTING.—(1) Section 304(b)(2) of FECA (2 U.S.C. 434(b)(2)) is amended by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(2) Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(3) Section 304(b)(3) of FECA (2 U.S.C. 434(b)(3)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year" in subparagraphs (A), (F), and (G) thereof.

(4) Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by inserting after "(within the election cycle in the case of authorized committees)" after "calendar year".

(5) Section 304(b)(6)(A) of FECA (2 U.S.C. 434(b)(6)(A)) is amended by striking out "calendar year" and inserting in lieu thereof "election cycle".

(b) PERSONAL AND CONSULTING SERVICES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

TITLE III—FEDERAL ELECTION COMMISSION

SEC. 301. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 302. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end thereof;

(2) in subparagraph (B) by striking the period at the end thereof and inserting "; and"; and

(3) by inserting the following new subparagraph at the end thereof:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 303. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) ACTION BY THE COMMISSION THROUGH ITS GENERAL COUNSEL.—(1) Section 306(c) of FECA (2 U.S.C. 437c(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), all decisions of the Commission with respect to the exercise of its duties and powers under this Act or under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be made by the affirmative vote of 4 members of the Commission.

"(2) On questions relating to—

"(A) the exercise of the Commission's authority under sections 307(a) (3) and (4);

"(B) a determination under section 309(a)(2) concerning whether there is reason to believe that a person may have committed or may be about to commit a violation of law; and

"(C) a determination to initiate or proceed with an investigation,

the general counsel of the Commission shall make a recommendation for action by the Commission, and such action shall be taken upon the affirmative vote of 3 members of the Commission.

"(3) A member of the Commission may not delegate to any person the member's power to vote or any other decisionmaking authority or duty vested in the Commission.".

(2) Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ", by an affirmative vote of 4 of its members,".

(b) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by inserting at the end thereof the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(c) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence thereof; and

(2) by striking the third sentence thereof.

SEC. 304. RETENTION OF FEES BY THE COMMISSION.

Section 306 of FECA (2 U.S.C. 437c) is amended by inserting at the end thereof the following new subsection:

"(g) Fees collected by the Commission for copying and certification of records and provision of other materials to the public shall not be covered into the general fund of the Treasury of the United States, but shall be kept in a separate account and shall be available to the Commission, without necessity of an appropriation, for use in carrying out this Act.".

SEC. 305. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 306. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

(c) TIME PERIODS FOR CONCILIATION.—Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by striking "30 days" and inserting "15 days";

(2) in clause (i) by striking "90 days" and inserting "60 days"; and

(3) in clause (ii) by striking "at least 15 days" and inserting "no more than 30 days".

SEC. 307. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), and subject to the provisions of section 507, the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process.".

SEC. 308. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended to read as follows:

"(a)(1)(A) Except as permitted under paragraph (2), if—

"(i) any person makes an expenditure or independent expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits a contribution by a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mass mailing, or

other type of general public political advertising; or

"(ii) an authorized committee registered under section 303 makes a communication of any kind,

the requirements of subparagraph (B) shall be met with respect to such communication.

"(B) For purposes of subparagraph (A), the requirements of this subparagraph are as follows:

"(i) In the case of a television, radio and cable communication paid for by the candidate, an authorized committee of the candidate, any agent of either, or any other person authorized to make such payment by such candidate or committee, the communication shall—

"(I) include a full screen personal appearance by the candidate (or in the case of a radio broadcast, an audio statement by the candidate) in which the candidate states: 'I, (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message'; and

"(II) shall clearly state that the communication has been paid for by the candidate, the candidate's authorized committee, or the agent of either, or that the communication has been paid for by such other person and authorized by such candidate or committee.

"(ii) In the case of any other communication paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, or any other person authorized by such candidate or committee, the communication shall clearly state that the communication has been paid for by such candidate or authorized committee or by such other person and authorized by such candidate or authorized committee.

"(iii) If the communication is paid for by an independent expenditure, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's authorized committee.

"(2) The Commission may waive the requirements of paragraph (1) in circumstances in which the inclusion of the required information in a communication would be impracticable.".

SEC. 309. FRAUDULENT SOLICITATION OF CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting "(a)" before "No"; and

(2) by inserting at the end thereof the following new subsection:

"(b) No person shall—

"(1) make a fraudulent misrepresentation that the person is authorized to solicit or accept a contribution to a candidate or political committee; or

"(2) solicit or accept a contribution to a candidate or political committee unless the person—

"(A) intends to, and does, pay over to the candidate or political committee any contribution received; and

"(B) inform the candidate or political committee of the name of the contributor.".

TITLE IV—MISCELLANEOUS

SEC. 401. RESTRICTION OF CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY INCUMBENTS IN OR CANDIDATES FOR FEDERAL OFFICE.

Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end thereof the following new subsection:

"(j) An incumbent in or candidate for Federal office may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party.".

SEC. 402. POLLING DATA CONTRIBUTED TO A SENATORIAL CANDIDATE.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 218, is amended by inserting at the end thereof the following new subparagraph:

"(E) A contribution of polling data to a candidate for the office of United States Senator shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 403. MASS MAILINGS.

Section 301 of FECA (2 U.S.C. 431), as amended by section 221(c), is amended by adding at the end thereof the following new paragraph:

"(24) The term 'mass mailing' means newsletters and similar mailings of more than 100 pieces in which the content of the matter mailed is substantially identical, excluding—

"(A) mailings made in direct response to communications from persons to whom the matter is mailed;

"(B) mailings to Federal, State, or local government officials; and

"(C) news releases to the communications media.".

SEC. 404. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II) by striking "fewer than 60 days immediately before the date" and inserting "during the year"; and

(2) in subparagraph (C) by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 405. SENSE OF SENATE REGARDING FUNDING OF ACT.

(a) FINDINGS.—The Senate finds that—

(1) this Act does not provide for a funding mechanism to pay for the provisions cleaning up Senate election campaigns;

(2) a funding mechanism is necessary to pay for such provisions; and

(3) it is the position of the House of Representatives that under the Constitution all bills affecting revenue must originate in the House of Representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) legislation to clean up Senate election campaigns shall be funded by removing subsidies for political action committees with respect to their political contributions or for other organizations with respect to their lobbying expenditures;

(2) legislation to clean up Senate election campaigns shall not be paid for by any general revenue increase on the American taxpayer;

(3) legislation to clean up Senate election campaigns shall not be paid for by reducing expenditures for any existing Federal program; and

(4) legislation to clean up Senate election campaigns shall not result in an increase in the Federal budget deficit.

SEC. 406. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section.".

SEC. 407. UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS.

(a) ADMINISTRATION OF RULES AND REGULATIONS.—Section 503 of the Ethics in Government Act of 1978 is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) inserting after paragraph (1) the following new paragraph:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate;".

(b) DEFINITIONS.—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 323 of FECA (2 U.S.C. 441i)is repealed.

(e) SUPPLEMENTAL APPROPRIATIONS ACT, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

SEC. 408. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling

below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 409. UNIFORM LIMITATIONS FOR EARNED AND UNEARNED INCOME.

(a) SUBSTANTIVE AMENDMENTS.—Section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by inserting "or unearned" after "earned"; and

(2) in section 501(a)(2) by inserting "or unearned" after "earned".

(b) TECHNICAL AMENDMENTS.—(1) The heading for title V of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

(2) The heading for section 501 of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "earned".

(3) The heading for section 501(a) of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

SEC. 410. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the electoral process of the United States should be open to all American citizens;

(2) foreign nationals should have no role in the American electoral process;

(3) Congress does not intend and has never intended to permit foreign nationals to participate, directly or indirectly, in the decisionmaking of political committees established pursuant to the Federal Election Campaign Act of 1971;

(4) it is the intent of Congress to prohibit any participation whatsoever by any foreign national in the activities of any political committee; and

(5) while it is necessary to safeguard the political process from foreign influence, it is critical that any protections not discriminate against American citizens employed by foreign-owned companies and that Americans' constitutional rights of free association and speech be protected.

(b) PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.—Section 319 of FECA (2 U.S.C. 441e) is amended by—

(1) redesignating subsection (b) as subsection (e); and

(2) inserting after subsection (a) the following new subsections:

"(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in any person's decisionmaking concerning the making of contributions or expenditures in connection with elections for any Federal, State, or local office or decisionmaking concerning the administration of a political committee.

"(c) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

" 'It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee.'

"(d) A nonconnected political committee or a separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall certify in regular reports to the Commission, or in a manner prescribed by the Commission, that no foreign national has participated either directly or indirectly in the decisionmaking of the political committee or separate segregated fund, including the appointment of the administrators of the committee or fund.".

(c) PENALTY.—Section 309(b)(1)(C) of FECA (2 U.S.C. 437g(d)(1)(C)) is amended by inserting "section 319 or" before "section 322".

SEC. 411. TECHNICAL CORRECTIONS TO ETHICS IN GOVERNMENT ACT OF 1978

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 103(i) by striking "7-day" and inserting "30-day"; and

(2) in section 105(b)(1) by—

(A) striking "Each agency" and inserting "Except as provided in the second sentence of this subsection, each agency"; and

(B) inserting after the first sentence the following: "With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year, or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g).".

SEC. 412. SENSE OF THE SENATE REGARDING APPLICATION OF PROVISIONS RELATING TO PACS EQUALLY TO CANDIDATES FOR THE SENATE AND CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

It is the sense of the Senate that all provisions of this Act and amendments made by this Act that relate to multicandidate political committees and separate segregated funds shall apply in regard to candidates for the House of Representatives in the same manner and to the same extent as they apply to candidates for the Senate.

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

SEC. 501. STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.

(a) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(b) CONSULTATION.—The Federal Election Commission shall conduct the study described in subsection (a) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(c) CRITERIA.—The system or systems developed pursuant to subsection (a) shall—

(1) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(2) propose procedures to identify persons who are so disabled; and

(3) describe procedures and equipment that may be used to ensure that—

(A) only those persons who are entitled to use the system are permitted to use it;

(B) the votes of persons who use the system are recorded accurately and remain secret;

(C) the system minimizes the possibility of vote fraud; and

(D) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(d) REQUESTS FOR PROPOSALS.—In developing a system described in subsection (a), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(e) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(f) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

TITLE VI—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 601. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1993.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out its functions under this Act.

SEC. 603. SEVERABILITY.

Except as provided in section 101(c) of this Act, if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

Mr. BOREN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I thank all of my colleagues who joined me in passing what I believe is landmark legislation. By passing this bill early in this Congress, we have a real chance now, with time for the other House to act, for a conference committee between the two Houses and the greatest opportunity we have had in many years, certainly the greatest opportunity we have had in the 9 years that I have worked on this issue, to see a measure finally become law.

The Senate, in passing this bill today, is sending a strong message that we want the money chase to stop; that we understand that more and more money pouring into American politics with Members of the Congress having to spend more and more of their time and effort raising money instead of dealing with the Nation's problems is not good for this country; that we understand there is something badly wrong with the way we finance campaigns and we must change it, we must reform it.

It is my hope that the House of Representatives will pass a good bill in timely fashion, and we will be able to move to conference.

I am encouraged by what I have heard from the leaders of the Senate. I am encouraged by what I heard from

the minority leader today, saying that he hopes to have an opportunity to participate in that conference, to help us fashion a bill in conference that will finally be signed into law by the President of the United States. We have a great opportunity. It is an opportunity that should not be missed for the sake of the country and for the sake of the strength of our democratic system.

Mr. President, I wish to thank many who have worked with us in this effort. I particularly thank the distinguished majority leader, whose leadership has been critical to the success of our efforts. With the majority leader, this has not been a political cause or a partisan cause; this has been an effort to do something for this entire country. He has been dedicated to this cause, and I express my personal appreciation to him for his help and his encouragement and his leadership throughout this effort.

I also thank the distinguished chairman of the Rules Committee, the Senator from Kentucky [Mr. FORD], whose committee labored long and hard to produce this bill and who has been a critical and key member of this process all the way through. He has made an immeasurable contribution to the substance of this legislation.

I also see the distinguished President pro tempore of the Senate, Senator BYRD, of West Virginia, on the floor. He for many years has been a leader in this effort. He is the historian of this body. He understands what is happening to the political process as a result of the money chase which is infecting American politics. He has been a real leader in the effort to change.

In addition, I thank several members of our staff who have been such an important part of our success. Many long hours have been spent by them in this process. I especially thank my legislative director, John Deeken, who has been my chief legislative assistant on this particular piece of legislation, for his effort, for his commitment and his dedication to this cause and to the cause of good government; Dan Webber, of my staff, who worked on this issue earlier; and also a former member of my staff, Greg Kubiak. I wish to thank Bob Rozen, of the majority leader's staff, who has also been invaluable in all of our efforts on behalf of this bill. He has been at every meeting. He has been at every planning session. He has spent many long hours to help us develop this bill and pass it. And the members of the Rules Committee staff and Senator FORD's staff have also played a very important role. Their contribution cannot be overestimated. I particularly want to call attention to the contribution of Jack Sousa, Tom Zeller, Jim King, and Rob Mangas, of the Rules Committee staff and of Senator FORD'S staff.

I thank all of my colleagues for their efforts and for their assistance. I thank my colleague, the Senator from Kentucky, the floor manager of the bill on the other side, for his courtesy, for allowing us to consider this matter in an expeditious fashion, with everyone having an opportunity on both sides of the aisle to have their arguments heard and to have their ideas considered. It has been a privilege to work with him on this piece of legislation. While we have not always agreed, I think we would both say we have immense respect for each other and that this process has been a credit to the Senate, the kind of debate that we have had on an issue of this importance.

So I thank all of those I have mentioned. I express my optimism and my determination that this will be only the first step toward seeing meaningful campaign reform become law in the United States and our system moved in the direction it should go.

I thank the Chair and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I want to thank my friend from Oklahoma. I have enjoyed the last few days with him, and also I want to express my appreciation to the five Democrats who supported us on final passage. Last year there were no Democrats who voted with us on final passage. I think that shows significant movement in the direction of the bipartisan compromise that we hope will come out of the conference.

I thank you very much, Mr. President. I yield the floor.

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, I congratulate the distinguished Senator from Oklahoma, Senator DAVID BOREN. He is, in my view, the foremost expert in this country on the arcane twistings and turnings of our system of campaign finance laws.

It is a difficult and tedious subject, requiring an enormous amount of time and effort to master, and then clearly explain.

Senator BOREN has consistently believed in the rightness and necessity of campaign reform, as have I, and he is to be commended for his commitment to the idea, and his tenacity in pursuing this fundamentally important goal.

I again congratulate him for his brilliant management of the campaign finance reform bill. His mastery of the subject, his willingness to compromise, and his years of hard work in furtherance of a cause in which he believes should be an inspiration to us all.

Mr. BOREN. Mr. President, I thank my colleague. I ask unanimous consent that S. 3 be printed as passed by the Senate.

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

The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to commend the Senator from Oklahoma for his really extraordinary efforts of leadership on this issue now over a great length of time. I know the Senate appreciates that. I think the country does and certainly I do.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ADJOURNMENT OF THE TWO HOUSES OVER THE MEMORIAL DAY RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 157 now at the desk.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

H. CON. RES. 157

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, May 23, 1991, it stand adjourned until noon on Wednesday, May 29, 1991, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns on Thursday, May 23, or Friday, May 24, 1991, pursuant to a motion made by the majority leader, or his designee, it stand adjourned until 2 p.m. on Monday, June 3, 1991, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House, after consultation with the minority leader of the House, shall notify the Members of the House to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 3. The majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in their opinion, the public interest shall warrant it.

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

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

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

The concurrent resolution (H. Con. Res. 157) was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

RECENT DEVELOPMENTS ON BASE CLOSURES

Mr. SPECTER. I thank the Chair. Mr. President, I have apprised the majority leader and the Republican leader

that I will seek just a few minutes, perhaps no more than 5 to make a comment about recent developments on the base closings which I consider to be a real of real importance and put certain documents in the RECORD so that our colleagues and others may consider this issue which is now moving forward on a very tight timeframe.

Yesterday, the Base Closure Commission issued releases severely critical of the Department of the Navy for not putting in the RECORD reasons for recommendation on base closings which I believe specifically refer to the Philadelphia Navy Yard. A release issued by the chairman said this:

On Monday of this week, members of the commission staff met for 4½ hours with the Navy's base closure group in an effort to determine how their conclusions were reached. During this meeting we learned that the Navy group employed a great deal of subjective judgment in drawing up their list.

The release further goes on to say:

The GAO and the commission staff have pointed to an alarming lack of information about the Navy's decisionmaking process.

Mr. President, I ask unanimous consent that the full text appear at the conclusion of my statement.

The PRESIDING OFFICER. Without objection.

(See exhibit 1.)

Mr. SPECTER. In a separate document released by the Base Closing Commission, the Commission stated:

The Navy Base Closing Commission applied a great deal of undocumented subjective judgment to a major Navy facility study.

I ask unanimous consent further that this document appear at the conclusio of my statement.

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

(See exhibit 2.)

Mr. SPECTER. Mr. President, the Base Closing Commission had referred to a report by the General Accounting Office, and I think the simplest thing to do is to read two statements into the RECORD appearing at page 46 of the GAO report relating to the Philadelphia Navy Yard.

Due to the limited documentation of its process we also cannot assess the reasonableness of the Navy's recommendations for closures.

Then continuing on page 46:

The base structure committee decided that much of the data were based in favor of keeping bases opened and were inadequate for an objective assessment of the Navy's basing needs.

Mr. President, I have raised similar issues, and others in the Pennsylvania delegation have raised issues with the Secretary of Defense, at hearings before the Defense Appropriations Subcommittee.

At this time, I ask unanimous consent that a copy of my letter dated May 21, 1991, together with a copy of a memorandum from my staff member, Morrie Ruffin, to me, dated May 15, 1991, be included in the RECORD at the conclusion of my statement.

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

(See exhibit 3.)

Mr. SPECTER. Mr. President, the importance of these documents relate to a finding by my staff person, Mr. Ruffin, that the Department of the Navy had withheld a response to my letter of April 19 until May 24, 1991, which would be after the hearing of the Base Closure Commission yesterday, May 22, and too late to be of any use in the hearings on the Philadelphia Navy Yard scheduled for Philadelphia on May 24.

Later, Mr. President, yesterday after the hearing before the Base Closure Commission, I received, through the intervention of Commissioner Will Ball, former Secretary of the Navy, a copy of the Navy routing slip which the Navy official had refused to make available to my staffer, Mr. Ruffin, which shows in fact that the letter of request which I made on April 19, 1991, was not set forth for reply until May 4, 1991.

I ask unanimous consent that a copy of this Navy routing slip together with a copy of my letter dated April 19, 1991, be included in the RECORD.

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

AUTOMATED NAVY ROUTE SLIP

From: Sen. Specter.
Primary controlling office: SECNAVAD.
Classification of attached material: Unclassified.
Date: 19APR91.
Date received: 23APR91.
OCN: 1U006286.
Subject abstract: Documentation regarding closing of nuclear & conventional shipyards be made part of the public record.
CR1: Closure.
CR5: Phase I.
TC: R.
Type: C.
Cat: GH.
Doc. due to: Sen.
CR2: Shipyard.
CR6: BBC.
Analyst router: PM.
Date: 21May91.
Due to: SECNAVAD.
CR3: Public.
CR4: Documentation.
Remarks distribution: 1U006286.
Date: 10May91.
Control center primary routing: To SECNAV—PC: G.
Comments:
(42) Original advanced to Front Office.
(48) Routing changed by: SECNAV.

U.S. SENATE,
Washington, DC, April 19, 1991.

Hon. H. LAWRENCE GARRETT III,
Secretary, Department of the Navy, The Pentagon, Washington, DC.

DEAR SECRETARY GARRETT: Upon reviewing the "detailed analysis" that the Navy is using as justification for making its base closure recommendations, I am extremely concerned by what looks to be a significant deviation from the base closure criteria.

According to Navy documents, during a process called Phase I, all installations were to be evaluated against the first four OSD closure criteria (military value) developed by the Secretary of Defense. This was done. At the end of Phase I, the Base Structure Committee (BSC), the group charged with determining which Navy facilities should close, then excluded from further review those bases "that received an overall rating of 'green' after applying all four military value criteria." In the case of the naval shipyards, the only base that merited exclusion from further review on this basis was NSY Puget Sound.

One would therefore assume that if the Navy were strictly following the base closure criteria, as mandated by law, seven remaining shipyards should have been evaluated during Phase II. However, only one shipyard—Philadelphia—was evaluated during Phase II against the final four criteria! The five remaining nuclear shipyards and the one other conventional shipyard (none of which received an overall rating of "green") were summarily excluded from consideration for closure. This decision was based not on the eight criteria developed by the Secretary of Defense, but on criteria the Navy unilaterally and arbitrarily decided was more important.

According to Navy documents, the BSC excluded the six nuclear capable shipyards from further consideration because of the nuclear workload scheduled for the naval shipyards in the remainder of the century. The documents state that "this scheduling is based upon the best information available and takes into consideration the known force structure reductions."

If this information carried such weight that it allowed the Navy to supersede evaluation against the Secretary of Defense's final criteria, then it is imperative that this "workload" data be made available to Members of Congress, the Base Closure Commission, and the GAO. Accordingly, I hereby request that all documentation concerning both the nuclear and conventional workload for the naval shipyards for the remainder of the century immediately be made part of the public record.

Thank you for your attention to this matter.

My best.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I thank the Chair.

These documents, Mr. President, show a deliberate effort by the Department of the Navy to conceal very important factual data necessary for an appropriate determination as to what ought to be done with the Philadelphia Navy Yard, information which should have been made available to me, should have been made available to other members of the Pennsylvania, New Jersey, and Delaware delegations including the distinguished Senator who is presiding at the present time.

The failure of the Navy to provide this kind of important supporting data has been noted by the General Accounting Office, and has been the subject of investigation by the Base Closure Commission itself with very strong language, really a reprimand of the Navy.

I suggest, Mr. President, that it does not cure the situation for the Navy at this late date to make this information available unless there is to be an entire reprocessing of the entire procedure. Even that would be inadequate because the Members of Congress were entitled to this information in a timely fashion so that we could evaluate it, have other experts evaluate it, and use that as a basis for our presentation to the Base Closure Commission. Of course that is impossible since the hearing was held in Washington yesterday and a hearing will be held in Philadelphia tomorrow.

But I believe, Mr. President, that there is no question on this state of the record that the statute has not been followed, that in fact the Philadelphia Navy Yard cannot be closed based on what the Department of the Navy has done. The statute has not been followed and all of the proceedings are fatally flawed.

I wanted to put these documents in the RECORD so that others could evaluate them fully at this time.

I thank the Chair. I thank my colleagues for yielding the floor.

[EXHIBIT 1]

COMMISSION DEMANDS EXPLANATION OF NAVY BASE CLOSURE PROCESS

Chairman Courter today released the following statement:

"Last week the General Accounting Office released a report on base closure and realignment. This document made it clear that the methodology designed by the Navy was sound. However, the GAO raised serious questions about the application of this methodology.

"On Monday of this week members of the Commission staff met for four and a half hours with the Navy's base closure group in an effort to determine how their conclusions were reached.

"During this meeting we learned that the Navy group employed a great deal of subjective judgment in drawing up their list of recommendations for closure and realignment. Nobody on the Commission can say yet whether the Navy's judgments were fairly and consistently applied, but we intend to find out.

"We have repeatedly sought clarification from senior Navy representatives. I have publicly asked for minutes, notes and any documentation that would give us an idea of how the service came up with its recommendations. What we have received is inadequate.

"The GAO and the Commission staff have pointed to an alarming lack of information about the Navy's decision-making process. Therefore, we are demanding from the Navy a detailed explanation of the process used to justify its recommendations for closure and realignment.

"On Monday we asked Navy representatives to prepare for the Commission a narrative account of their selection process. We have provided the base closure group with a detailed plan aimed at ensuring a thorough account of the Navy process. We hope the Navy will agree to this plan and comply with our rigorous schedule.

"The Commission is determined to follow the GAO's recommendations. If necessary, I will call a special hearing to learn more how the Navy's recommendations were reached.

"It's clear that the Navy maintains significant excess capacity. If Navy representatives cannot prove that their selection criteria were applied evenly, then the Commission is fully prepared to draw up a list of recommendations using methodology designed by the Navy and GAO application guidelines."

EXHIBIT 2

PROPOSED DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION COURSE OF ACTION ON DEPARTMENT OF NAVY BASE CLOSURE PROCESS

1. Due to gaps of information in the Navy process identified by both Commission staff and the General Accounting Office (GAO), staff of the Base Closure Commission (BCC) met with the Navy base closure group (the Base Structure Committee, or BSC) on Monday, May 20, 1991 to request detailed information on its process. During that meeting, staff learned that the Navy's BSC applied a great deal of undocumented, subjective judgment to a major Navy facilities study (the Vice Chief of Naval Operations, or VCNO study), as well as numerous briefings from field commanders. Despite general explanations of the process, the Commission is still unable to determine if the subjective judgement of the Navy's group was applied fairly and consistently to all bases in all categories in accordance with the Force Structure Plan and Department of Defense criteria mandated by law.

2. During its decision-making meetings, the BSC kept no minutes and in its written submittal to the Commission, only briefly explained why bases were on the list.

3. Therefore, the Commission proposes the following course of action. The Navy has pledged its cooperation, and we look forward to its acceptance of this course of action and conformity with the Commission's rigorous schedule.

The BSC must provide written explanations of its decisions, using the Vice Chief of Naval Operations (VCNO) working group study as a baseline. The VCNO working group studies options for base closures begining in January 1990 and has rated each Navy installation against five weighted criteria called "major factors." The major factors are mission suitablity, availability of facilities, quality of facilities, quality of life, and community support. Each rating is supported by verifiable quantitative and qualitative measures. This approach is similar to that used by the other Services. The VCNO study was a significant input to the BSC's decision-making process, which also included briefings from the Navy's major operational commands.

The BSC must provide an explanation of the relationship between the five VCNO major factors and the DoD criteria used by the BSC to rate each installation. Although the BSC used the VCNO study, the BSC translated its ratings to correspond with the military value criteria required by the DoD Federal Register notice. The Commission needs that translation between those two sets of rating criteria to determine the fairness and consistency of the BSC's rating process.

The BSC must provide explanations for the changes it made to the VCNO ratings. The BSC rated some installations differently than the VCNO study based on the briefings it received and its own military judgement. The Commission needs detailed, written explanations for each instance in which the BSC disagreed with the VCNO study's major factor ratings. The explanations must be explicit, verifiable, and, whenever possible, quantifiable.

The BSC must justify its overall installation ratings. The BSC used the military value DoD criteria to assign an overall rating for each Navy installation. The Commission staff needs detailed, written explanations for each of those ratings. Explanations must address how installations were compared with others in the same categories. Explanations must also address those installations excluded from further review based on geography, strategic importance, operational value, and other unique assets.

The BSC must provide the back-up data for the VCNO study. The data on which the VCNO study's ratings are based is needed to verify those ratings and to review the consistency of their application within installation categories. The Commission will provide the BSC with a list of the missing data.

The Commission will review the BSC responses. The information provided by the BSC in response to the above steps will allow the Commission staff to determine whether the BSC's decision methodology substantially deviated from the requirements of Title XXIX.

The Commission's staff will present options to the Commissioners for any changes to the Navy's list of base closures and realignments.

EXHIBIT 3

U. S. SENATE,
Washington, DC, May 21, 1991.

Hon. DICK CHENEY,
Secretary of Defense, Department of Defense, The Pentagon, Washington, DC.

DEAR DICK: I have decided to hand you this letter with the enclosed memo at today's hearing to be certain you get it forthwith.

I am very, very concerned about the Navy Department's routing slip which gives a due date of May 24, 1991, to my letter of April 19, 1991, since the response would be too late for my presentation on the Philadelphia Navy Yard at either the Washington hearing (May 22, 1991) or the Philadephia hearing (May 24, 1991).

I would appreciate your personal review of the situation and your prompt response.

Sincerely,

ARLEN SPECTER.

MEMORANDUM

To: Senator Specter.
From: Morrie Ruffin.
Date: May 15, 1991.
Re: Status of 4/19/91 Request to Secretary Garrett for Additional Information on Navy's Analysis"

Per your request, I have described the sequence of events pertaining to the Navy's "response" to your letter of 4/19/91. Attached is a copy of the 4/19 letter.

4/19/91—Your office FAXed a copy of the attached letter to Secretary Garrett. The letter requests that all documentation concerning both the conventional and nuclear workload at the naval shipyards for the remainder of the century immediately be made part of the public record. This request was made because the Navy's "detailed analysis" provides no justification for its decision to exclude *all* Navy shipyards from review for closure.

5/7/91—Having received no response to your letter and having confirmed that neither the Base Closure Commission nor the General Accounting Office had received any informa-

tion subsequent to your letter, I called the Senate Navy Liaison office and inquired as to the status of the reply.

5/8/91—I received a call from a Mr. Fred Sterns in Assistant Secretary of the Navy for Installations Jackie Schafer's office. I informed Mr. Sterns that we wanted every piece of information available on the Navy's ship maintenance schedule (data on the maintenance schedule for every ship in the Navy). I also suggested that we wanted all other information that would allow the Navy to represent that due to the Navy's nuclear workload the six nuclear Yards should be excluded from review for possible closure. *He informed me that this information would be "on your doorstep at 8:00 AM, Monday, May 13, 1991.*

5/13/91—At 9:30 AM I received a call from Mr. Sterns where upon he stated that he believed he had everything we had asked for and asked when he could send it over. At 11:30 AM I met with a Mr. David Rolfe Herron from Schafer's office, and Capt. Thomas Williams and Ms. Mary MacKinnon from OP-431. At the meeting they presented me with the attached memo marked B. I asked them if they felt they had complied with the request made in your letter. They said yes. I then asked them if the memo represented "all documentation concerning both the nuclear . . ." (see highlighted potion of letter). They said no and promised to provide us with more information. I said we wanted it but that it was probably too late.

Following the meeting, I had a conversation with Mr. Herron.

I mentioned to Mr. Herron that he should inform Ms. Schafer that Senator Specter's office was not satisfied with their response to our request. He then mentioned to me that he was in a difficult position because the response to the April 19 did not appear to be a Navy priority. *He then mentioned to me that he had a copy of a routing slip attached to the letter which gave a due date for the response of 5/24/91.* (5/24 is the date of the regional hearings on PNSY and the last official opportunity for us to make our case before the Base Closure Commission.) I asked Mr. Herron if I could see a copy of the routing slip. He proceeded to remove from his folder a copy of your letter which appeared to have a routing slip attached to it with a due date of 5/24/91. I then asked Mr. Herron if I could borrow the routing slip for a minute whereupon a Mr. Liebman (also from Schafer's office) who had entered the reception area grabbed the letter back from Mr. Herron and quickly forced it into Mr. Herrons brief case. Mr. Liebman said something along these lines: "God knows, you can't have that."

5/14/91—In the morning I spoke with Wendy Pensinger, a staffer on the Base Closure Commission, and mentioned the incident with Mr. Herron. She took his name and the names of the two other individuals who accompanied him to our office. In the afternoon, Mr. Liebman delivered to our office a computer print out of the "ship availabilities at all of the Navy's shipyards." This document is also barely adequate in that it was outdated and did not include any of the AEGIS work which will be up for Public/Private competition.

5/15/91—Spoke with Captain Rice, the Executive Assistant to Ms. Schafer, and Jim Dykstra, the Deputy Assistant Secretary of Defense for Legislative Affairs, and reiterated our request for information.

EXTENSION OF FAST-TRACK PROCEDURES

Mr. BENTSEN. Mr. President, I move that the Senate proceed to the immediate consideration of Senate Resolution 78.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 78) to disapprove the request of the President for extension of the fast track procedures under the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974, reported unfavorably without amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to and the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Who yields time on the resolution?

Mr. BENTSEN. I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, Senate Resolution 78, which would disapprove the President's request for fast track, I think may be the most important and the most controversial vote that we will cast this year. The Finance Committee has given it very serious, thoughtful, and long time consideration.

We held seven hearings on this subject. We heard from all sides in the debate. And after 2½ months of weighing the pros and cons on this subject, we voted it out of committee by a vote of 15 to 3, an overwhelming vote.

There is nothing that would have required us to vote this out of the committee. We could have locked it up in the committee, and that is often done here in the Senate and in the House of Representatives. But I felt this issue was so important, and the committee shared that thought, that it had to be brought before the entire Senate, to let them debate it and decide what should be done.

Let us understand precisely what is at stake in this vote. This resolution would deny fast-track procedures for all trade agreements. That means the Uruguay round, the United States-Mexico Free-Trade Agreement, and any other trade agreement that was under consideration.

Although we are not directly voting on the negotiations, it is clear to me that a vote to deny fast-track authority is in fact a vote to stop these negotiations dead in their tracks. It is inconceivable to me that the United States would deny itself the ability to negotiate away all the protectionism around the world that is facing us when our products are so ready to go to export, to add jobs in this country. It would be kind of a unilateral disarmament on trade. But that is precisely what this resolution is intended to do.

Let there be no mistake about it, the stakes are that high, and we cannot afford to make a wrong decision at a time when trade is of such importance to us in the growth of our economy. Last year, 88 percent of our GNP growth came from export growth. We are in a recession, and more so than at any time in the past, America will have to export its way back to prosperity.

We sure cannot look back to the Government for the traditional pump-priming as we have done in the past, not with a $400 billion trade deficit and a $3 trillion national debt.

Our growing dependence on foreign capital makes it difficult to stimulate the economy with interest rates; so we have to export, and we have to export successfully with lower interest rates. To export successfully, we need better market access in areas where our products are more competitive. To achieve that market access, we must have an effective and aggressive trade policy.

I have been pushing an aggressive trade policy for years. Four-and-a-half years ago, when I took over the chairmanship of the Finance Committee, I made trade a No. 1 priority for me. Like many of my colleagues, I was frustrated by the Reagan administration's head-in-the-sand trade policy that exalted an overvalued dollar, let foreign trade barriers stand unchallenged, and ceded one American industry after another to foreign competition.

As the decade began, America was the largest creditor nation in the world. By 1985, those trade policies had transformed the United States into the largest debtor nation the world has ever known. That is why I fought so hard for the passage of the 1988 trade bill.

It took us 2 long years to convert that into legislation, even in the face of a possible Presidential veto. That act was guided by the basic, fundamental first principle of trade: countries selling goods freely in our market must entitle us to sell freely in their markets. I believed that should be our guiding light then, and I believe it today.

In that law, Congress gave the President the tools to bring trade actions against a wide range of unfair foreign practices. Whether the problem was patent pirates stealing U.S. inventions or European Community subsidies that unfairly deny our farmers sales in foreign markets, the 1988 Trade Act sought to get us back in the trade game.

I wish this administration would use that authority more aggressively. I have been pressing them for 2 years to do that, and I intend to keep up that pressure.

But trade negotiations must be an essential element of a complete trade strategy, and that is why the 1988

Trade Act that Congress passed also gave the administration fast-track authority to negotiate to eliminate unfair trade practices.

Let's face it; we cannot bring individual trade actions against every foreign trade barrier U.S. companies face. Most countries still impose high tariff rates on us. Look at India, they have a 118-percent average tariff against us.

I think the basic question that we are look at, and the one that concerns most people in this trade deal, is the question: Are we going to have an exodus of jobs? Does it mean that we lose jobs in America? We have lost 2,600,000 jobs in the past decade, and we certainly cannot lose more of them.

If I believed that this meant a net loss of jobs to the United States, I would fight fast track every step of the way. I would fight any kind of a trade agreement that I thought would bring that about.

But that is not what we are looking at. We are talking about trying to open up these markets. Look at the situation with Mexico. That has been one of the controversial issues: Whether or not we should have a United States-Mexican Free-Trade Agreement.

We have had an incredible change there. I was born and reared on the Mexican border. All my life I have known Mexico as one of the most protectionist of nations, whether you were talking about the manufacturers, or whether you were talking about the government. It was always railing against the United States. Poor Mexico, so far from God, so close to the United States. And always the foreign minister was appealing to the racial left in Mexico, and that was again politically running against the United States.

But what happened? De la Madrid came in and, for the first time, wanted to join GATT, open up their markets and be internationally competitive, and see that they had free trade with the United States. And along came President Salinas, with an amazing change in policy, taking duties that were up to 100 percent and bringing the maximum duty down to 20 percent, and the average duty to less than 10 percent, moving the private sector in, taking public companies and making them private sector companies, addressing a situation on the environment that has concerned us all.

Along that border I look at situations like we have in Laredo, where you see 26 million gallons of raw sewage every day dumped into that Rio Grande. To look at Juarez where you have an open ditch running on the Mexican side with raw sewage. Are we concerned about it? Of course we are concerned about it. And we should be concerned about it.

But let us see what happened in this kind of a situation. They have a President now who took a refinery in Mexico City, spewing out all kinds of toxic smoke, contributing 15 percent of the pollutants to Mexico City, who closed that refinery down, putting 4,500 people out of work at a time of high unemployment in Mexico. That is making a major priority of the environment and that is what President Salinas has done. How are we going to take care of those problems of pollution along the Rio Grande unless we negotiate? Do you turn your back on those things and think that all of a sudden they will solve themselves?

Of course, he does not. You have a Mexican President talking about putting catalytic converters in automobiles. Tell me another developing country going that far with that kind of cost when they have high unemployment—putting that kind of penalty on them from an economic standpoint to better clean up the environment. That is the kind of change that is taking place down there.

I have people say, well, all these companies are going to move to Mexico. They can move there now. That is a sovereign nation down there. They can take off any penalties they want to any time.

Let us look at what the duties are. In our direction, in effect, we virtually provide them free trade. Over 50 percent of the items coming in from Mexico are duty free, and the others average only 4 percent.

Let us look at automobiles. If you want to import a car into the United States, the duty is 2½ percent. If you are talking about auto parts, it is 3½ percent. But if you are trying to export a car into Mexico the duty on it is 15 percent; on parts it is about 13½ percent. Then you cannot ship a car into Mexico until they have shipped 2½ cars out. You even have holding stations along that border to see that that kind of a requirement has been met before they ship another United States car into Mexico. That is what you are facing today.

You are looking at a country with 85 million people, a country with substantially lower income than ourselves but a country that spends $350 per capita on U.S. products. That is $15 more per capita than the Europeans are spending on United States products.

What do we sell to Canada? We are selling them $3,000 per capita—$3,000 per capita. Who do you sell the most to—a poor country or a rich country? Of course, you sell more to a rich country, and if we can continue to raise the standard of living of Mexico along with our own, you will find them buying far more products than they are buying now and continuing to do that.

I think we ought to encourage that. Besides that, it gives us stability in that country which is terribly important to us. There have been those who say, well, we ought to split off Mexico from the rest of the negotiations. Of course, this is a generic term insofar as the trade bill of 1988 and covers all of these negotiations.

But when asked about that, President Salinas says, well, then you just ought to take the "1" out of "splitting." It will be a matter of spitting on Mexico, putting down Mexico. You will turn around and give fast track to countries around the world, countries like India with an average duty of 118 percent, ripping us off on intellectual property rights, doing the same kind of thing for Taiwan, but you will not do it for your neighbor to the South.

I think we ought to work to see that we develop this kind of trade negotiations with Mexico. We are not talking about voting up or down on a treaty today. We are talking about the authority to negotiate and try to do away with some of these problems that we have seen in the way of environment, that we have seen in the way of trade barriers.

I have had people say to me, well, you have got a problem with the judicial system in Mexico. Yes, I think that is true to a degree. But you have it with every developing country and we have our own problems in our own country concerning the judiciary.

But look at some of the dramatic things that have happened in Mexico under President Salinas. I was talking to him about the number of convictions insofar as income tax evasions. He told me that, from 1922 to 1988 you had 2 convictions on income tax evasion in Mexico. But since 1988, with the new administration, you have had 183 convictions for income tax evasion.

Talking about drug traffickers, some 24,000 since 1988 have been apprehended and some 4,700 of them have been convicted and sent to prison. When you take a look at our laws here and the administration of them and the apprehension of drug violators and see how long it takes to put them in prison, that is not a bad record on that part.

Some people say, well, you do not really need fast track, we ought to open this up to changes.

Let us think back to where we were back in the Kennedy round. At that time, the agreement was sent here to the Congress, and the Congress chose to make amendments to it. Many other countries said, well, that is it. We are not going to negotiate any further. And we could not get them back to the negotiating table for several years, and that is when we finally decided we had to go to fast track.

What we are talking about is the Congress having the responsibility on trade. But the Congress speaks with many voices, represents many regions, and many interests. So the administration has to have the authority to do the negotiations. That also means that they must consult with us in the process.

We look at the Canadian-United States Free-Trade Agreement, and in that situation the Congress felt that the administration was not consulting with us. What did we do? We blocked that one in the committee, stopped it cold. The administration got the message, and then they came and consulted and then we worked out our differences and we passed it. I think they have learned that lesson and they have been consulting with us every step of the way.

We felt, in addition, that we ought to get some commitments ahead of time on this one. So Chairman ROSTENKOWSKI, Majority Leader GEPHARDT, and I, as chairman of the Finance Committee, wrote a letter to the President addressing what we could get in the way of some assurances on the environment, what we could get insofar as job training and assistance—because there will be winners and losers in this and we are quite aware of that.

I think the letter that we received back is one that is encouraging, makes major concessions on the part of the administration, and will be of help. Many of those things that are cited in that letter require clear evidence of progress before that treaty is finally brought back to us for consideration.

If you are serious about cracking down on foreign barriers, trade negotiations must be a part of your strategy. In the absence of negotiations, a multitude of unfair foreign barriers will remain. And the United States cannot settle for that—not if we want to be effective competitors for world markets.

But Senators ask, "Why do we need to give fast-track negotiating authority?" It is very simple: Without the fast track, countries will not negotiate with us.

You do not have to take my word for it. We have the lesson of history. The fast track was first enacted in 1974 at a time when we simply could not get our trading partners to come to the table.

In the 1960's—during the Kennedy round of negotiations—the administration tried to negotiate trade agreements without fast-track authority and Congress amended the agreements in several respects. The result was that for 6 years we could not get our trading partners to come back to the table, until Congress enacted the fast track.

Some of you are concerned that fast track is a forfeiture of congressional power. But the fast track was first enacted in 1974, by a Democratic Congress in the wake of the Watergate scandal. If there ever was a Congress that should have been wary of abuses of Presidential power, it was that Congress.

So why did that Watergate Congress accept fast track? Because they beleived it increased congressional power. Let me explain what Congress got in the deal.

First, the White House agreed to send the entire trade agreement back to Congress for approval. During the Kennedy round negotiations, the administration argued that trade agreements could be negotiated under the President's foreign affairs authority without even submitting the agreement to Congress for approval. The fast track established clearly that these agreements would be submitted to Congress.

Under the fast track, Congress also writes the legislation implementing the agreement, not the administration. And the White House tells us in advance what administrative actions they intend to take to implement the agreement. Senators know how important agency regulations and other agency actions can be. With the fast track, we know in advance what they will be. And finally, Congress set up an entire system to ensure that the administration consults with us.

And that system has worked pretty well. Consider what the situation would be today regarding the Mexican talks if we had not had the fast track.

Last June, Presidents Bush and Salinas announced that they would seek to negotiate a United States-Mexico Free-Trade Agreement. If the fast track had not existed, those negotiations probably would have proceeded, and today the Senate might be considering whether to accept a trade agreement, not whether to start negotiations.

Instead, the fast-track rules required the President to notify Congress of his intent to proceed and imposed a waiting period before negotiations could begin. We held extensive hearings in the Finace Committee. Chairman ROSTENKOWSKI, Congressman GEPHARDT, and I asked the President to set forth an action plan addressing a broad range of labor and environmental issues.

The President responded, and today the United States is prepared to enter these negotiations with an agenda that more completely addresses the full range of congressional concerns.

That never would have happened if the fast track did not exist. It is a check on the President from getting us into these negotiations before Congress can examine that policy. And it has made a big difference in the case of Mexico.

In 1988, we renewed the fast track, but not without building in some safeguards.

In 1988, the administration had proposed that we give it permanent fast-track authority. We refused that; we gave the President until June 1993 instead. But we also required that the President come back to Congress at the halfway point to get those last 2 years, on the understanding that either House of Congress could deny the President those last 2 years if it felt that sufficient progress had not been made in negotiations.

We did that because we wanted to make sure that Congress was actively involved in making trade policy. That is why we are here today.

But as we consider this extension, the question really comes down to whether you believe trade negotiations are good for America. At stake is the Uruguay round and the Mexican talks.

Consider the Uruguay round. Over one-third of world trade is not even covered by General Agreement on Tariffs and Trade [GATT] rules. In countless areas, we can help American companies and workers become more competitive by cracking open foreign markets in this round. Listen to some of the groups that have come forward to support these negotiations—and the extension of the fast track generally.

I have a list here of organizations, farm groups, and companies that support the extension of fast track. This list is 36 pages long, single-spaced. It includes a wide range of interests. For example:

National Association of Wheatgrowers, Consumers Union, National Wildlife Federation, The Business Roundtable, American Soybean Association, Chemical Manufacturers Association, Semiconductor Industry Association, American Mining Congress, Mexican-American Legal Defense and Education Fund (MALDEF), Coalition of Service Industries, National Small Business Association, American Paper Institute, Motion Picture Association of America, League of United Latin American Citizens (LULAC).

They know that cracking open foreign markets can mean good jobs for good wages in this country. Those companies and those workers are America's trading future. We cannot afford to turn our backs on them.

Perhaps an even greater challenge confronts us in the trade negotiations with Mexico. Nowhere else in the world do a developed country and a developing country share a common border. It is a big challenge for the United States.

But when I look at Mexico I see great potential. I was born and reared on that Mexican border. I have seen the old Mexico, and I have seen the new Mexico. And I can tell you I like the new Mexico a lot better.

President Salinas has transformed the face of that country. Sometimes I wonder what happened to mañana land. President Salinas has reduced Mexico's maximum tariffs from 100 percent to 20 percent. Their average tariff is now below 10 percent. They eliminated most of their import licensing requirements. They are beginning to get their debt problems under control.

In short, they are doing exactly what we have been asking developing countries to do for the last 40 years.

Will free trade with Mexico help the United States? We already know it will. When many countries, like Japan, eliminate formal barriers, we do not see any hard trade results. Informal barriers remain.

But that is not the case with Mexico. Since the Mexican reforms began in 1986, we have seen our exports to Mexico double. Manufactured exports more than doubled, growing almost twice as fast as other United States manufactured exports. Exports of telecommunications equipment doubled. Exports of corn tripled. And all this export growth has created 400,000 new jobs in the United States.

And those benefits have applied to every corner of this Nation. In the last 3 years, Wisconsin's exports to Mexico increased 77 percent; Rhode Island, 180 percent; Illinois, 216 percent.

Don Fites, the chief executive officer of Caterpillar, told the Finance Committee this spring that they thought the Salinas reforms would increase their exports to Mexico by $20 million. They were way off the mark. Last year, Caterpillar exports to Mexico doubled—to $131 million. Their sales to Mexico provide good jobs for 900 U.S. Caterpillar workers and another 1,800 jobs at the company's American suppliers.

All the studies indicate that free trade with Mexico will benefit the United States. But the best indication is the trade benefits we have experienced since Mexico began to open up.

We can build on that foundation. Mexico has made great progress, but its tariff rates are still twice as high as ours. Forty percent of the farm products we send them are still subject to import licenses—basically a quota restricting what we can sell them.

Mexico requires 36 percent Mexican content in all the cars we make down there. They won't let us ship a car into their country, until they ship 2½ cars out. The problem is so bad that they have special facilities to hold United States-made cars on the border until that requirement is met.

Simply put, eliminating all barriers would be a significant net gain for the United States, because Mexico has more to give up.

Now the opponents argue that free trade with Mexico will make United States companies invest in Mexico. Mr. President, those companies can do that right now. Particularly in manufacturing industries, Mexico already permits free investment.

And Mexico is a sovereign nation. It can eliminate its investment restrictions anytime it wants—even without a free-trade agreement.

During the 1980's, we already had 2.6 million jobs move overseas, largely to the Pacific Rim. Every low-wage country in the world today wants to attract United States investment—and that will continue regardless whether we negotiate an agreement with Mexico.

We can curse that darkness, or we can develop a strategy to compete in the world as it exists today. Mexico is a critical element of that strategy. Trade with Mexico can keep and create good jobs in this country.

Consider the case of Deltec, a San Diego electronics firm that cut over 50 percent of its work force in the early 1980's as it struggled against overseas competition. Deltec ultimately decided to locate a plant in Mexico and continue with some of its operations in the United States, rather than move lock, stock, and barrel to the Far East. Since then, it has increased its United States work force by 75 percent and quadrupled its sales.

Mr. President, almost 50 years ago, Franklin Roosevelt charted a new course for Mexico that he called the "good neighbor policy." We should learn from that leadership and recognize that better relations with Mexico are critical for our long-term security and prosperity.

Let's face it. It is much better to have a rich neighbor than a poor neighbor. Today the average Mexican buys 350 dollars' worth of American products each year. The average Canadian buys over $3,000. If Mexico were as rich as Canada, our exports to Mexico would increase by $240 billion. That won't happen anytime in the near future. But the sooner we begin to plant that tree, the sooner it will bear fruit.

It is also critical to have a stable, friendly neighbor. Last August, immediately after the Iraqi invasion of Kuwait, President Salinas announced that Mexico would increase its oil production capacity by 100,000 barrels a day to demonstrate its solidarity with our cause. Mr. Cardenas, President Salinas' chief opposition rival, would have cut off our supply completely.

It is said that a friend in need is a friend indeed. Let me tell you, when it comes to energy policy, we cannot have too many friends in the Western Hemisphere.

Consider immigration. That is a powder keg waiting to ignite. The opponents of these negotiations are worried about job losses in this country. But what about the thousands of jobs Americans lose each day to illegal immigrants? We will never put a lid on that problem until Mexicans can find good jobs at good wages in their own country.

Mr. President, this is a decisive vote for the future of this country, and it is a momentous occasion for the Senate. I think the essential choice is whether we choose to move forward or backward as a country.

If we pass this resolution, we signal to the world that the United States is throwing off the mantle of global economic leadership, which it has held with conviction and courage for over half a century. We signal that we are not even willing to negotiate with our trading partners to eliminate unfair foreign trade practices.

There is no clearer signal we could send that the United States has taken itself out of the game—that the rest of the world can negotiate while we sit on the sidelines. Or we can reject this resolution. We can get back in the game and fight until we win.

We can tell the world that the United States will not tolerate barriers to our exports, that United States farmers refuse to compete against subsidized competition, that United States inventions cannot be stolen with impunity, that India's 118 percent tariff rates are a vestige of the past, and that America insists that its companies and its workers be able to compete head-to-head with the best the world has to offer.

I urge my colleagues to vote against the resolution.

So, Mr. President, as I look at this issue that is before us, I think it is an opportunity for us to move forward and increase the exports of American products and build jobs around the world.

I strongly urge my colleagues to support further negotiations, and I have here a list of some 36 pages of various organizations that are supporting the negotiations on the fast track. I strongly urge that Senate Resolution 78 be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, this is my bill.

Mr. PACKWOOD addressed the Chair.

Mr. HOLLINGS. I think I am in control of the time over here; is that correct?

Mr. PACKWOOD. I do not think so.

The PRESIDING OFFICER. I believe the Senator from Oregon controls the other 10 hours on the time.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The time is equally divided.

Mr. HOLLINGS. That could not possibly be true. I am the author of the bill. Do you mean to say the two opponents of the bill control the time, the 20 hours, and we are not recognized at all? I heard of fast track, but this is fast, indeed.

The PRESIDING OFFICER. In response, it is noted that the two leaders control the time.

Mr. HOLLINGS. Two leaders or their designees.

The PRESIDING OFFICER. Or their designess. It is 20 hours equally divided.

Mr. HOLLINGS. So what we have are two negatives.

The PRESIDING OFFICER. The two leaders are free to parcel out the time or their designees as they see fit.

Mr. HOLLINGS. Now Mr. President, let us get right to the point. They have been asking me to step forward as the author of this particular resolution which was reported out of the Finance Committee. Incidentally, they say, there were 15 votes against it in committee, but we have got 17 positive votes that have cosponsored the resolu-

tion. It was my understanding that I was in control of 10 hours on this side and Senator BENTSEN was to control 10 hours on the opposing side.

Is the ruling of the Chair now that we do not have any time to speak in favor of the bill? Is that what we are saying? What goes on here?

The PRESIDING OFFICER. If the Senator will indulge the Chair, the Chair will read the applicable paragraph here. The debate—this is a bill with floor consideration of the Senate. Debate in the Senate on a resolution and all debatable motions and appeals in connection with this shall be limited to not more than 20 hours.

This is the unanimous-consent report presented, "shall be limited to not more than 20 hours, to be equally divided and controlled by the majority leader or their designees."

Mr. HOLLINGS. That is all right then. Will the majority leader tell us where we are?

Mr. BENTSEN. Let me say, Mr. President, to the distinguished Senator from South Carolina, there is no question, as far as matter of equity, that the opposition to the point of view of those of us in the Finance Committee deserves equal time. I would not quarrel with that.

Mr. HOLLINGS. And the author of the bill ought to be heard on his own bill.

Mr. BENTSEN. Of course, he shall.

Mr. HOLLINGS. I could be down in the well but I am courteous enough to stand up here.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the 20 hours for debate on this matter be allocated as follows: 10 hours for the proponents of the resolution of disapproval, to be under the control of Senator HOLLINGS; 5 hours of the time of the opponents of the resolution of disapproval to be under the control of Senator BENTSEN; 5 hours of the time of the opponents of the resolution of disapproval to be under the control of Senator PACKWOOD.

Mr. DOLE. Mr. President, what about the time we have used? We would like to get rid of that.

The PRESIDING OFFICER. Twenty-five minutes has been thus far consumed.

Mr. DOLE. That would come off of whose time?

The PRESIDING OFFICER. That would be charged to the Senator from Texas.

Mr. DOLE. Then it is not possible to get additional time then, after this 20 hours?

The PRESIDING OFFICER. The Senator is correct. The statute does not provide for that except by consent.

Mr. DOLE. I appreciate that.

Mr. MITCHELL. I wish to make clear that my proposal does not suggest there be 20 hours and 25 minutes. I suggest 20 hours, so that, if approved, Senator BENTSEN would have 5 hours, less whatever time he has already used.

The PRESIDING OFFICER. Is there objection? If not, the unanimous-consent request is agreed to.

Mr. PACKWOOD addressed the Chair.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HOLLINGS. Oregon?

I thank the distinguished Chair.

Mr. PACKWOOD. Wait a minute. Who has the floor?

The PRESIDING OFFICER. The designee on the Republican side is recognized.

Mr. PACKWOOD. I will not go more than 10 or 15 minutes right now.

Mr. HOLLINGS. Very good.

Mr. PACKWOOD. Mr. President, there was an article in the Washington Post of May 20 entitled "U.S. Firms Stage Competitive Revival." It was a most informative article about major manufacturing industries in the United States. And I emphasize manufacturing, because we have taken great pride in some of our high-technology industries, certainly great pride in agriculture where we still lead the world except where we have to compete with extraordinary subsidies to the farmers and export subsidies.

But this article was on basic heavy manufacturing, General Electric, Xerox, Boeing, pharmaceuticals, Caterpillar, Cummins Engine, all of whom have been staging amazing productivity increases and increases in export sales.

As a matter of fact, it is very clear, and Chairman BENTSEN indicated it, there is no question that it is exports that have allowed this Nation to keep its head above water in the last year and a half.

We have seen a modest recession, and we are starting to come out of that recession now. But for the exports this recession would have been very, very severe. There is no question now that major American businesses, hard goods businesses, can compete throughout this world. As a matter of fact, this article indicates that manufacturing today accounts for a slightly larger share of total U.S. economic output than it did a decade ago. It would not be doing that, Mr. President, but for exports. It would not have grown that fast in the last years but for exports.

So, as we look toward the approval, I hope, of allowing the President to have fast-track authority, I hope we do not dwell exclusively on Mexico, although our exports to Mexico will increase. I will cite some figures, including companies in Oregon, to indicate that.

But we have a lot more at stake in addition to the North American Free-Trade Agreement. We have at stake attempting to accomplish in the so-called Uruguay round GATT negotiations, protections for things we have never been able to achieve before. And mainly because trade 40 years ago, 30 years ago, even 20 years ago, consisted heavily of machines, airplanes, what I would call hard goods. And what we have seen in the last 20 years, in addition to the expansion of exports of our hard goods, is an explosion around the world of stealing of our intellectual property rights—movies, television, books, pharmaceuticals, products of the mind, creativity that may not weigh as much as an automobile, but is being copied daily and duplicated daily in countries around the world and paying us nothing.

In many cases, we are seeing our products, if not illegally stolen, worse, legally stolen because we don't have adequate protection under the current trade agreements among the major nations of the world.

And, in the area of agriculture most of all, this country has been blessed as no other country in the world. We still have an immense agricultural surplus when it comes to exports. But we are attempting to export in competition with Germany and with France, who have many, many small inefficient farms, heavily subsidized, and the exports from those farms heavily subsidized. And even with that we managed to stay ahead of the curve and have a surplus in our agricultural exports.

But what a boon it would be to the farm sector of this country alone and to all of the sectors of manufacturing industries that supply the farm sector, if we could get a level playing field in the sale of wheat down the Columbia River, or soybeans, or rice into Japan. And we have a chance of getting that if we give to the President of the United States the authority to conclude these agreements with the 107 other nations involved in the Uruguay round—and I say "conclude" because those agreements are almost done. But we have not yet closed the circle on some of the areas that are most vital to us. Give the President the power to finish those negotiations and then turn his attention to starting negotiations with Mexico.

I was chairman of the Finance Committee during the initiation and the completion of one round of free-trade agreements. That was with Israel. And I was chairman and ranking member when we started and then subsequently

finished the free-trade agreement with Canada. And I know there were misgivings about both the Israeli free-trade agreement from some sectors of our economy and misgivings about the Canadian Free-Trade Agreement from some sectors of our economy, but by and large those free-trade agreements have worked out magnificently.

Are there some problems? Sure. We have some problems with some of our closest friends in the world, some of our English-speaking friends. We have great problems with New Zealand, great problems with Australia. But do you mean is it working out to the benefit of both countries? Sure. You bet it is.

Did Congress have any input to that agreement? You bet we did. We heard the chairman make reference to the fact that because, on occasions, Congress had been stiffed on previous negotiations, when it came time to negotiate the Canadian Free-Trade Agreement the President almost did not get the necessary authority. And that was a wake-up call for the administration, and during those Canadian free-trade agreements we had all the input we wanted. I will give a specific example. We introduced a resolution that we did not want maritime—maritime, involving shipping—in the Canadian Free-Trade Agreement. And there were not. That was input from the Congress.

When it comes time to start to negotiate the free-trade agreement with Mexico, we will have ample opportunity for input. If there is anything that can be said now about our U.S. Trade Representative, Ambassador Carla Hills, it is that she has given us opportunity after opportunity after opportunity for input. We all kid about her coming up to the Finance Committee. We go, "My gosh, is she here again?"

In the law there is a principle called estoppel, which means you are precluded from raising an argument against your own act or deed. And we are certainly not going to be able to raise the defense against the agreement that we were not consulted. There might be some portions of it we do not like, but we cannot claim that we were not and will not be consulted.

Then I want to be realistic, if I might, Mr. President, about whether or not 2 years from now a free-trade agreement with Mexico might or might not be approved. Let us assume that those who oppose it now were to continue their opposition. That is principally organized labor, and I think they have some very justifiable concerns, and environmentalists, who also have justifiable concerns.

But let us assume nothing changed in 2 years, the free-trade agreement was presented by the President to Congress and we had to vote for it. If you had in opposition to it the overwhelming bulk of organized labor, the overwhelming bulk of the environmental groups, and the inevitable opposition you will pick up from some specific groups—because in a trade agreement there is some give and some take I think, if you had uniform opposition from labor and strong opposition from environmentalists, coupled with other specific industries—they might be small in and of themselves but if you add 10 or 12 or 14 small ones together, together with some major forces—I think we would see the agreement defeated.

So the President is not going to be able to bring us an agreement that does not at least address the major problems that have been legitimately raised by labor and environmentalists. But, from an environmental standpoint especially, I think you are hard pressed to argue against the potential for helping the environmental by signing an agreement with Mexico.

This is a rule of thumb. Although certainly the Communist countries in Eastern Europe while they were Communist were certainly not environmental paragons—if anything, they were the other way around—but as a rule of thumb you can say this: The more a country's economy grows, the more it starts to prosper, the more its gross national product increases, the more concerned it becomes with the environment. The countries that you have the worst problem with on the environment are the poorest countries in this world. Bangladesh goes through cataclysmic hurricanes, tidal waves, hundreds of thousands of people die. It is one of the poorest countries of the world. And it is awfully hard to ask them to be concerned about the environment and to spend extra money for environmental protection when the very, very few basics of life that they have are being washed away or blown away. It is only when you start to climb out of that poverty and have a little bit greater stake in life that you begin to think you can afford to clean up you air, clean up your water. You are not going to do that before you can protect your people from tidal waves, or even basically feed them.

So it is in our interest to encourage Mexico to prosper. Now the argument is made that if Mexico prospers, it will be done by American businesses moving to Mexico. Unlikely, I think. You heard the chairman indicate that the trade barrier situation is, and this, Mr. President, is basically what it is. The tariffs or quotas or licensing agreements on American products moving into Mexico are relatively high, rigid, difficult. The tariffs or other limitations on Mexican products moving into the United States are rather low—for example, 2.5 percent for automobiles. If a company's only concern were pollution controls or the difference in labor costs, why does Chrysler or General Motors or Ford not move all its operations south of the border? Why did the Japanese bring some of their operations to us, Honda in Ohio, Nissan in Tennessee, the others that are locating here? Why did they not locate everything in Mexico?

For the small price of a 2.5-percent tariff, if there was that much to be gained by locating in Mexico they would have done so now. The free-trade agreement would not have made any difference and will not make any difference as to the significant technological, skilled labor, infrastructure, communications, and other advantages the United States possesses.

I circulated a questionnaire in Oregon. I sent it to 154 Oregon companies that reportedly have some business relationship with Mexico. I took their names from the 1991 Directory of International Trade. And the thing that often amazes me as long as I have been in the Senate, every now and then I run across companies with 30, 40, 50 employees that I have not visited before, have not seen before, that have been in business 5, 10, 15, 20 years, that have a fair stake in foreign trade.

Of the 154 companies that I wrote to in Oregon, I asked them for the following identifying information: Who are they, what do they make, employee information, Mexican trade information, Mexican trade barrier information and their views on the Mexico free-trade agreement.

As of today, I have had 37 responses, which is about a 24-percent response rate. Of those, 9 of the 37 indicate they have no significant current business relationships with Mexico, import or export. Of the 28 responding companies with a significant current business relationship with Mexico, 26 of them, 93 percent, favor a free-trade agreement with Mexico. One company opposed it and one company was more or less ambivalent.

Of the 26 who responded and said, yes, they would tend to favor a free-trade agreement with Mexico, 68 percent are engaged in manufacturing; 28 percent in distribution; 12 percent in agriculture; 4 percent in retail or other services, and these total more than 100 percent because some of the companies are involved in more than one activity.

Of the 28 companies that have a significant business relationship with Mexico, 61 percent said they faced tariff and nontariff barriers; 27 percent said they faced tariffs on their exports; and other barriers that they identified were infrastructure problems, inefficiencies in Mexico, corruption in the Mexican bureaucracy, quotas, licensing agreements and currency problems. Of those that responded, I selected just three. They are illustrative.

One is Automotive-Industrial Marketing, AIMCO, in Portland, OR. It has 80 employees. The company manufactures and distributes industrial power tools. Of $650,000 in total foreign sales in 1990, $500,000 went to Mexico. This

company currently faces Mexican tariffs of 22 percent. They are absolutely convinced that with the elimination of those tariffs under a free trade agreement, they will substantially increase their exports to Mexico.

Stanley Hydraulic Tools in Milwaukie, OR, a Portland suburb, has 257 employees. They manufacture hydraulic tools. In 1990, the company's total foreign sales was $12.3 million of which only $65,000 was to Mexico. But they expect this year they will increase their sales from $65,000 to $500,000 in Mexico and they expect, if there is a free trade-agreement with Mexico, their trade will grow significantly.

Let us take the third and last company from a smaller town in Oregon: Con-Vey/Keystone, in Roseburg, OR, about 175 miles south of Portland. A small town by the Nation's standards. This company manufactures material-handling equipment for sawmills and planing mills. It has over $1.1 million in foreign sales in 1990 and only $50,000 of that was to Mexico. They currently sell only used machinery to Mexico because the tariffs and quotas and limitations that they face do not make it possible for them to sell new equipment. But they are convinced under a free-trade agreement they could sell new equipment which they manufacture in Roseburg, OR.

I could go on and on with this list, but as I have indicated, I do not want to dwell just on Mexico. The United States has proven in the decade of the eighties that faced with the most intense foreign competition this country had ever been faced with—and let us be serious, until practically the mid-seventies or early seventies, the world was our oyster—that is, we could sell what we wanted around the world. We were successful at it. We had a surplus balance of trade even though some of the things we sold were shoddy. But we were the only kid on the block.

Then from the midseventies or late seventies onward through the eighties, we were faced not only throughout the world but in the United States itself with the toughest foreign competition, tougher than any domestic competition we had ever seen. Some of our companies broke. Most of them, however, bent. We moved. we are resilient. Those companies that bent, reorganized, cut their costs, until today they are as lean and hard as anyone competing in this world.

Remember the plight of the steel industry in the early eighties, a tremendous request for protection? Without protection, it was argued they would not succeed in this world and they could never match costs in the world. Do you know what we have discovered now? The pretax costs of producing cold rolled sheet steel in the United States in March of this year was $507 a metric ton; $30 a ton less than in Japan. Last year, the steel mills in the United States produced an estimated 11.5 percent of the world's steel, up 10.3 percent from the year before.

So, Mr. President, let us not be afraid of the competition. We cannot just beat it; we can meet it.

I think the chairman of the Finance Committee and I can assure this Senate that there is not going to be an agreement brought forth by this administration in which we have had no consultation. We will be there time and time and time again until we are sure that the legitimate concerns of our farmers, our manufacturers, our service industries and all of those extraordinary industries that need protection in the area of intellectual property rights, have been served. But we will never have that opportunity, Mr. President, if we do not give now to the President of the United States the authority and the power to adequately negotiate these agreements.

I thank the Chair.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield such time as is necessary at the moment.

Mr. President, in March, 16 of our colleagues joined me in introducing a resolution to restore constitutional balance and a sense of perspective to our international trade policy, by repealing fast-track treatment.

Under article 1, section 8 of the Constitution it is the right and responsibility of Congress to regulate foreign commerce. All we are asking for is a chance to exercise that constitutional responsibility to carefully examine both the pending GATT Agreement and the prospective North American Free-Trade Agreement. Judging by the reaction of our U.S. Trade Representative [USTR], you might think that this resolution is a threat to world peace, that this resolution will put an end to commerce between nations and cause a global economic apocalypse.

Mr. President, fighting the fast-track resolution has become a growth industry in the city of Washington, every law firm and public relations firm have signed on. Mexico, a country with a per-capita income of less than $2,000 a year, has spent a not-so-small fortune to hire 11 law firms and public relations firms. The corporate jets are stacking up at National Airport offloading CEO's to extol the virtues of an agreement with Mexico. In the Halls of Congress, Mrs. Hills has opened her bazaar wheeling and dealing, to keep Senators from supporting this resolution.

Mr. President in the past 2 years, we have witnessed fundamental changes in the world. After 45 years, our long twilight struggle against totalitarianism and aggression ended in triumph with the collapse of the Berlin Wall. But, while we bask in the glow of our victory in the cold war and our victory in the gulf war, the time has come for us to wake up from our economic daydreams.

Mr. President, this country is still at war—a trade war, an economic struggle that is eroding our standard of living and threatening our national security. In this struggle, the battlefield is the international marketplace and its warriors are the millions of working men and women of this country who comprise our manufacturing base.

Unfortunately, those whose duty it is to defend our position in the international marketplace, namely the Office of the U.S. Trade Representative cannot even recognize that we are being put to rout in the international marketplace.

In an appearance before the Appropriations Subcommittee that I chair, the distinguished U.S. trade Representative, Ambassador Carla Hilla, told us that, "Today, our manufacturing sector is stronger than at any time since World War II." Mr. President, with all due respect, Mrs. Hills must have been spending too much time in boardrooms with the chief executives of our major multinational corporations because, if she had spent any time in the heartland, any time on the factory floor, she would never have made such a statement.

We have lost over 2 million jobs in the manufacturing sector since 1980. Those who kept their jobs during the eighties were barely able to keep their head above water, in fact, the average family lost ground, real incomes have not risen above 1973 levels, while manufacturing wages in our two strongest competitors, Germany and Japan rose 14 and 18 percent, respectively. For the American worker, import competition has kept wage gains below the rate of inflation in such vital manufacturing industries as machine tools and industrial machinery. The administration boasts of "unprecedented growth" over the last decade, but the balance sheets of many of our corporations tell a different story. Last year Standard and Poor downgraded the credit ratings of 768 debt-laden companies, and the Nation as a whole slid from net creditor status to net debtor status, racking up close to a trillion dollars worth of IOU's to foreign creditors. The accumulation of this foreign debt will jeopardize our position of leadership in the world or at least that is what one of our major creditor nations believes. According to a recent study of United States-Japan relations commissioned by Japan's Foreign Ministry:

> It is apparent that the U.S. economy is not recovering and if its ability to manage its foreign strategy is declining—the American people and policymakers seem to refuse to acknowledge the country's decline and need for improvement.

Mr. President, the question is how long can we afford to pay for the costs of world leadership by ignoring eco-

nomic realities? The geopolitical realities that forced this Nation to subordinate its economic interests to larger geostrategic interests have now been altered. But the administration has chosen to ignore the erosion of our economic strength. Instead of addressing head-on the fundamental issues that have diminished our economic statute, they offer more of the same—a continuation of policies that have produced record trade deficits. Rather than acknowledge that Government intervention and Government-directed export policies have turned our economic competitors in Europe and Asia into economic powerhouses, Mrs. Hills and her allies at the Council of Economic Advisers have worked zealously to impose their free-trade-at-any-cost ideology on the rest of the world.

If America is being battered in the international marketplace, it is not because of the way we were playing the game. It is because of our failure to play the same no-holds-barred ground rules that our rivals play by. While they pursued aggressive Government-directed trade strategies, the ivory tower economists and lawyers at CEA and USTR decided that what we needed was not to get competitive, but to get more rules to govern trade and then expand these rules to new areas, particularly to their economic savior, the service sector. So, for the past 4 years, this administration and its predecessor have been on a mission to sell the Congress and the world on the merits of GATT and a successful conclusion to the Uruguay round. We are told time and again that a successful completion of the GATT, one that incorporates trade in services and agriculture, as well as including protection of intellectual property, will expand world trade by $4 or $5 trillion.

However, a detailed study conducted by the Economic Strategy Institute [ESI] shows how this administration and previous administrations have absurdly overstated the benefits to world trade that would result from such agreements. According to ESI, the administration has overestimated the economic benefits of the Uruguay round by more than 700 percent. Their analysis shows that USTR figures are based on a set of completely unreasonable economic assumptions, such as increasing U.S. exports to heavily indebted third world countries by $200 billion over 10 years. A more reasonable economic analysis shows that successful completion of the Uruguay round could increase the United States trade deficit by as much as $14 billion.

Overstating, overestimating, and overselling the benefits of GATT agreements is a time-honored tradition at the Office of the U.S. Trade Representative. During negotiations in the Tokyo round, USTR estimated that a successful completion of the Tokyo round would benefit U.S. consumers by as much as $10.6 billion per year. In the end, the Michigan study of world production and trade estimated that the total net benefit for the economy from the Tokyo round was only $700 million—$700 million in a 5-trillion-dollar economy. Nor did the Tokyo round benefit our balance of trade. In 1979, when it was completed, our trade deficit stood at $15 billion, now it hovers around $100 billion.

Mr. President, the fact is that, while operating under the GATT, we have lost our economic preeminence, particularly in manufacturing. While Mrs. Hills may choose to believe that our manufacturing still is strong, the facts say otherwise. Take a look at the latest import penetration figures and that will give you an indication of the relative strength of our manufacturing sector. In consumer electronics, 100 percent of black and white televisions and 100 percent of radios are now imported. Over 30 percent of the automobiles sold in the United States are Japanese, and Chrysler chairman, Lee Iacocca, has stated that, if the figure goes to 40 percent, the Big Three will become the Big Two. Some proudly boast of American success in machine tool exports, but the fact is that 60 percent of machine tools used in this country are imported as is 60 percent of the apparel worn in this room.

Some academics say we should not be concerned by the decimation of our smokestack manufacturing industries. Instead, they claim that this loss is healthy for the economy, allowing us to shift production away from sunset industries to the sunrise high-technology industries. Unfortunately, we are losing the battle for market share in high-technology industries, too. Over the past 10 years, U.S. companies' share of the American market in computers went from 94 to 66 percent, in semiconductors from 90 to 67 percent. In the competition for global markets, the situation is even worse. U.S. market share in semiconductors fell from 80 percent to less than 40 percent.

If we are no longer dominant in manufacturing then what kind of economy will this Nation have and what will replace the high-paying manufacturing jobs that provided millions of Americans with the means to achieve the American dream of owning a home and sending a child to college? The answer that Ambassador Hills gives is services and exports. According to Mrs. Hills, one of the primary objectives in the Uruguay round is to achieve an agreement incorporating services into the GATT. Mrs. Hills proclaims that we have "a tremendous comparative advantage" in financial services. I, for one, find this a little ironic. Our negotiators are willing to sacrifice our manufacturing sector for the benefit of those on Wall Street, who have left us with a legacy of debt-laden corporations and have contributed to the weakening of banking and insurance sectors.

Mr. President, the textile industry invested $18 billion in plant and equipment in the 1980's, won the Baldrige Award for competitive excellence, and was rewarded for this by USTR's decision to use the textile and apparel program, as a bargaining chip to get an agreement favorable to our multinational banks. These are the same banks who squandered billions of dollars making bad loans to Third World despots and then turned to the U.S. taxpayer to bail them out.

Mr. President, this administration says time and again that government cannot pick winners and losers, but that is exactly what we are doing. By ending the quota program, they have already determined that 1.4 million textile and apparel workers are losers, in favor of a handful of Wall Street bankers. The plain truth is that the service economy is a myth. It will never create the high-paying jobs, nor achieve the productivity growth that is necessary to sustain our traditional standard of living. Nor, for that matter, will exports. We keep hearing that we need an agreement that will open markets, expand our exports, and jump-start our ailing economy. Mrs. Hills has come before committee after committee emphasizing the strength of our exports. The only reason why our exports have done well has little to do with tough negotiating and market access, and everything to do with currency devaluation.

It was government action, namely the 1985 Plaza accord, that precipitated the depreciation of the dollar and which, in turn, spurred our export boom. But, let me point out to my colleagues that this was not without cost to our overall economic strength. The respected investment banker, Felix Rohytan, in a recent speech at Northwestern University, lamented the fact that weakening our currency has cheapened our assets in the world markets and resulted in business after business being being snapped up at fire sale prices by foreign investors.

Mr. President, we are here today, in part, because, last December in Brussels, the economic powerhouses of the world, the Europeans and the Japanese, told our negotiators that they were not willing to duplicate American folly by sacrificing substantial sectors of their economies for the sake of ideological purity. They have been too successful in international trade competition to adopt the same dubious policies that brought the United States triple-digit trade deficits. After 4 years, the Brussels Ministerial ended in failure because the rest of the world does not accept our concept of free trade. They are not willing to let the magic of the marketplace determine their destiny. On the contrary, they understand that it is affirmative government policies that

create a nation's comparative advantage.

Mr. President, as long as our negotiators slavishly adhere to their outmoded free trade ideology, as long as they are willing to sacrifice our economic interests as bargaining chips in exchange for political concessions, as long as they cater exclusively to the interests of multinationals which seek to move their operations offshore and then dump their goods back in our markets, this body cannot grant these negotiations a blank check. We cannot let them put our industrial decline on a fast track.

Mr. President, article I, section 8 of the Constitution gives to Congress alone the right and responsibility to regulate foreign commerce. Fast-track treatment represents an abdication of this constitutional duty.

Mr. President, fast track was written into the Trade Act of 1974. It was a response to this body's refusal to accept a side agreement from the Kennedy round of the GATT eliminating the American selling price. The proponents of fast track argued that our trading partners in the GATT would not negotiate with us in the Tokyo round if Congress were again allowed to exercise its right to amend or disapprove parts of the agreement. By agreeing to fast track, Congress took itself out of the trade war. When a trade agreement is concluded, fast track operates like a gun to our head—no amendments, no reservations, take 30 days and vote up or down. Now, with a wink and a nod, USTR officials have come to the Members of this body and told them that any specific concerns they might have with the effects of a trade agreement will be worked out—just support an extension of fast track and we'll take care of you. By the way, if you do not, they will write off the sector of the economy that you are concerned about.

Mr. President, all we are asking for is time to examine a trade agreement—its merits, its deficiencies. If an agreement really were going to have a $4 trillion expansionary effect on world trade, then you wouldn't need 30 days to pass it. You could pass it in 30 minutes.

During the cold war, even our Communist adversaries respected our constitutional processes. When this body considered the nuclear test ban treaty, the ABM Treaty, SALT I, and SALT II, and the INF Treaty, there was no need to impose a 30-day limit on our consideration. To limit our consideration to 30 days would have been unconscionable. Even when we did not approve the SALT II Treaty, the Soviets still continued to negotiate with us, eventually signing the INF Agreement. In fact, according to the Library of Congress, "the overwhelming proportion of treaties receive favorable action within a reasonable period of time," and "most survive the process without proposed changes or conditions of any kind. "Approval is almost always expeditious * * * and is unusually unanimous."

In contrast to fast-track procedures for trade agreements, debate on treaties is not limited and conditions may be attached in the process of the Senate's advice and consent. Treaties can be multilateral or bilateral. In fact, 89 multilateral agreements have been approved since 1974 and some have involved economic issues. These treaties include the Berne Convention, the wheat, sugar, rubber and coffee agreements, and treaties on patents and trademarks. In the consideration of these agreements, the Senate fulfilled its consitutional obligations in full and unfettered debate.

After spending billions of dollars and risking our lives to protect our trading partners from totalitarian aggression, the least our trading partners can do is to show similar respect for our constitutional process. If we disapprove the extension of fast track, the world as we know it will not come to an end. What may end, however, is our deluded faith in the GATT's ability to protect American jobs. If the Uruguay round fails, American business will not shut down, but it if succeeds, I can tell you that certain industries will be doomed. The fact of the matter is that, since GATT covers only 5 to 10 percent of the world commerce, business will not come to a screeching halt. Instead, we will carry on and maybe we will wake up and discover who our competition really operates. Our competitors understand that it is government that creates their comparative advantage—David Ricardo wrote that land, labor, capital, and natural resources determined comparative advantage, but in today's international competition, it is Government guidance that decisively determines comparative advantage. It is not the fields and the streams, it is MITI in Japan and their equivalents in Korea, Hong Kong, and EC 92.

In addition to an extension for the Uruguay round, the President has also requested fast-track treatment for a free-trade agreement with Mexico. Again, Mr. President, we are told that an agreement cannot be negotiated without fast-track treatment assured in advance. Mr. President, do the Mexicans really have a choice? Since its revolution, Mexico has pursued a statist economic policy, keeping its borders closed and nationalizing its major industries. Thanks to oil wealth generated by the price explosion in the seventies, the Mexicans went on a borrowing binge, loading themselves up with close to $100 billion of commercial debt. When oil prices collapsed, so did the Mexican economy. I applaud the efforts of President Salinas to liberalize the political and economic system. But the political and economic differences that divide our two nations are wider than the Rio Grande.

Mr. President, politically the Mexicans have never had a free and fair election—one party has ruled that country for 50 years. Economically, any agreement with Mexico must address the vast difference in wages, environmental standards, and worker protections. The average wage in Mexico is about $1 an hour. The average Mexican work week is 48 hours. If we are worried about illegal immigration now, if an FTA is negotiated, we will witness a reverse migration as American-based multinational corporations stream across the border to take advantage of low wages and the absense of environmenatl enforcement south of the border. Let us be done with the myth that these are patriotic American companies. Their allegiance is not to the red, white, and blue, it is strictly to the green, the almighty dollar.

The idea that an FTA would provide a vast market for American exports is even more optimistic than USTR's estimates of the benefits from the Uruguay round. How is a nation with a per capita GNP of $1,770 going to buy American exports in any significantly increased volume? Mr. President, the fact of the matter is that the Mexican economy is being crushed by an onerous debt burden. They need an agreement more than we do. They need our capital, our technology, and with 40 percent of their export earnings going to finance their debt burden, they need our market. In contrast, the benefits to our own economy are marginal. If this body asserts its constitutional authority, the Mexicans will not walk out of the negotiations, because frankly, they have nowhere else to go.

I want President Salinas to succeed and I want to promote stability in Mexico, but I do not want to pay for it with American jobs.

Mr. President, let me conclude by making one final point. Time and time again in trade debates on the Senate floor, Senators issue dire predictions of a return to the Great Depression if we take steps to protect and preserve our economy. Mrs. Hills, herself, has asserted that, if we do not grant the administration fast track, then we will "return to the days of Smoot-Hawley, which caused the Great Depression." It is time once and for all to put an end to this.

To begin with, Milton Friedman, the eminent free-market economist, has written that "the Depression was in fact a tragic testimonial to the importance of monetary forces." It was the restrictive policy of the Federal Reserve, not Smoot-Hawley, that caused the Depression. Secondly, Paul Krugman of MIT has said "the claim that protectionism caused the Depression is nonsense. The claim that future protectionism will lead to a repeat performance is equally nonsensical." But none has debunked the myth better than our late colleague, Senator John

Heinz of Pennsylvania. And I would like to submit for the record his statement on this entitled "The Myth of Smoot-Hawley." As Senator Heinz pointed out, Smoot-Hawley actually was adopted in June 1930, 8 months after the crash. The truth of the matter is that Smoot-Hawley affected less than 1 percent of world trade, and by the third year, trade had actually increased. So let us dispense with false historical analogies and put some common sense and muscle back in our trade policy. But if they insist on using historical analogies, let me turn to one of the most distinguished Members to ever serve this body, Henry Clay. It was Clay who said:

> The call for free trade is as unavailing as the cry of a spoiled child in its nurse's arm for the moon or the stars or the glitter in the firmament of heaven. It never has existed. And never will * * *. The measure of the wealth of a nation is indicated by the measure of its protection of its industry; the measure of the poverty of a nation is marked by the degree in which it neglects and abandons the care of its own industry, leaving it exposed to the action of foreign powers.

Mr. President, I urge my colleagues to stop this attempt to turn the world's most deliberative body into the fast-track body. In the words of Justice Brandeis,

> The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was, not to avoid friction, but by means of the inevitable friction incident to the distribution of the Government powers among three departments to save the people from autocracy.

Mr. President, I had committed to our colleague, the Senator from Minnesota. I could listen to our colleagues on the other side of this particular question all evening long because they really make up my arguments for me. I raised the issue of time so that Senator WELLSTONE could be heard, and I was trying to keep a commitment to him.

Specifically, my colleague from Oregon and I have debated trade before and he always regales us with that amusing story of the little train—the Little Engine That Could. You just have to say to yourself, "I think I can, I think I can, I think I can, I knew I could, I knew I could, I knew I could."

He always has this psychological approach to the matter of competitiveness, as if a good attitude and good morale were the key factors. This is rather amusing and he waxes sentimental as he tells us that Mexico is one of the poorest countries and that you will find that those who have the worst trouble with their environment are the poorest countries.

I wish he could take me down that primrose path a little while and we had time to discuss it. Briefly, I will tell you categorically that the worst trouble we have environmentally is with the richest countries. Anybody who has studied global warming, chlorofluorocarbons, consumption of energy in the United States, the mountains of garbage created by New York City, the medical waste on our shores, North Carolina dumping its waste into South Carolina and everything else, if you want to know who the worst polluters are, it is the richest countries.

And then the Senator says that, oh, if people ever thought that Mexico would really take any jobs away, they would really be fighting this.

We hear wonderful things about President Salinas down there, about how he is cleaning things up, bringing tax cheats to justice, and so on.

In Mexico, they have not cleaned up fast track. They do not have any track at all. The Institutional Revolutionary Party down there controls it all. They will never have an honest debate on a free-trade agreement in their parliament.

With respect to the industries, why are they locating in Mexico when they could be here? The Senator from Oregon better learn that is exactly this threat which makes this Senator so fearful. I talk from experience. I carpetbagged the North for years on end, moving companies from the Northeast down to South Carolina, and I have been carpetbagging the world. I got Nissan and Bausche with their high technology, automated automotive electronic engineering. We broke ground for that plant year before last. They studied countries with technical training. They decided to locate in South Carolina because of our productivity and our competitiveness. And yet, living in the real world, I am looking at other companies that have been leaving for Mexico.

The Senator from Oregon evidently has not been coached by the chairman of this committee, who is totally familiar with the maquiladora industries. Forty-three General Motors plants are down there. Twenty-seven General Electric plants are down there. Over 2,000 American industries have set up shop just over the border, even with the existing tariff. And now, in anticipation of the so-called Mexico Free-Trade Agreement Nissan has just announced a new $1 billion plant for Mexico—I am talking just about the automotive industries.

Volkswagen is moving a $1.5 billion plant down to Mexico, Hyundai from Korea, a $400 million plant.

I could continue this list. If you want to get into Mexico today, you are going to get run over by a Cadillac full of Japanese businessmen. The red carpet is out, because with that free-trade agreement they will know how to avoid the safety costs, the environmental costs, and so on that we in the Congress impose on U.S.-based manufacturers. They will know how to evade the environmental costs, and they will get away with the toxic waste dumps that American blue ribbon corporations are creating in Mexico this very minute. And they will know how to avoid all the other costs of business in the United States—retirement, health benefits, safe workplace, everything else of that kind.

I take it that Mexico will grow like gangbusters because the Japanese have the money to invest there, and we do not have any money. We are broke. Entire industries will move down to Mexico. I have seen it with my own eyes.

Take Cummis-Gaer, I got them from Stuttgart. "Governor, we had a good stay down in South Carolina, in your town of Charleston. We increased our productivity but to stay ahead of that competitive curve in international trade, we will see you later. We are moving to Mexico."

Pratt & Reid from up in the Senator's State there, making pianos, we had them in Liberty, SC. "Governor, we had a fine time. We really produced. But we are sorry; we have to leave, and stay in with the competition, for Mexico."

This country is broke, and it is getting broker. I can tell you here and now we are just losing our industrial backbone. I wish we had the time to talk about Mexico. It is a wonderful country. I have been in the vanguard of trying to democratize and develop this hemisphere. I wanted to go to war for Nicaragua, not for the Mideast and the gulf. We will fight for an emir with 41 wives, who waited until they reestablished room service in Kuwait city before he returned home, and then promptly closed down the free press.

Do not preach to me about this hemisphere and the opportunities here. Poor little, struggling residents and citizens down there in Nicaragua trying to get freedom. We had to sneak, and sneak, and sneak around, and virtually indict the President in order to get aid for Nicaragua. So do not tell me about our hemisphere and the opportunity.

I voted for the trade agreement with Canada because we had relatively the same standard of living. But there will have to be a heck of a lot of reconciliation before we get a similar parity with Mexico. The foreign concerns with their wealth and technology are going to move in. It will not be just jobs that are lost to Mexico. It will be entire industries lost from the United States. They will just be gone.

But the distinguished chairman of the Finance Committee says we are talking about authority to negotiate. Now, let us talk about that because I know their strategy. And on the same day that I introduced Senate Resolution 78, I introduced S. 636 which is entitled "To Authorize the President to Resume Negotiations in the Uruguay Round and Negotiate an Agreement With the Governments of Canada and Mexico." That is in the Finance Committee.

If they want to negotiate, fine. We understand that the President in foreign policy, in trade matters, has to negotiate. But the authority constitutionally is vested not in the courts and not in the executive but in this Congress, the legislative branch, article I, section 8 of the Constitution.

And we are told, Oh, yes, we came in 1974 to fast track. Why? Because the President threatened he was going to negotiate these trade agreements, make them executive agreements, and put them into effect whether we agreed to them or not. But he could not enforce them. Under the Constitution, they were not enforceable unless we ratified them as treaties. The authority is not in question here.

This is a bum rap when they come along and tell you that those who are opposed to fast track are opposed to any and all negotiations. Absolutely not. I am the author of the particular measure now being discussed, and I put in that same day the separate authority for the President to continue the negotiations of the Uruguay round and the North American Free-Trade Agreement so that we could look at it, evaluate it, and consider it.

That is really the issue involved here. Unfortunately, we have been on a fast track to pass fast track. As you can see right here, the opponents of this measure come, take over the floor and start controlling the time and, I thought for a minute, they were going to control it all. I have never seen such conduct.

The point here, Mr. President, is that we have debated and ratified 1,500 treaties since the beginning of this Republic. Over 1,500. The fact is that we have considered 90 multilateral treaties since 1974, only one, the Tokyo round, on fast track. Can you imagine that, 90 multilateral treaties that we have considered.

We have had the Berne Convention. They say, oh, it is so terrible to negotiate without fast track. We had the Berne Treaty with 84 countries with regard to a copyright convention. We had the International Telecommunications Agreement with 144 countries. We had the Test Ban Treaty that was sent by President Kennedy and it involved 116 nations, can you imagine that, without fast track.

Here they threaten that Mexico and our other trading partners will not want to negotiate with us without fast track. Who in the world believes they do not want to negotiate with us? They want to negotiate because they know what they will get. They will get all these rules, which they are expert in taking advantage of, and they continue to increase the U.S. deficit in the balance of trade.

I think it should be emphasized that we have passed hundreds of these treaties without fast track. I will never forget debating SALT I, about throw weights and everything else, very complicated matters, affecting not just trade but our national security. This Senate considered it, and we voted and ratified it in less time than we did campaign finance reform, which we just finished with 7 days of debate. We passed SALT I. We passed the ABM Treaty. We turned down SALT II and they made the same claim you are hearing tonight on the floor that the Soviets would not negotiate any further.

The Soviets came around after we turned down SALT II within a year and they agreed to the Intermediate-range Nuclear Forces Treaty, the INF Treaty. So we have heard these arguments before.

They told us, in the case of the Tokyo round, that we are going to have a benefit of $100 billion. It was actually $106 billion over a 10-year period. And then the Michigan report finally concluded that, rather than $106 billion over the 10-year period, we had a $7.7 billion benefit, and that is in the context of a $5 trillion economy.

What a wonderful thing the Tokyo round was. The Government projected an opening up of $25 billion in these new, undeveloped markets around the world. But GAO said we actually had a net gain of only $200 million. So beware these absurdly inflated predictions.

What happens to the deficit or the balance of trade? We went from the $23 billion deficit over that 10-year period to a $100 billion annual deficit.

Now that is why we are saying, wait a minute, do not put a gun at our heads here tonight. Give us a chance to debate whatever you submit.

Obviously, it is complicated. We have been negotiating since 1985, 5 years, on the Uruguay round. We do not have a treaty to look at. They have not yet begun formal negotiations with Mexico. Yet they are saying a "gun at your head, take it or leave it," no amendments, no nothing. That is just against my visceral training as an attorney.

I always told my clients to, for heavens sake, read the document, understand it now, be sure you know exactly what it provides. If it is good for you, fine, sign it. But you ought to understand, always read, always read. But the administration proposes to come up here to the most deliberative body in the world, ha, ha, ha, say, deliberate, my Aunt Ida. Come on. They want to say, look, you only have a certain time to discuss it, a certain time to act on a treaty. They have fast track on fast track on fast track. This is control tonight, and you see how they take control through a resolution to make darned sure you are barely heard around this place.

I will never forget the anecdote told about Jefferson when he returned from his service in France. He was out at Mount Vernon with Washington. He asked Washington, "Why did you agree to the bicameral system there, the two Houses in the Congress, rather than the unicameral?"

And Washington said, "Why have you poured your coffee into your saucer." Jefferson responded, "To cool it." Washington said that is exactly why he chose the bicameral system, so we would have that second body to cool the heated debates and passions of a popularly elected group constantly subject to the people's vote. He sought a deliberative body in the Senate.

Yet in this particular fix we have here tonight, we can barely be heard. Everybody is saying we have to go. We are leaving. We are gone tomorrow if we vote tonight. Can we get out of the blooming place? No wonder the country is broke.

Mr. President, we have heard about the Tokyo round, and we heard about consultation on this one.

I have here the record because the distinguished lady, Ambassador Carla Hills, our Special Trade Representative, testified before the Senate Appropriations Subcommittee on Commerce, Justice, State, Judiciary, and Related Agencies, the subcommittee which I chair.

Quoting from it: "These are ambitious goals, indeed, but ones that would yield enormous returns. Achieving our target on tariff reduction alone would generate $5 trillion growth to global output. Over the next decade, the U.S. share would be more than $1 trillion."

Well, we had Clyde Prestowitz in the Economic Strategy Institute have a chance to evaluate that claim. Yes, we have consulted. Instead of $1 trillion gain, the Institute says it would produce a $14 billion loss from that Uruguay round.

So we have a real salesman here. She cannot negotiate a treaty but she sure can sell politicians. She says here, "Think of that, $1 trillion. The U.S. share of that would be more than $1 trillion. That would be like writing a check for every American family for $17,000 payable over 10 years."

Mr. President, is not that delightful? All the Senators are supposed to sit and smile. Man, we are going to give every family here $17,000, a check, but if they stop and look and listen they will realize that that the Tokyo round produced exactly the opposite of this latest GATT promise, because our cumulative deficits over the past 10 years have been right at that $1 trillion level.

So instead it is like taking a check from every American family in the amount of $17,000. Think of that. What we have done—we do not have to speculate about it. We will use her arithmetic and logic, and realize that with that Tokyo round and fast track we have in essence taken away $17,000 from every American family over the last decade.

Mr. President, fast track is not the way that other countries do business. The Canadians, in the case of the trade agreement that we agreed on, did not have fast track. It took almost a solid year in Parliament. It was quite a stormy situation. But they finally approved it. We can go down in Mexico, fast-track like. I said earlier, they have no track at all, no opposition to speak of. But the consultation should be emphasized here. The distinguished Trade Ambassador has really been negotiating not trade but politics with this body.

If she could be half as effective with our trading partners as she has been politically with our colleagues, we would all get rich. The trouble is she wins a little bit on oranges, a little bit on copywrite concessions, and meanwhile people who work by the sweat of their brow are going broke.

I will yield right now to our distinguished colleague, the Senator from Maryland, 5 minutes.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 5 minutes.

Mr. PACKWOOD. Mr. President, I am curious. Can the Senator yield without losing the floor? I thought when you finished your speech, you gave up the floor.

Mr. HOLLINGS. I have control of the time on this side, and the Senator has control over there.

Mr. PACKWOOD. I understand. I do not think he can just hand it over.

The PRESIDING OFFICER. I am informed that the Senator, since he controls time, may yield whatever time he so desires to any other Senator. That Senator then must be recognized.

Mr. PACKWOOD. Can he finish his speech and then yield without anybody else having a chance to get the floor?

Mr. HOLLINGS. I was not trying to hog the floor. I was trying to convenience a colleague. The Senator from Maryland can talk for 5 minutes and be done with it.

Mr. PACKWOOD. I wonder if we might ask this. I am not going to object, but can we try to go back and forth with the proponents?

The PRESIDING OFFICER. The Chair will respond to the Senator that when the Senator yields time to another Senator, the Senator then loses the right to the floor, and any Senator can then be recognized.

Mr. PACKWOOD. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I will not take more than 5 minutes, and I note that the Senator from Montana has been on the floor as long as I have, and he has actually been involved with this bill longer than I have.

Let me just say this. I want to make two points. I rise in opposition to the President's request for fast track and in support of the resolution. I do that because of American jobs. I am sensitive to the problems our neighbor, Mexico, is struggling with, and I want to help President Salinas develop Mexico into a strong, vital part of the Americas. However, I do not think fast track is the way to do it.

No one can tell me about what happens when workers lose their jobs or try to better themselves. Many years ago I worked to help people get retraining. We trained them to be garment workers, or skilled workers, such as welders, to move off of public welfare, or for their husbands to better their lives. What then happened is we lost jobs in the garment industry, in the shipyards, and all under the guise that we were going to open the markets of the world.

Every time somebody talks about a trade agreement that is going to provide a cornucopia of opportunity, we lose jobs in Baltimore.

I want to put a little human face on this and then yield my time. Linda Ebert came to see me, who is a friend of our family. Her parents and my parents knew each other and, in fact, the Ebert people used to come to my father's grocery store. Ten years ago, Linda had to go back to work because her husband lost his job. He was replaced by a robot at the General Motor plant in Baltimore. We were grateful that General Motors stayed in Baltimore and did not move. So we kept the jobs that we got, and we took the robots that we had to take.

Right now, Mr. Ebert is not collecting the kind of pay he did then. Linda works as a garment worker making about $7 an hour. On this, and what her husband now brings home, they support three children, and they are trying to give those children a good life and a future.

Linda and her husband would like to have a future for themselves. They have earned a little peace and quiet, and now they are concerned about their own future and that of their children.

Mr. President, I am here because of Linda Ebert, and her husband, and all of the other people who are saying certainly we want Mexico to have the opportunity to move into the 21st century, but we want to make sure our country does not end up with a 19th century economy. That is why I oppose fast track and look forward to working with my colleagues on other alternatives.

I yield the floor.

Mr. BAUCUS addressed the Chair.

Mr. BENTSEN. Mr. President, I yield 10 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 10 minutes.

Mr. BAUCUS. Mr. President, I rise to speak in disapproval of the motion to disapprove. That is, I do favor Congress extending fast track negotiating authority.

Mr. President, we must remind ourselves that the U.S. Government is built upon the concept of division of power. That is, the Farmer of our Constitution mistrusted centralized authority. They, therefore, divided power among the three branches of Government, allowing each branch to check and balance the others.

If the U.S. Government is to function, the branches must cooperate. If there is anything I have learned since I have been a U.S. Senator, it is that under the American form of government, if the U.S. Government is going to work, the Federal Government is going to work, the President and Congress must cooperate. If we do not cooperate, there is stalemate and nothing happens.

The delicate balance between the Congress and the President is particularly apparent in the area of international trade.

Article 1, section 8, of the Constitution grants the Congress the power "to regulate commerce with foreign nations," therefore, establishing that Congress is the primary actor with regard to foreign trade. The same section also grants the Congress the authority to impose duties on imports.

But the President, under the Constitution, also has a role to play. International trade, necessarily, must be regulated by international agreements. As a practical matter, it is not the Congress, but the President, as head of State, who must conduct the negotiations to conclude those agreements.

Congress, obviously, speaks with too many voices to conduct international negotiations, and to implement any agreement that is reached, the President must, under the Constitution, gain the approval of the Congress. In short, both the Congress and the President have a legitimate and constitutionally sanctioned role to play in making trade policy.

The effective conduct of trade policy requires cooperation between the Congress and the President. Well, what does this constitutional theory mean in practice? Today the division of power between the Congress and President on trade matters is best illustrated by what is commonly called fast-track negotiating authority.

Congress first authorized fast-track negotiating authority in the 1974 Trade Act. The fast track allows the President to negotiate trade agreements with the assurance that Congress will vote on the agreement without formally offering amendments. In return, the President agrees to consult closely

with Congress in setting objectives for trade negotiations.

Without fast track, without this compromise, it would be virtually impossible to negotiate and conclude trade agreements with other countries.

Trade agreements are quite different from arms control treaties or the many other international agreements that are negotiated without the fast track.

Though arms control treaties are complex and do have a tremendous impact on U.S. national security, they do not touch upon the hundreds of special interests effected by international trade agreements.

I might add, Mr. President, that some suggest, well, we should have fast track for multinational negotiations, that we do not need them for bilateral. I remind this body, Mr. President, that the bilateral trade agreement with Canada has 50 percent more pages than the multilateral Tokyo round. It is just evidence of how complex international trade is, even in bilateral negotiations. Hundreds, almost thousands, of different economic matters that are international commerce are now negotiated also in bilateral treaties.

It is very, very complicated. A major trade agreement affects almost every product produced in the United States from logs to semiconductors, from supercomputers to wheat.

Were it not for the discipline of the fast track, Members of Congress would obviously be sorely tempted to amend trade agreements in order to protect particular special interests. Congressional tampering would likely lead to similar foreign actions and then further congressional action. As a consequence, the cycle would soon pull apart any trade agreement that the President attempted to conclude with the head of state of another country.

We must also remind ourselves that most of our trading partners have a parliamentary form of government. Thus, when our trading partners' head of state concludes an agreement with our trade negotiators, the consent of that other country's parliament is essentially automatic. They have their fast tracks.

Obviously, this is not so in the United States. That is, we do not have a parliamentary form of government. So, to even it out, the compromise is necessary, the fast-track process is necessary.

Our trading partners are intensely aware of the difference between the U.S. system and their own. They are also aware of potential difficulties it could cause for international trade agreements. Many of our trading partners have refused even to negotiate with the United States without the fast track.

As former U.S. Trade Representative Robert Strauss has stated, the European Community would not begin the Tokyo round of multilateral trade negotiations with the United States until Congress had authorized the fast track. Robert Strauss, who, a lot of us know, is probably one of the wiser, more shrewd negotiators this country has ever had the service of.

Every top U.S. trade negotiator for the last 20 years, Republican and Democrat, has testified that the fast track is critical if the United States is to conduct international trade negotiations.

In the 1988 Trade Act, Congress struck a bargain with the administration on fast-track negotiating authority. Congress granted the President fast-track authority for 2 years to negotiate a new GATT agreement and also bilateral free-trade agreements. In return, the Congress set certain objectives for negotiations and required increased consultation to set standards. The Congress also required that the administration pursue a vigorous bilateral effort to remove specific barriers using section 301. Now the President is seeking to extend this bargain for an additional 2 years. Does the bargain still make sense? I believe it does.

Though it was not always true in the past, the administration and the Congress have been partners in recent trade negotiations. Ambassador Hills has been very willing to consult with the Congress. Some have said she actually consults too much. The consultations have been meaningful. The administration has changed the U.S. negotiating position in response to congressional concerns.

In Congress there is solid support for U.S. objectives in the Uruguay round regarding trade in agricultural products, trade in services, and protection of intellectual property. In fact, virtually at Congress' suggestion, the administration increased the priority assigned to eliminating agricultural export subsidies and lowering tariffs in the GATT negotiations.

Most recently, the administration responded to congressional concerns recently and established a plan to address worker adjustment, workers' rights, and environmental concerns in the negotiations with Mexico. In addition, in other trade matters, the administration has employed section 301 provisions in the 1988 Trade Act. They are living up to their end of the bargain.

Though I believe section 301 should be used more aggressively, the administration did use Super 301 to open markets and has begun to use Special 301 to protect U.S. intellectual property. They are more aggressive, and, in my judgment, are living up to their end of the bargain.

The administration also has negotiated bilaterally to open markets for U.S. exports of semiconductors, telecommunication products, airplanes, and other products.

Do not get me wrong. I expect the administration to do more in each of these areas. I further expect the administration to work with Congress to improve section 301 by adding the Trade Agreements Compliance Act to section 301 and by sending Super 301. But thus far the administration has held up its end of the bargain.

Now it is time for Congress to do its part, extend its part of the bargain, and extend fast track for 2 more years. In today's global economy, exports are critical to America's economic growth, and international trade agreements are the best way to open new markets for those exports.

According to the National Association of Manufacturers, in 1990, 96.5 percent of the total growth in the U.S. economy was directly linked to exports—96.5 percent of the total growth in the U.S. economy was directly linked to exports. In fact, were it not for exports, the U.S. economy would have slipped into recession one quarter earlier.

These statistics may seem faceless, but exports are not an abstract concern. Exports create real jobs for real Americans. Virtually all major segments of the U.S. economy—from the lumber mills of the Pacific Northwest to the computer chip plants of Silicon Valley to Caterpillar's manufacturing plants in Pennsylvania—all depend much more now upon exports.

With an additional 2 years to negotiate, the administration should be able to conclude two important new trade agreements: The Uruguay round of multilateral trade negotiations and the North American Free-Trade Agreement.

Mr. President, I ask for additional time.

The PRESIDING OFFICER. The Senator is requesting 5 additional minutes.

Mr. BAUCUS. If I could.

Mr. BENTSEN. I will be glad to yield an additional 5 minutes to the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, more than 100 nations are now negotiating with the United States in Uruguay round to remove trade barriers the world round. A successful Uruguay round could increase exports of United States agricultural products, services, intellectual property, and also advance us in many other areas. If all foreign trade barriers were eliminated, U.S. agricultural exports could expand by $8 to $10 billion annually. If all foreign trade barriers were eliminated worldwide, U.S. agricultural exports would expand $8 to $10 billion a year.

The International Trade Commission has estimated that foreign piracy of U.S. intellectual property costs the United States $60 billion in lost exports each year; $60 billion of lost exports because of failure of other countries to protect American intellectual property rights.

Over 10 years, a successful Uruguay round could increase exports by $200 billion and the U.S. economy could grow by $1.1 trillion. That means hundreds of thousands of new American jobs and higher living standards for most Americans.

And the benefits of extending fast track do not stop there. Free trade with Mexico could create a new major new market for American exports. In many ways, we already have a free trade agreement with Mexico. We have one today. We have a free-trade agreement with Mexico. It is one-way free trade. United States barriers against Mexican exports are already fairly low. The major remaining barriers are tariffs, and United States tariffs on Mexican goods average less than 4 percent. On the other hand, Mexican barriers remain quite substantial. Mexican tariffs are on average 2½ times higher than United States tariffs. And Mexico also retains an extensive series of other import barriers, including import licenses.

But even with those barriers, Mexico is a rapidly growing market for American exports ranging from corn and wheat to computers and automobiles and others. United States exports to Mexico have more than doubled in just the last 4 years. If Mexican tariffs and other import barriers are eliminated in a two-way free-trade agreement, United States exports obviously should continue to grow quite rapidly.

Several economic analyses of the proposed agreement indicate that the United States will gain tens of thousands of new jobs from free trade with Mexico. And, further, a successful North American Free-Trade Agreement would grant U.S. business unfettered access to a $6 trillion market of 360 million consumers—the largest in the world. This would provide a tremendous economy of scale advantage to United States businesses vis-a-vis their Japanese and European competitors. Those agreements will not be concluded unless the Congress extends the fast track. The Europe Community and Mexico both have stated that they will not negotiate, they will not sit down and negotiate with the United States if fast track authority is not extended.

It is critical that we all understand, moreover, Mr. President, what the fast track does do and what it does not do. The fast track is really nothing more than a promise that Congress will vote up or down on an agreement negotiated by the President without offering amendments. It does not commit the Congress to support the trade agreements that are negotiated. If we find that any of those agreements are not in the national interest, we can simply vote them down, and, of course, we will. And if the administration sends back an agreement that is not in the national interest, you can be sure that this Senator will vote and work to defeat it. I have no intention of supporting a North America Free-Trade Agreement or Uruguay round agreement that is not good for America. But the fast track only gives the green light to begin negotiations. It is not a blank check. In the end we in the Congress will make the final decision on all trade agreements.

The fast track is a bargain. It is a bargain that forms the basis of a partnership between the President and the Congress that allows trade negotiations to succeed. And if we in the Congress are serious about pursuing those negotiations and strengthening the American economy, we should be working to foster this partnership, not destroy it. America's economic future depends on expanding our foreign markets.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I yield 25 minutes to my distinguished colleague from Michigan.

The PRESIDING OFFICER. The Senator is recognized for 25 minutes.

Mr. RIEGLE. I thank the Senator from South Carolina and I appreciate very much his leadership on this issue. I am supporting his proposition to turn down the fast-track authority. My objection is centered on the United States-Mexico free trade part of it and I will elaborate on that a little bit later.

I want to refer at the outset to some articles in this morning's newpapers and I want to take today's New York Times. I do so because, in order to get some sense as to what the threat is to this country and our economic future by a free-trade agreement with Mexico as it is now coming down this fast track, we have to look at how our economy is performing, what the trend lines are, and where we are going to otherwise.

Today in the business section of the New York Times, there is an article in the middle of page D–1 on our recession at the present time. The headline is, "Recovery Expected To Be Weak." Underneath, it says, "Little Stimulation by Government Seen," and it goes on to describe the very difficult condition that is going on in the U.S. economy at the present time.

Then, if you go over on the inside, on page D–4 there is another story here, the headline of which is, "Steelmakers' Grim Outlook for the Year; Lower Demand, Rising Costs Expected To Take a Heavy Toll on Profits." And it goes on in that vein.

The problem here is that the U.S. economy is in very serious trouble and it has been getting into deeper and deeper trouble throughout the 1980's. There are a lot of factors that go into it. The onrush of the realities of the global economy have had a lot to do with it, but so have a lot of missed opportunities and mistaken policies in the United States. So we have an economy in trouble.

Right now, tonight, in this country we have at least 10 million workers who are either unemployed and cannot find any work at all or who are substantially underemployed, maybe working at a McDonald's fast food place or some other place because they cannot find a job equal to their real job skills and their ability to be producing in a much higher level because of the fundamental weakness of our economy which has been building up over a period of time.

I brought a chart here tonight to illustrate the nature of this problem with respect to our overall change in economic circumstance versus the rest of the world in terms of our ability to compete. This chart is a very powerful one because over on the left-hand side there is a scale that is notched in $100 billion increments. You will notice that there is a line that runs along here which is a zero line, and the area above that that is colored in blue, and has the word "creditor" on it. This is a depiction of the fact that the United States was a creditor nation in terms of its economic standing with the rest of the world as recently as 1984; the years starting in 1977 and coming up to the present time are listed at the bottom of this chart. But as one can see, in the mideighties we dropped out of that creditor nation status. We became a debtor nation for the first time since 1914 and we have been rocketing down into this international debtor's hole in the time since.

So we are now down to the point where we have a net debtor position in excess of $700 billion with the rest of the world, and you can see the rate of descent in terms of our relatively poor performance vis-a-vis the rest of the world economy. We are estimated to owe the rest of the world, because of the continuation of those trend lines, something on the order of a trillion dollars within the next 3 years or so. And it is an enormously damaging position to be in.

Of course, as that happens, jobs are disappearing in this country, good jobs are disappearing, middle-class jobs are disappearing, manufacturing-base jobs are disappearing. Jobs that pay $10 an hour, $12 an hour, $8 an hour are the kinds of jobs that we are seeing disappear in the American economy because steadily they have been moved overseas whether to Japan or Taiwan or whether now under this proposal down to Mexico.

So we are finding the jobs that take their place are jobs that pay a much lower standard of living because they have a lower valued added component to the work that is being done. Even if there are jobs closer to the minimum

wage, there are not nearly enough of those.

The other day a fast food restaurant opened up in Massachusetts, not far from Boston. They advertised 11 jobs and 1,100 job applicants showed up for those 11 jobs. That is not uncommon. That condition exists now pretty much across this country.

So even in the low-wage jobs, let alone the high-wage jobs which are the ones we need and want, and a strong Nation has to have—we do not have enough of either kind—we do not have an economic strategy or economic plan as a country to deal with these deteriorating trend lines.

During the 1980's, the political catch phrase was "Morning in America," "Morning in America." In other words everything is fine, do not worry about it. We are on the right track. Then we get up into the 1988 election, it was "Don't worry, be happy." Remember that? That was the follow-on to "Morning in America." So we have been following the "Don't worry, be happy" strategy right down into this kind of debtor Nation position.

So here we are now 11 months in this recession, unemployment in the State of Michigan, nearly 11 percent at the present time, not enough jobs to go around. We need an economic growth plan for America, a jobs strategy for America. And what are being offered here? We are being offered a job plan for Mexico.

Now this administration, I know, loves foreign policy. They love foreign policy and they spend all their time on it. We have an economic development plan for virtually every country in the world. We have one for Kuwait, we now have one for China. The administration wants to give China most-favored-nation trading status. The Chinese this year are going to have a trade surplus with the United States of an estimated $15 billion. That means the Chinese are taking out of this country, net, more than $1 billion a month.

We cannot afford that. We do not have the extra money. We need the jobs in this country. But the administration has a plan here to help China. And they have plans to help everybody else. There is a plan to help Saudi Arabia. And now here, tonight, there is a plan for Mexico.

Well, what about a plan for America? What about a jobs program for America? That is what this country needs. And there is an obligation to have one. But this plan on the floor tonight, which is a jobs plan for Mexico, will take jobs out of United States and to Mexico. And it is not right. It is not right. You know the world expects us to do everything else; now we have a plan to industrialize Mexico by deindustrializing the United States.

The other day when we were in here debating the Persian Gulf, everybody thought it was a great idea around the world, until it came to the point of being willing to send their young service people, men and women, into the war to fight or to pay for it. Then even though it was a great idea, most other countries did not want to participate.

I asked SAM NUNN on this Senate floor, what percent of the combat forces that were going to go over the line into that war zone were American, and he said over 90 percent. Over 90 percent. And those were the ratios.

So the rest of the world did not want to fight the war. Yes, the British sent some people and the French did, to their credit. But almost no one else. So we went ahead and we fought the war valiantly and very ably and with great credit to the men and women who fought the war in our behalf.

So then we asked the rest of the world to help pay for it. If you will not fight it, how about helping to pay for it? So we asked the Japanese to make a contribution and other people to make a contribution. We got the brush off from many of them and the Japanese to this day have refused to pay their full contribution. And yet here we are with an economic strategy and a jobs program for every country around the globe except this one.

This country needs an economic plan and an economic strategy, and it needs a lot more jobs. We cannot afford to send one more job to Mexico, or to China, or to any other place.

I am convinced in my own mind that if the top people in the executive branch of Government today—if all the members of their families were out of work, standing in unemployment lines as so many other people are in this country, they would be in here with a jobs plan for America. They would be in here with a plan. Because they would understand what the problem is.

But they are disconnected from the problem and they do not understand it, and they have an elitist view. That view says let us take care of the rest of the world and America will somehow take care of itself. That strategy does not work, and the rest of the world is laughing at us. They are laughing at us. The Chinese leaders are laughing at us.

Of course the Mexicans like this agreement. A newspaper report recently estimated that the Mexican Government is spending $100 million to buy every high priced lobbyist in this town to hover all over this issue and to ram it through the Congress because it is good for Mexico. I think it is good for Mexico, at least the people who are on the top of the heap in Mexico.

But if we look at how these Maquiladora plants have worked down along the U.S. border, what has happened in recent years is the real wages of workers in those plants have actually gone down. I am talking now about the Mexican workers. And they live and work in squalid conditions.

Who says so? Let me tell my colleagues who says so. Here is an article from no less a magazine than U.S. News & World Report, one of the most distinguished business magazines in this country. They talk about what is going on down in Mexico today.

The headline of this six-page story is called "Poisoning the border." It is subheaded, "Many American-owned factories in Mexico are fouling the environment and their workers aren't prospering." It goes on with six pages of horror stories of what is going on down there. Why would U.S. News & World Report write a story of this kind? Because of the squalid conditions that exist down there.

People can come in here and dress it up any way they want. I know the President likes to look at this thing, and I happen to like this President, so I do not want to be misunderstood on that. But he happens to be wrong on this issue. I can see from his vantage point, from a Texas point of view, this looks like a great deal, to get a tier of business down there just over the Mexican border and so forth, maybe help with the immigration problems and so forth. But this thing has to stand the test of whether it is good for 50 States, not just one. Not just the President's home State. It has to be good for the whole country.

Let me tell my colleagues why it is not good for the whole country. A manufacturing worker today in Mexico earns 57 cents an hour. A comparable worker in this country earns about $10.50 an hour. And that is not a very good wage. You pay your taxes, your Social Security taxes and everything else and try to support a family on $10.50 an hour wages in the United States and you do not have a very high living standard. But, thank God, we still have some of those jobs because that is what has built the middle class, that is, what is left of the middle class.

But if we go into a free-trade agreement where we are forcing our workers at $10.50 to compete against workers who are being paid 57 cents an hour, it is like tipping the table. The jobs in that category are going to roll right down this country and roll right into Mexico. It is as plain as the nose on your face. It is what is going to happen. It has already happened.

I have had plant after plant after plant in Michigan go down there to take advantage of the low labor rates.

You can say that the productivity of the Mexican workers is not as high. It is not as high, but it is still quite high. Because when you move a modern factory down there, you put modern technology in. If workers are fighting each other to get the jobs at 57 cents an hour, their productivity is about 85 percent or so of what an American worker can do in a transplanted American factory down there, but the wage differential is so vast that the Ameri-

cans cannot compete with that, and that is why the jobs are going to leave this country.

I hear all of this talk about we will sell the Mexicans all these products built in America. Who is going to buy them? The Mexicans do not have that kind of income. A family in Mexico is estimated to earn about $2,000 a year. How many cars built in America are they going to buy on a $2,000 a year income, or how many refrigerators, or how many anything else built in the United States?

It is nonsense. That is sophistry. It is a phony argument. They do not have the money, and they will not have it for the foreseeable future to make any significant dent in terms of being able to buy enough from this country to create jobs in the United States worth talking about.

Let me give the number on cars. The last year for which the data is available—and conveniently most of the data is out of date, and I think it is not accidental that is the case. The last year for which we have auto sales, 1986—it is not very long ago—the Mexicans exported to the United States 141,000 cars. They took back 6,000 from us. That is a heck of a deal.

You are not going to buy cars on a $2,000 a year income, and that is just one problem, the problem of labor rates.

You have terrible environmental problems down there. That is what this U.S. News & World Report article is about. But let me give another one. How about one from the Wall Street Journal? There is a paper that is not exactly known for its liberalism. It carried a front page story just the other day on working children, "underage laborers fill Mexican factories, stir U.S. trade debate."

It tells a story about a 12-year-old boy who has been working in a factory under terrible conditions. His father, who previously had worked in the factory, had gone to work at age 7. That is what is going on down there. They do not have a labor movement in Mexico worth talking about. The government down there controls the labor movement. There is no effective independent labor movement. That is why these working conditions are so squalid. Now we are saying to American workers, we would like you to compete with that.

We hear the comparison to Canada. That is a phony as well. I voted for the Canadian-United States Trade Agreement because these two economies, Canada and the United States, are roughly on an equal footing. The Mexican economy is a Third World economy. It is fundamentally different.

The case is made with the European Community. Yes, there is a relevant example in the European Community, and it is Turkey. Turkey has asked to come into the European Community on an equal footing, and do you know what the European Community has said? No dice, you cannot come in because your economy is too far below the rest and it would create impossible issues to have to try to reconcile. This is precisely what we have in the case of Mexico.

So this is a lot more about international politics than it is about economics. Because it is lousy economics for the United States. We need an economic plan for this country—for this country. We need jobs in America, in every State and in every community, and we do not have enough today.

What I see coming down the track is more and more workers in this country competing for fewer and fewer jobs. Now I see some politics coming into that as well. The question: If there are not enough jobs to go around, who gets the jobs? Now there is this issue that is being raised about, does the black worker take the job from the white worker? Does the white worker take the job from the black worker? The point is there are not enough jobs for all of our workers. If we had a program like we need in the United States, we would be creating enough jobs for all of our workers so our unemployed black workers and our unemployed white workers would all be able to work.

I have to say I find it reprehensible that an administration that does not have any kind of a jobs program or an economic strategy for America, with mass unemployment, will then allow exploitation to go on in terms of the struggle over who gets left out or who gets the jobs. There ought to be a commitment for a job for every person in this country. And everybody that is able to work ought to work. They ought to support themselves and they ought to make a contribution to the well-being of this Nation.

That is not happening. That is why we are going into this international debtor's hole and we are going to go a lot faster with a United States-Mexican Free-Trade Agreement when we let our Nation compete with the economy of a Third World nation situation.

So, I have a plan to change that. After we end up voting on the Hollings proposition, which I am going to be voting for—if that does not carry, I have a resolution, Senate Resolution 109, that will allow the Senate to amend any free trade agreement that comes back with Mexico, in five specific areas and only five areas. And they are all areas that we ought to be able to amend if the agreement is deficient, as it almost certainly is bound to be.

The first one is the monitoring and enforcement of fair labor standards. Everybody in this place ought to be for that. We ought to be for it here, and we ought to be for it down there as well.

The second is the monitoring and enforcement of fair environmental standards.

The third is the rule of origin so that if we are going to get into any kind of a trade arrangement phased in over a period of time, we do not have third countries, Japan or anybody else, taking advantage of it, which they almost certainly will because they find ways to cheat in the trade relationship every possible way they can. That is why we cannot sell much of anything in Japan.

So we have to nail that problem down. We need to be sure there is a means for dispute resolution because you cannot count on the legal system and the court system in Mexico. Anybody who looks at it knows that. They do not have process and legal procedures such as we do here, and we have to have an ironclad assurance in that area.

Finally, adjustment assistance. What about the workers in this country who lose their jobs? And there will be many who do if there is a free-trade agreement. And good jobs lost. We may get jobs at the minimum wage level, but we are going to lose those high manufacturing-based jobs. Are we going to have trade adjustment assistance for those workers?

This administration does not have a dime in the budget at the present time for trade adjustment assistance, for people who have already experienced this problem from other countries.

So to come in here with an 80-page so-called action plan and say we now recognize that problem, that is a hollow promise. If they recognize that problem and if it meant anything to them, there would be money in the budget right now for workers who are already being displaced by foreign trade. There is not a penny for it in the budget today. So that is another phony.

We cannot tip this whole country off its axis because the President likes this, and he may see it as being good for his home State. This has to meet the test of being good for all of America, and there happen to be 50 States in America and not just one. And I represent one of those 50 States, and my State is in economic trouble because jobs are moving out and they are going to places like Mexico already at too fast a rate. This threatens to speed it up.

It is time I think somebody in our Government—I would like to think the President and the people in the Cabinet—would stand up for American workers. Why not a plan for American workers? Why is there a plan here for Mexican workers? I want to help the Mexicans. I am interested in helping other people around the world. But if we are going to help anybody for very long in a meaningful way, we better help ourselves first. We better get this country back to work. We better restore the industrial base of this country, and that means more savings, more investment, a speed-up in tech-

nology, improving productivity, doing a better job in education.

All of that takes money. All of it takes money to make this economic system hum and to make it work, to dig out of that debtor's hole.

I want to read one other thing out of the New York Times today because what is in the economic area comes out through the whole society. This is page A-25, headline: "Trauma Centers Are Closing Down." Subheadline: "At least 60 fiscally troubled hospital sites are shut, Congress study finds."

I asked for that study from the GAO. What it points out is that because out economy is malfunctioning so badly, we do not have the money to support a health care system properly, and emergency rooms in trauma centers and hospitals across this country are having to shut down.

What that mean is if you or a family member happen to be in one of those locations and are in a car accident, or injured in a serious way, and taken to that hospital, there is no way you can get the care you need if the trauma unit is closed because they do not have the money.

We need a health care system, and we need a stronger economic performance to be able to remedy that problem. We cannot just shut down all the emergency rooms in the hospitals across the United States. But that is what the GAO tells us is happening. And, in fact, it is happening, because we are not paying attention to our own economy.

In here, now, we have a plan to take care of the Mexican economy, as I say, a plan to help the Chinese economy and the Kuwait economy and the Turkish economy and the Saudi Arabian economy; every other economy except our own. I would like to have a President and administration that would like to develop an economic plan for the United States, because we need one. If we have one, the world is going to be better off for it because then we can help do some other things over a period of time.

But to come in here and tack this onto the Uruguay round is an entirely different story. There are dozens and dozens of nations tied together in that. The Mexican thing is profoundly different in that it is a bilateral negotiation and, in this case, fundamentally different in the sense you are trying to integrate with a Third World economy with labor rates that bear no relevance or relationship to what we have in the United States.

I will just conclude right now by saying this. There is an elitist view built into this because if we go down this track, yes, there will be some people in the United States who do prosper, there will be some people up at the high ends of the income scales and people who have very vast financial and business holdings that will make a lot more money. That is obvious. That is why all these high-priced lobbyists have been hired in this town to ram this thing through here.

So, yes, some people are going to make a killing on this. But across this country, rank and file workers, men and women who need work, who want to be able to provide for themselves and earn enough to buy a home and be able to save enough money to send their kids to college and put some money aside for retirement, their jobs are going to disappear as they now are disappearing, but at a faster rate.

The PRESIDING OFFICER. The Chair informs the Senator the 25 minutes allocated to him have expired.

Mr. RIEGLE. If I can take 1 more minute.

Mr. HOLLINGS. I yield another minute to the distinguished Senator.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the articles I mentioned, the one in U.S. News & World Report, the front-page story in the Wall Street Journal, the three stories from today's New York Times, all be printed in the RECORD.

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

[From the New York Times, May 23, 1991]

RECOVERY EXPECTED TO BE WEAK

(By Louis Uchitelle)

WASHINGTON.—Ask a White House official, a member of Congress or a Federal Reserve policymaker what might happen when the recession ends, and they give this answer: Growth will be slow and sluggish. The bursts of activity that came immediately after other post-World War II recessions will not materialize this time.

That view showed up repeatedly in nearly a dozen recent interviews with Government officials. They accept the view of many economists that the American economy will probably expand by less than 3 percent in the first year of recovery, or roughly one-third the average growth rate after the eight previous postwar recessions.

The Government's reluctance to provide special stimulus has two aspects. One is a belief that the economy lacks the capacity to grow robustly without reigniting inflation. The other reflects a decision, shared by Democrats and Republicans, not to violate the October budget agreement, which chips away at the deficit over five years. The agreement rules out—for the first time since World War II—the combination of tax cuts and new spending that made the economy boom in the past.

"I am not attending meetings where we talk about how to get out of the recession and insure a strong recovery," said Representative Lee H. Hamilton, Democrat of Indiana.

Did such meetings to discuss emergency spending programs like highway construction or job training take place in the 1981-82 recession? "Sure they did," Mr. Hamilton said, "We talked about many programs, but we have lost confidence in what Congress can do to pump up the economy in the short term."

Beyond politics, the various engines of growth—exports, home construction, auto sales and household incomes—are not likely to be strong enough to power a brisk recovery, economists say. What's more, Corporate America is no longer willing to engage in the rapid stockpiling of goods in anticipation of rising sales, a practice that inflated growth in the aftermath of past recessions.

"The real story of this recession, and probably the early recovery period, is that there is no area of strength, not in export, or rising personal income or Government spending or manufacturing," said Henry J. Aaron, director of economic studies at the Brookings Institution.

The recession is not over yet. The gross national product is still shrinking, which means that the quantity of goods and services produced in each quarter since last October has declined. The Administration says the decline will end by July, and that is also the consensus view of 50 private forecasters surveyed each month by Blue Chip Economic Indicators.

Assuming that a turning point is near, the Blue Chip consensus forecast in May predicted G.N.P. growth of 2.2 percent in the recovery's first year. After the eight other postwar recessions, the average first-year growth rate was 6.5 percent.

"We could drift along for some months," said Robert D. Reischauer, director of the Congressional Budget Office.

An anemic first-year recovery would make companies reluctant to rehire laid-off workers. Raises for those who do have jobs might be small and scarce, reflecting recent trends. And consumers will probably remain cautious shoppers until a stronger economy makes them feel more secure in their jobs.

[From the New York Times, May 23, 1991]

STEELMAKERS' GRIM OUTLOOK FOR THE YEAR

(By Jonathan P. Hicks)

WASHINGTON, May 22.—Executives of the nation's largest steel companies attending the annual meeting of the American Iron and Steel Institute conference here said today that the industry would lose tens of millions of dollars this year, making 1991 the worst year of industry losses since 1986, when they totaled $4 billion.

The officials said they could do little to reverse the situation, since they had cut costs and trimmed operations almost as much as possible.

"After four years of positive operating results, steelmakers began posting losses in the third quarter of 1990 and these losses continued through the first quarter of 1991," said David H. Hoag, the president and chief executive of the LTV Corporation, the nation's third-largest steelmaker. "And it appears that most are expecting losses in the second quarter as well."

Mr. Hoag and other executives added that an industrywide loss would likely occur for all of 1991. Other chief executives said they did not expect any improvement until the end of the year at the earliest and predicted that no large steel company would report a profit for the year.

The steel industry leaders, in speeches and interviews here today, urged the Federal Government to assist their industry and called on the Bush Administration to develop a sweeping program to rebuild the nation's highways and bridges.

They also proposed that the Administration develop environmental trade policies with steel-producing nations that call for pollution controls equivalent to those being undertaken by American steel producers.

Industry analysts say these proposals are unlikely to be enacted.

There also were frequent, bitter complaints about the spiraling costs of health care. "Health-care costs are rising faster

than any other major cost we face," said Brian W.H. Marsden, the president and chief executive of the Acme Steel Company, the smallest of the leading integrated steelmakers. "They jumped 18.6 percent in 1988, 20.4 percent in 1989 and 21.6 percent in 1990."

Mr. Hoag painted a bleak picture for the industry for the remainder of the year, particularly concerning steel demand. He predicted that domestic steel shipments would fall to 73 million tons to 76 million tons this year, down sharply from the 85 million tons in 1990.

"Auto sales in the first quarter of 1991 were the lowest since 1982 and the outlook for the first half of this year also is the lowest since 1982," he said. "The continuing slump in new home construction, combined with a drop in contracts awarded for major building projects indicates that the construction market has yet to hit bottom."

Car makers buy a quarter of the steel produced in the country, while the construction industry accounts for about 35 percent of demand.

Mr. Hoag added that the Association of Home Appliance Manufacturers, an industry group, indicated that shipments of appliances fell by 25 percent in the first quarter of the year. Appliances like refrigerators and washing machines account for about 7 percent of steel demand.

[From U.S. News & World Report, May 6, 1991]

POISONING THE BORDER

(By Michael Salchell)

With its manicured lawns and high-tech ambience, the FINSA industrial park in Matamoros, across the Mexican border from Brownsville, Texas, gleams with ultramodern, American-owned manufacturing and assembly plants that turn out a variety of consumer and industrial products. Eager to cut costs, U.S. companies from Fortune 500 giants to small entrepreneurs began relocating to northern Mexico 25 years ago under a program called maquiladora—from an ancient custom of trading raw for finished goods. They have transformed once somnolent border towns like Matamoros into sprawling urban centers that annually attract thousands of job-hungry workers.

Close to 2,000 plants employing about half a million people are now strung along the 2,000 miles of border from Matamoros in the East to Tijuana in the West. Here, the industrial dynamism of the First World and the poverty of the Third dovetail in what is widely viewed as a mutually beneficial arrangement. U.S. companies enjoy cheap labor and generous tax breaks from both nations; Mexican workers get steady jobs and the chance to improve their lives. The program last year pumped $3.5 billion in foreign exchange into the Mexican economy—second only to the $9 billion from oil exports. Says Alfred Rich, president of the Western Maquila Trade Association: "This is a program in which everyone benefits."

But that portrait is incomplete. The border region is paying a growing environmental price for allowing the Mexican-based firms to operate beyond the restraints of the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration. Some companies admit they have moved south to avoid expensive U.S. environmental requirements. The result: They are creating more pollution there than they would in the United States. And while Mexico enacted tough new cleanup laws in 1988, scant resources have been made available to enforce them.

As the Bush administration presses forward with plans for a free-trade pact with Mexico, critics in Congress and organized labor cite present environmental and social conditions as a reason to block the treaty. They point to a report last June by the American Medical Association, which described the region as "a virtual cesspool and breeding ground for infectious disease." The AMA concluded: "Uncontrolled air and water pollution is rapidly deteriorating and seriously affecting the health and future economic vitality on both sides of the border." Treaty opponents argue that conditions will worsen if the border is fully opened. And these growing concerns about pollution have prompted several federal agencies to consider whether U.S. Trade Representative Carla Hills should order an environmental impact statement, which could delay the pact for years.

Advocates of a free-trade agreement argue that economic development, while inevitably creating some pollution, frequently spurs prospering nations to significantly improve their environmental enforcement and to enact more stringent workplace rules. In addition, President Carlos Salinas de Gortari is more determined than any predecessor to clean up pollution, suggesting a brighter future for workers and the environment. But a U.S. News survey of current conditions reveals:

Indiscriminate dumping or long-term storage of industrial garbage and hazardous wastes is trashing the landscape and poisoning the water and soil.

A slumgullion of chemical-laced industrial waste water and raw sewage pumped into canals and rivers is causing widespread gastrointestinal illness, hepatitis and other long-term health problems—including a suspected increase in mortality from certain cancers.

Massive discharges of toxic fumes have occurred in chemical plants and other factories. In the Matamoros-Reynosa region alone, seven major accidents since 1986 have sent more than 350 people to hospitals and forced thousands to flee their homes.

Maquiladora employees—most of them women, who sometimes start work as young as 13 years old—are exposed to toxic substances and other workplace health hazards without being given safety instructions or basic protection like masks and gloves. There is also evidence of severe birth defects suffered by infants born to workers.

The maquiladoras—or maquilas, as they are commonly known—have sustained explosive growth of 15 to 20 percent over the past five years. As a result, tens of thousands of workers are now packed into shantytown colonias, living in hovels built from cinder blocks, tin sheets, scrap lumber, plastic and cardboard without electricity, sewers or potable water.

Some of these conditions might be endurable if the prospect of upward economic mobility weren't so distant for most of the workers. Wages start at 82,000 pesos—$27—for a 49-hour week. The average weekly salary is about $47 in a border economy where food and other necessities often are as expensive as in the United States. The case of Yolanda Carrillo, who lives and works in the FINSA park, is typical. The 16-year-old began working at the MagneTek lighting plant at the age of 14 and earns the peso equivalent of about $46 a week wiring electrical coils. Home is a wooden shack with a dirt floor, cardboard covering the window holes and wind whistling through cracks in the walls. A colonia canal flows nearby, its milky water badly polluted by industrial wastes. "Even the goats won't drink it," says the young woman.

Little money. She shares the tumbledown structure with her blind, bedridden father, an older sister who also works in a maquila, four other female relatives and three sickly infants. There is no electricity, and water must be carried in plastic buckets from a standpipe three blocks away. Meals are cooked on an open fire or on a small propane burner. Despite two maquila salaries, Yolanda and her family live at little better than subsistence level. "The money," she shrugs, "isn't enough to make a change."

Questions about worker exploitation in a nation where unemployment is endemic draw ready rejoinders from maquila officials. "We're in a foreign country and it's a big mistake to impose U.S. values," says John Riley, vice president of Vertek, a Tijuana-based electronics company. Adds trade association chief Alfred Rich: "Are these people better off with me or without me? The small wage gives them the ability to enjoy a decent lifestyle. They may not be living in the lap of luxury, but they aren't starving."

Some, though, are getting sick. Interviews with dozens of employees in border communities turned up complaints of headaches, vision and respiratory problems and skin diseases caused by soldering fumes, solvents and other chemicals—particularly in the electronics-assembly industry. Some plants supply protective gloves, but few women wear them because they hamper dexterity and prevent the workers from maintaining the fast-paced production schedules. "They take advantage of us because women are more docile," says Reynosa worker Apolonia Resendiz, 39. "The men complain, so they don't get hired."

Catalina Denman, a professor at El Colegio de Sonora in Hermosillo, has studied health conditions among maquila women in Nogales since 1985. Among other problems, she finds that workers in the American-owned plants are three times as likely to give birth to infants of low weight as are other local women; half of these underweight babies are born prematurely. "We suspect toxics," Denman says. "We need to study just what the long-term effects are from being exposed to all these chemicals and fumes."

The Mallory children. Dr. Isabel de la O Alonso knows all too well. Over the past eight years, she has pieced together evidence strongly suggesting an environmental tragedy that has gone largely unnoticed. In 1982, while operating the Matamoros school for special education, she began seeing retarded children with unusual physical characteristics that fell outside well-documented conditions such as Down's syndrome. The children, with degrees of retardation ranging from mild to profound, had broad noses, bushy eyebrows, thin lips, webbed and deformed hands and feet and other distinctive birth defects. A clinical history of their families revealed a single common thread: Each of their mothers worked during her pregnancy at a now defunct electrical components maquila then called Mallory Capacitors.

Dr. de la O has located living Mallory children, has documented another half dozen who died shortly after birth and suspects there are several others. The mothers all told her their jobs involved washing capacitors—small devices that hold electrical charges—in a chemical mixture they knew only as electrolito. As they worked with the liquid it would cover their hands and arms and splash onto their faces.

Now in charge of special education for the state of Tamaulipas, Dr. de la O suspects that the women were exposed to polychlorinated biphenyls, or PCBs, widely used in the electrical components industry before they were banned by the United States in 1979. Today, the Mallory children have passed the age of puberty, and the insidious genetic defects continue. Most of the girls have not begun menstruation, and many of the boys have undescended testicles.

In the absence of tort laws or strictly enforced EPA- and OSHA-style regulations, U.S. companies in Mexico are under little more than a moral obligation to protect either their workers or the environment. Some corporations—Union Carbide for example—are lauded by activists for treating workers and the environment well. Others can't claim the same honors. And maquila owners say attempts to operate their plants up to EPA standards are sometimes stymied by the slovenly practices of workers. "There's a lot of ignorance on the shop floor and old habits die hard," says David Flowers, head of Pulse Engineering in Tijuana.

SEDUE is the acronym for the Mexican federal agency charged with enforcing the nation's environmental laws. Reńe Altamirano, its director of pollution prevention, vows: "The border will never become a pollution haven for the United States." But despite the best of intentions, Altamirano concedes, his agency is under severe handicaps. SEDUE has multiple responsibilities nationwide, including housing and parks, but its entire annual budget is just $10 million. While the United States will spend $24.40 per capita this year on environmental protection, Mexico can afford to spend only 48 cents—a major increase from the 8 cents it spent in 1989. Altamirano's financially strapped agency, for example, has only two inspectors in each of the six border states to investigate and ferret out environmental scofflaws.

This inadequate supervision invites problems. Under a binational agreement, maquilas are required to ship their hazardous wastes back to the United States for disposal and to notify the EPA. But transportation and EPA-approved disposal of a single 55-gallon drum of hazardous waste can cost anything from $150 to $1,000. As a result, most maquila wastes are stockpiled, buried, dumped, flushed, burned or "donated" to charities for "recycling"—an environmental charade, permissible under a loophole in Mexican law. In 1989, reports the EPA's Kathleen Shimmin, the agency received just 12 notifications of hazardous-waste shipments being returned to the United States across the California and Arizona borders. Last year, the total rose to 85. "That's a small drop in the bucket," Shimmin says. "Besides jawboning, we have no legal means to force these companies to comply."

Those who monitor the maquila industry believe that big corporations, with their modern plants and their keen eye on public image, are more likely than small factories to voluntarily follow EPA and SEDUE standards. Yet controversy has even tainted some of America's giants. General Motors, for example, operates 34 border plants employing 41,500 people. Spokesman John Mueller says the auto maker has factories in 35 nations and "complies with local environmental standards and cultural norms." At the FINSA industrial park in Matamoros, some 1,200 workers at GM's $80 million RIMPIR plant manufacture 6,000 automobile bumpers daily. RIMIR officials say their hazardous wastes are recycled locally or repatriated to the United States, and the plant appears to be a model of industrial efficiency and environmental rectitude. "We play by the EPA and SEDUE rules, we have to keep our nose clean and we are the environmental leader of the other maquilas," says Chuck Almquist, RIMIR's managing director.

BATTLE OVER NUMBERS

Now, however, there is a dispute over the company's practices. Environmentalists claim their tests of discharges from the RIMIR plant showed much higher readings than GM's own tests. Last year, the Boston-based National Toxics Campaign Fund collected some 100 separate samples from discharge pipes at 22 U.S. plants in Mexico. Chemist Marco Kaltofen says NTCF's federally approved laboratory found that the RIMIR sample contained xylenes—common solvents that can cause lung, liver, kidney and brain damage—in a concentration of 2,800 parts per million (ppm). Kaltofen also says he measured discharges of ethyl benzene at 430 ppm, acetone at 56 ppm, methylene chloride at 41 ppm and toluene at 5.7 ppm. The EPA's cumulative permissible limit for all toxic organic chemicals discharged from industrial plants like RIMIR is 2.13 ppm, and some state standards are even lower. SEDUE's standards closely parallel the EPA's.

RIMIR officials say they are mystified by the high readings and are anxious to correct any deficiencies. Their routine tests conducted by an independent laboratory at roughly the same time as Kaltofen's last year showed xylene discharges of 0.56 ppm. Their tests for the other chemicals all showed readings of less than 1 ppm.

Pollution problems are evident elsewhere along the border. NTCF's tests at other plants found concentrations of hazardous materials in some samples that were too high to measure accurately. Water samples at 16 of the 22 sites, says the NTCF, violated Mexican and U.S. water-quality standards; some in Matamoros contained pH levels so severe they would cause acidic or caustic burns to skin.

Beyond the discharges, other practices by some U.S. firms also degrade the environment. Adjacent to the Reynosas industrial park that is home to several major corporations is a massive open dump that contains acre after acre of industrial detritus—plastic, metal, rubber, resins, paint sludge. Foul-smelling slime leaks from drums marked "Zenith Plant No. 12." Zenith Electronics Corp. spokesman John Taylor acknowledges that the company, which employs as many as 10,000 workers at its Reynosa facility, dumps its bathroom, kitchen, office and nonhazardous industrial trash here but says toxic wastes are returned to the United States. "This [site] is a SEDUE-licensed disposal facility and anything we do is in accordance with the law," Taylor says. "We are a good corporate citizen in Mexico." Both SEDUE and Reynosa municipal officials however, say they have not authorized the area to be used as a dump.

The public-health threat from the kinds of solid wastes found at the Reynosa dump is generally confined to the local area. But polluted industrial effluent and untreated sewage from the exploding populations of the cities and colonias are migrating into the United States and creating serious waterborne health problems north of the border. In Tijuana, toxic effluent from the industrial park at Otay Mesa mixes with 12 million gallons of raw sewage discharged daily into the Tijuana River. The river then flows north before emptying into the Pacific Ocean at Imperial Beach, Calif., south of San Diego. Some 2.4 miles of shoreline are quarantined, and local officials estimate the closed beach and the area's befouled reputation cost more than $100 million a year in lost tourism and recreation opportunities.

California officials describe the New River, some 120 miles east of San Diego, as the filthiest waterway in the state—if not the entire United States. It flows north out of Mexicali, a booming maquila city, and into the Salton Sea, a large lake southeast of Palm Springs. Tests show the New River contains some 100 different industrial chemicals and 15 viruses capable of causing outbreaks of polio, dysentery, cholera, typhoid, meningitis and hepatitis.

Continuing east, the pattern is repeated. Up to 30 million gallons of untreated sewage flow out of Nogales each day and into Arizona's Santa Cruz River. An underground plume of carcinogenic solvents—including trichloroethylene—along with chromium, lead, manganese, cadmium, arsenic and mercury has badly polluted an aquifer that provides drinking water for thousands of colonia residents. The plume has migrated 10 miles beneath the border, forcing the closing of at least 12 wells on the U.S. side. In Texas, more than 100 million gallons of raw sewage laced with solvents, heavy metals and pesticides empty each day into the Rio Grande from Ciudad Juarez, Nuevo Laredo, Reynosa and other cities. Tissues of fish caught in the river show high levels of copper, selenium and mercury, and untreated human wastes turn the Rio Grande—literally—into the nation's biggest open sewer.

"This is a public-health disaster waiting to happen," says Dr. Reynaldo Godines, president of the Tri-County Medical Society in Laredo, Texas. The incidence of hepatitis between Brownsville and El Paso, he points out, is already six times the national average. In the El Paso colonia of San Elizario, 35 percent of children 8 years old and under are infected with hepatitis A, and 85 to 90 percent of adults contract the disease by the age of 35. At the University of Texas Health Science Center at Houston, epidemiological studies by Dr. Irina Cech reveal significantly elevated liver and gall bladder cancer mortality rates in the 33 counties along the Rio Grande that get their drinking water from the river. Dr. Cech suspects a combination of factors is responsible, including poor living conditions, high levels of fecal pollution in the water and toxic chemicals from the maquilas.

Heading south. One fear of free-trade opponents—industries fleeing south to avoid U.S. environmental laws and the skyrocketing costs of waste disposal—has already been validated. Between 40 and 50 furniture manufacturers, unable to meet Southern California's air quality standards, have relocated in Mexico. Joseph Haring, director of the Pasadena Research Institute, monitors the trend and says furniture-industry employment in Southern California has shrunk from 85,000 workers in 1987, to 55,000 today. Over the next five years, he predicts, half of the region's 125,000 metal-finishing jobs will be lost to Mexico. "These industries can operate down there with fewer precautions and, in fact, create pollution," Haring says. "Almost to a man, that's what happens." Analysts say other industries that generate large amounts of toxic garbage—metal plating, chemicals, plastics, fiberglass and electronics—are also migrating south.

What are the prospects for change? Observers like Roberto Sánchez of El Colegio de la Frontera Norte believe the Mexican govern-

ment, eager to foster industrialization, will never lean hard on the plants unless forced to by massive environmental tragedy. There is some possibility, though, that the Bush administration will promise a more serious and comprehensive crackdown on polluters. Trade Representative Hills will unveil a proposal this week, designed to win the backing of Democrats for her trade talks with Mexico, that is expected to seek stronger bilateral enforcement of pollution standards and suggest that U.S. assistance might be available for environmental programs in Mexico.

The Bush administration is also being pressured by critics like the Coalition for Justice in the Maquiladoras—an umbrella lobbying group—to find ways to improve wages and conditions for the Mexican workers. And American companies are coming under increasing fire from liberal lobbying groups. For industry and the Bush administration, the challenge from opponents is clear: Find ways to clean up the maquiladora mess, or the prospects for a free-trade agreement will get worse.

[From the Wall Street Journal, Apr. 8, 1991]

WORKING CHILDREN: UNDERAGE LABORERS FILL MEXICAN FACTORIES, STIR U.S. TRADE DEBATE

(By Matt Moffett)

LEON, MEXICO.—When Vicente Guerrero reported for work at the shoe factory, he had to leave his yo-yo with the guard at the door. Then Vicente, who had just turned 12 years old, was led to his post on the assembly line: a tall vertical lever attached to a press that bonds the soles of sneakers to the uppers.

The lever was set so high that Vicente had to shinny up the press and throw all his 90 pounds backward to yank the stiff steel bar downward. It reminded him of some playground contraption.

For Vicente this would have to pass for recreation from now on. A recent graduate of the sixth grade, he joined a dozen other children working full time in the factory. Once the best orator in his school and a good student, he now learned the wisdom of silence: even opening his mouth in this poorly ventilated plant meant breathing poisonous fumes.

Vicente's journey from the front-row desk of his schoolroom to the factory assembly line was charted by adults: impoverished parents, a heedless employer, hapless regulators, and impotent educators. "I figure work must be good for me, because many older people have helped put me here," says Vicente, shaking his hair out of his big, dark eyes. "And in the factory I get to meet lots of other boys."

Half of Mexico's 85 million people are below the age of 18, and this generation has been robbed of its childhood by a decade of debt crisis. It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. "Economic necessity is stronger than a theoretical prohibition," says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman.

Child labor is one of several concerns about standards in the Mexican workplace clouding the prospects for a proposed U.S.-Mexico free trade agreement. It is being seized upon, for example, by U.S. labor unions, which oppose free trade and fear competition from Mexican workers.

Recently, Democratic Sen. Lloyd Bentsen of Texas, the chairman of the Senate Finance Committee, and House Ways and Means Committee Chairman Dan Rostenkowski of Illinois warned President Bush in a letter of the major hang-up: "the disparity between the two countries in . . . enforcement of environmental standards, health and safety standards and worker rights." Mr. Bush yesterday reiterated his support for the trade pact.

Free-trade advocates argue that investments flowing into Mexico would ameliorate the economic misery that currently pushes Mexican children into the work force. Partisans of free trade also point to the aggressiveness Mexican President Carlos Salinas de Gortari has lately shown in fighting lawbreaking industries: Mexico added 50 inspectors to regulate foreign plants operating along the U.S.-Mexico border and shut down a heavily polluting refinery in Mexico City.

LITTLE FOXES

Young Vicente Guerrero's life exemplifies both the poverty that forces children to seek work and the porous regulatory system that makes it all too easy for them to find jobs. In the shantytown where Vicente lives and throughout the central Mexico state of Guanajuato, it is customary for small and medium-sized factories to employ boy shoemakers known as zorritas, or little foxes.

"My father says I was lucky to have so many years to be lazy before I went to work," says Vicente. His father, Patricio Guerrero, entered the shoe factories of Guanajuato at the age of seven. Three decades of hard work later, Mr. Guerrero lives in a tumbledown brick shell about the size and shape of a baseball dugout. It is home to 25 people, maybe 26. Mr. Guerrero himself isn't sure how many relatives and family friends are currently lodged with him, his wife and six children. Vicente, to get some privacy in the bedroom he shares with eight other children, occasionally rigs a crude tent from the laundry on the clotheslines crisscrossing the hut.

School was the one place Vicente had no problem setting himself apart from other kids. Classmates, awed by his math skills, called him "the wizard." Nearly as adept in other subjects. Vicente finished first among 105 sixth-graders in a general-knowledge exam.

Vicente's academic career reached its zenith during a speaking contest he won last June on the last day of school. The principal was so moved by the patriotic poem he recited that she called him into her office to repeat it just for her. That night, Vicente told his family the whole story. He spoke of how nervous he had been on the speaker's platform and how proud he was to sit on the principal's big stuffed chair.

After he finished, there was a strained silence. "Well," his father finally said. "It seems that you've learned everything you can in school." Mr. Guerrero then laid his plans for Vicente's next lesson in life. In a few weeks, there would be an opening for Vicente at Deportes Mike, the athletic shoe factory where Mr. Guerrero himself had just been hired. Vicente would earn 100,000 pesos a week, about $34.

At the time, money was tighter than usual for the Guerreros: Two members of the household had been laid off, and a cousin in the U.S. had stopped sending money home.

After his father's talk, Vicente stowed his schoolbooks under a junk heap in a corner of the hut. It would be too painful, he thought, to leave them out where he could see them.

Last August Vicente was introduced to the Deportes Mike assembly line. About a dozen of the 50 workers were underage boys, many of whom toiled alongside their fathers. One youth, his cheek bulging with sharp tacks, hammered at some baseball shoes. A tiny 10-year-old was napping in a crate that he should have been filling with shoe molds. A bigger boy was running a stamping machine he had decorated with decals of Mickey Mouse and Tinker Bell. The bandage wrapped around the stamper's hand gave Vicente an uneasy feeling.

Showing Vicente the ropes was the plant superintendent's 13-year-old son, Francisco Guerrero, a cousin of Vicente's who was a toughened veteran, with three years' experience in shoemaking.

When a teacher came by the factory to chide school dropouts, Francisco rebuked her. "I'm earning 180,000 pesos a week," he said. "What do you make?" The teacher, whose weekly salary is 120,000 pesos, could say nothing.

Vicente's favorite part of his new job is running the clanking press, though that usually occupies a small fraction of his eight-hour workday. He spends most of his time on dirtier work: smearing glue onto the soles of shoes with his hands. The can of glue he dips his fingers into is marked "toxic substances . . . prolonged or repeated inhalation causes grave health damage; do not leave in the reach of minors." All the boys ignore the warning.

Impossible to ignore is the sharp, sickening odor of the glue. The only ventilation in the factory is from slits in the wall where bricks were removed and from a window near Vicente that opens only half-way. Just a matter of weeks after he started working, Vicente was home in bed with a cough, burning eyes and nausea.

What provoked Vicente's illness, according to the doctor he saw at the public hospital, was the glue fumes. Ingredients aren't listed on the label, but the glue's manufacturer, Simon S.A. of Mexico City, says it contains toluene, a petroleum extract linked to liver, lung and central nervous system damage. The maximum exposure of toluene permitted under Mexican environmental law is twice the level recommended by recently tightened U.S. standards. And in any event, Deportes Mike's superintendent doesn't recall a government health inspector coming around in the nine years the plant has been open.

When Vicente felt well enough to return to work a few days later, a fan was installed near his machine. "The smell still makes you choke," Vicente says, "but el patron says I'll get used to it."

El patron, the factory owner, is Alfredo Hidalgo. "These kinds of problems will help make a man of him," Mr. Hidalgo says. "It's a tradition here that boys grow up quickly." Upholding tradition has been good for Mr. Hidalgo's business: Vicente and the other zorritas generally are paid less than adult workers.

Mr. Hidalgo doesn't see that as exploitation. "If it were bad for Vicente, he wouldn't have come back after the first day of work," he says. "None of the boys would, and my company wouldn't be able to survive."

"The system makes protecting the zorritas very, very difficult," says Teresa Sanchez, a federal labor official in Guanajuato state. The national labor code gives the federal government jurisdiction over only a limited number of industries that make up just 3% of businesses in the state. "The important industries, like shoes," she says, "are regulated by the states, and the states . . ." She completes the sentence by rolling her eyes.

At the state labor ministry, five child labor inspectors oversee 22,000 businesses.

The staff has been halved in the decade since Mexico's economic crisis erupted, says Gabriel Eugenio Gallo, a sub-secretary. The five regulators make a monthly total of 100 inspections. At that rate it would take them more than two decades to visit all of the enterprises under state jurisdiction. Because child labor violations weren't even punishable by fines until very recently, state regulators say they have a hard time getting the tradition-bound employers they do visit to take them seriously. "Ultimately, the schools must be responsible for these kids," Mr. Gallo concludes.

Located just four blocks from where Vicente Guerrero labors, the Emperador Cuauhtemoc school employs two social workers to reclaim dropouts. (Children are required by law to stay in school through the sixth grade.) One-third of the students at Cuauhtemoc never finish the Mexican equivalent of junior high. With their huge caseloads, the two social workers certainly have never heard of Vicente Guerrero. "Ultimately, it's the boy's own responsibility to see to it that he gets an education," says Lourdes Romo, one of the counselors.

Vicente is still getting an education, but it's of a different sort than he would be getting in school. On a factory break, the superintendent puts a zorrita in a headlock to act out the brutal murder of a member of a local youth gang. This pantomime is presented to Vicente and a rapt group of boys as a cautionary tale. "Boys who don't work in the factory die this way on the street," the superintendent warns.

Vicente hasn't missed work again, though he always has a runny nose and red eyes. "One gets accustomed to things," he says. It's lucky for him that he is adaptable. The plant was expanded recently and Vicente's window, once his source of fresh air, now swings open onto a sewing room where several new boys labor.

The zorrita tradition is unlikely to fade any time soon. "We eat better now that Vicente works," says Patricio Guerrero, watching his wife stir a skillet of chicken in sweet mole sauce. "And Vicente has a few pesos left over so he can enjoy being a boy."

But Vicente doesn't have the time. Even though he's the captain, he recently missed an important Saturday match of his soccer team. A rush order of soccer shoes had to be filled at Deportes Mike. His friends tell him that "I stink as bad as the patch on a bicycle tire," he says. "But I know that's just the smell of work."

[From the Wall Street Journal, Apr. 25, 1991]

UNITED STATES-MEXICO TRADE PACT IS PITTING VAST ARMIES OF CAPITOL HILL LOBBYISTS AGAINST EACH OTHER

(By Jill Abramson)

WASHINGTON.—The war brewing in Congress over the U.S.-Mexico free trade agreement has spiced up life for this city's lobbyists.

"We've never had a trade issue that has been this hot," says Harry Freeman. "It's quite a donnybrook." Mr. Freeman, a former American Express Co. executive, has been lobbying furiously on behalf of a big business coalition that's pushing for the trade agreement and for congressional extension of the president's trade-negotiating authority.

The trade battle has snapped the Washington lobbying community out of the postwar doldrums and blues over a general downturn in legislative activity. But the burst of lobbying has some lawmakers complaining of overkill.

"They've reached the point of saturation," says Democrat Marcy Kaptur of Ohio, who has criticized Mexico for its labor and environmental standards, and sides with a coalition of labor unions and environmental groups that oppose extension of President Bush's trade-negotiating authority.

MEXICO'S BIG GUNS

Mexico, which hadn't previously employed Washington lobbyists, has suddenly upstaged Japan as the foreign government with the most visible lobby muscle. Beginning in January, the Mexican government began hiring an A-team of lobbyists and lawyers, including such GOP heavyhitters as Charles Walker, and such politically connected Democrats as Joseph O'Neill, a former top aid to Senate Finance Committee Chairman Lloyd Bentsen, and Robert Keefe, a former strategist for the late Sen. Henry Jackson.

Virtually every major business organization in the U.S. is also combining Capitol Hill, from the Business Roundtable to the U.S. Chamber of Commerce to the National Association of Manufacturers. "It's a pan-business effort," says Calman Cohen, a former government trade official with the Emergency Committee for American trade. "I've never seen a larger grouping from the private sector." Mr. Cohen coordinates weekly strategy sessions of an ad hoc lobby called the Coalition for Trade Expansion, which includes more than 500 corporate chieftains, association heads and lobbyists.

The most intense lobby activity now isn't even focused on the U.S.-Mexico treaty itself, which has yet to be negotiated or written, but on countering efforts by the labor-environmental alliance, which is lobbying Congress to block the administration's request for a two-year extension of its so-called fast-track authority.

The existing fast-track authority was approved by Congress in the Reagan administration and allows the President to negotiate international trade treaties and submit them to Congress for approval without amendments. A congressional refusal to extend fast-track authority could doom both the U.S.-Mexico agreement, which would effectively erase the trade borders between the two nations, as well as the Uruguay Round of trade talks. If Congress doesn't act before June 1, the fast-track authority will be automatically extended for two years.

Lobbyists have been working hardest on members of the Senate Finance and House Ways and Means committees, which have jurisdiction over the issue. Democrats are having the toughest time choosing sides. Although union officials deny making a litmus test out of the vote to disapprove fast-track authority, some lawmakers fear that unions will withdraw their support and contributions from Democrats who vote the wrong way.

LABOR STARTED ITS CAMPAIGN EARLY

Labor began its lobbying campaign against fast-track extension last fall and quickly gained congressional converts. The labor-environmental lobby put together a broad coalition of organizations, from Ralph Nader's Public Citizen to farm groups. Last week, the AFL-CIO sent every member of Congress a video showing poverty-infested Mexican villages and ravines carrying raw sewage. Opponents argue that the U.S.-Mexico trade agreement will bring massive job losses as businesses head south in search of a cheaper work force and looser environmental laws.

Preoccupied by the war and other issues, U.S. corporations were slower to start their lobbying effort for fast-track extension and the trade agreement, which they say will be a boom to the U.S. economy. Last month, Rep. Dan Rostenkowski, chairman of the House Ways and Means Committee, helped jump-start big business's lobbying campaign when he bluntly warned a group of 20 business leaders that they could lose the fast-track fight. According to Mr. Freeman, who attended the meeting, the Illinois Democrat told the group, "If you want to win this thing, move your ass."

Heeding the chairman's words, corporate America assembled a virtual lobbying Who's Who, including corporate chiefs from American Express Co., Eastman Kodak Co., Procter & Gamble Co. and many other blue-chip concerns. The business forces have now regained strong footing and have set up a practically nonstop schedule of meetings with lawmakers. In a show of bipartisan might, a business delegation led by two former U.S. trade representatives, Democrat Robert Strauss and Republican William Brock, met with President Bush on the issue last week. The current U.S. trade representative, Carla Hills, who is herself strenuously lobbying members of Congress, huddled recently with a group of well-known lobbyists to talk over prospects for winning fast-track extension.

These off-the-record sessions between top government officials and business lobbyists irk labor. "There's no reason for a cloak-and-dagger operation," says Robert McGlotten, the AFL-CIO's legislative director. "There ought to be open debate."

Mrs. Hills' office responds that she has an "open door" policy and has met several times with labor representatives, too.

The Mexicans, meanwhile, are getting a crash course in lobbying U.S.-style. The Mexican embassy has been careful to cover both Democratic and GOP flanks with a fleet of lobbyists and lawyers who are regaling lawmakers with Mexico's efforts to modernize its working conditions. Mexican business interests, meanwhile, have formed their own version of the Business Roundtable and have hired the Washington law firm of Steptoe & Johnson. "When in Rome do as the Romans do," says one Mexican government official "When in Washington, do as people inside the beltway do."

[From the New York Times, May 23, 1991]

TRAUMA CENTERS ARE CLOSING DOWN—AT LEAST 60 FISCALLY TROUBLED HOSPITAL SITES ARE SHUT, CONGRESS STUDY FINDS

WASHINGTON, May 22.—Money troubles have put at least 60 hospital trauma centers out of business, particularly in violent inner cities where speedy treatment is often a matter of life or death, a Congressional study has found.

"Closing more centers could threaten access to treatment of severe injury in some metropolitan areas" and "jeopardize the lives of many severely injured Americans," the General Accounting Office reported Monday.

The agency, the auditing and investigative arm of Congress, said that at least 60 trauma centers had stopped operating in the past six years. It said that 370 hospitals were still designated as trauma centers, but that many were under severe financial strain and might not survive.

The study was requested by Senator Donald W. Riegle Jr., a Michigan Democrat who is chairman of the Senate subcommittee on health for families and the uninsured. He said the study showed a need for "comprehensive reform" of the health care system.

FINANCIAL CHOKE HOLD

"Trauma centers can't stay open when their losses mean a financial choke hold on the hospitals that run them," Mr. Riegle said.

The Congressional agency reviewed 35 trauma centers in Chicago, Detroit, Los Angeles, Miami, San Diego and Washington. Of those, 15 have closed in the last five years, 12 of them because of financial hardship.

Most of the centers still operating are losing money.

The high cost of treating trauma patients, many of whom have no health insurance, and limited assistance from Medicaid and other Government programs are the major reasons for the crisis, the agency said. Inner-city hospitals have a disproportionately high share of uninsured trauma patients.

In 1988 dollars, the average charge per admission in a trauma center was about $12,000, as against $4,130 for each adminission in a hospital for regular acute care.

HEAVY LOSSES IN DETROIT

Henry Ford Hospital in Detroit provided about $15 million worth of uncompensated trauma care and other emergency services, said Thomas McNulty, the hospital's senior vice president. Bad debts for such treatment totaled another $15 million, he said.

A partial solution to the problem may be "doing a better job at triage," weeding out those who are not facing emergencies, Mr. McNulty said.

The trauma system developed from the wartime experiences of military doctors. During World War II and later conflicts, they discovered that speedy treatment and availability of skilled surgical teams were keys to saving lives of badly injured soldiers, the Congressional report said.

The system has reduced trauma death rates by up to 64 percent in some civilian hospitals.

In Washington, the system has been credited with a 50 percent decline in trauma deaths within five years. The death rate from trauma in San Diego County fell 55 percent the first year after a countywide trauma care system was instituted, the report said.

In 1985, Congress ordered hospitals participating in Medicare to give the public virtually uncontested access to emergency care services. But Federal reimbursement to emergency rooms and trauma centers is largely limited to care for patients who qualify for public health-care assistance, the report said.

Mr. RIEGLE. Mr. President, I reserve part of my time because I want to come back later and address in more detail some of the fundamental misrepresentations that exist on the other side of this debate. But make no mistake about it, this is the most important economic issue this country probably will face through the remainder of this decade.

We have to have a way to protect ourselves against the loss of the best jobs in our society which are already streaming out of America. I have a way to do that. We will not vote on it today. The majority leader has said he will do everything to enable us to bring it to the floor at a later time. I hope to have a vote at that time, and I hope to win that vote.

The PRESIDING OFFICER. The Chair informs the Senator the additional minute allocated has expired.

Several Senators addressed the Chair.

Mr. PACKWOOD. I would like to yield to the Senator from Rhode Island 15 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I was not going to get right to the point of why we are here tonight, what we are voting on, but the prior speech indicated to me there is some confusion. Why are we here tonight and what are we voting on?

We are not voting on a trade agreement with Mexico. We are not voting on whether we approve or do not approve of the Uruguay round. What we are doing, Mr. President, is voting on a procedure. We are voting on whether or not in these trade negotiations, when after consultation with the Congress of the United States the agreement is signed, with in one case Mexico, with in the other case the 100-plus nations involved in the Uruguay round, whether that agreement is going to come back to the Senate of the United States on an up-or-down vote. That is what we are deciding: a procedural matter.

We are not debating whether there are going to be jobs with low wages for Mexico or how it is all going to work out with the environmental agreements. Let us wait and see. That will be negotiated within the next 2 years. An agreement will be brought back, in one case with Mexico, in the other case with all the other nations. There we will have our choice, do we like it or do we not like it?

If it has all the flaws in it that the distinguished Senator from Michigan has mentioned, then vote against it. If it is a terrible agreement, which in his view is the way he predicts it will be, we will have a chance to defeat it at that time.

But we do not have to cross that bridge yet, Mr. President. Certainly we do not this evening. What we are here for is just to decide a procedural matter.

The distinguished Senator from South Carolina has said why do we need fast-track authority when we deal with Mexico; that is just one nation. He points out we have dealt with the Test Ban Treaty; we have dealt with SALT I: we have dealt with the INF Treaty, and he said 1,500 treaties and agreements have gone through here without any fast-track procedure.

But he knows and we all know that when a trade agreement comes up, whether it is 100-plus nations in the Uruguay round, or whether it is with Mexico, every single Senator on this floor has an amendment he would like to make.

I have plenty. Our State is a textile State. Our State is a State that manufactures jewelry. Our State is a State that deals with wire products. I want those taken care of in any agreement that comes, whether it is the Uruguay round, or the Mexican Free-Trade Agreement, and so do 435 Members in the House of Representatives. All of them have amendments. But that does not apply when the INF Treaty comes before us, or the Test Ban Treaty.

Let us look at some of the treaties we voted on just last week, and I think the distinguished Senator from South Carolina will agree they are not like any trade agreement. "The Convention for the Prevention of Pollution From Ships"; now how many Senators have any view on that one way or the other? "1988 Protocols Relating to the Safety of Life at Sea and Load Line Conventions"; those treaties, sometimes we take three at a time and vote up and down on all of them.

So to make the analogy that we have done 1,500 treaties through here since the beginning of the Republic and we do not need any fast-track procedure when we deal with the trade agreement just is not so.

As the distinguished Senator from Montana pointed out, every individual special trade representative, be he Democrat, be he Republican has said that we need this type of procedure. Indeed we do because all of us have amendments that we want to put on those agreements when they come back.

I would like to move on to the question that jobs are going to flee to Mexico. That was the pitch of the Senator from Michigan. It seems very odd to me that the Senator from Michigan, where the problems are brought about by the decline of the automobile industry and related industries, does not recognize or did not mention that the problems of that industry, which drives his State, come not from low-wage areas but from high-wage areas.

Who are these companies that the Senator is having trouble with in their competitive position? Is it with Mexico? Of course it is not. It is with Germany and it is with Japan. No one accuses those countries of being low-wage nations.

The theory somehow is that you have a country that has low wages and everybody in the United States picks up and moves there, whether it is Mexico, Taiwan, Sri Lanka, or wherever it is. That is nonsense. It has not occurred in the United States. Does everybody pick up from high-wage areas of the United States and move to low-wage areas? I can tell you they do not.

My State has the second lowest manufacturing wages in the United States of America. We are not proud of that, but it is a fact; the second lowest manufacturing wages in our country. Are we overwhelmed with manufacturing

plants moving into our State? I wish we were. But the truth is we are not. That is not occurring. It certainly has not occurred in Mexico and it has not occurred elsewhere throughout the globe.

As has been pointed out by the chairman of the Finance Committee in his opening remarks, manufacturers in the United States can already go to Mexico. If manufacturers moved because of low wages, everybody would be down there. But that just has not occurred. Jobs do not flee to low-wage areas.

Now, what do we know about the proposed FTA with Mexico? We have had testimony in the Finance Committee, and particularly telling was the testimony from the head of the Caterpillar Tractor Co. There is a high-wage-paying company with labor organized by the United Auto Workers. What did he say? He pointed out two things.

First, that when Mexico has high tariffs, as they currently do, in order to obtain market access in Mexico and avoid the high tariffs going into Mexico, Caterpillar Tractor located a plant in Mexico. These tariffs will be eliminated in the free-trade agreement, if it is successful.

He also pointed out that that plant has resulted in increased jobs in Peoria, IL, and elsewhere in the United States where Caterpillar manufactures the parts that are then assembled in Mexico. Seven hundred Caterpillar jobs are directly due to the fact that they have this plant in Mexico.

Next, he pointed out that if he were starting from scratch, under a successful free-trade agreement, they would not have to locate that plant in Mexico. They would have access to Mexico and could maintain their manufacturing facilities in the United States. So logically the question is, are there not savings in Mexico? Is that not a low-wage area?

He says certainly, it is a low-wage area. But wages are not everything. The Senator from Michigan suggests that wages determine everything. That just is not true. I am not talking some ephemeral example that I have dreamed up. We are talking Caterpillar's experience with Mexico. This is straight from the testimony of the president of the Caterpillar Tractor Co.

They are not expanding their facilities in Mexico because there are many other factors involved. Productivity is certainly one of them; the capabilities of the workers, the transportation system, and a whole series of other factors are involved.

So when you take those two illustrations, the one from Mexico and Caterpillar Tractor and the other from the competition that has been extremely destructive to our automobile companies, competition from Japan and West Germany, I believe it proves that an FTA with Mexico will not have a negative impact on jobs in the United States.

What happened when Yugoslavia tried to make an automobile? Did they affect Detroit? Not at all. How about Korean automoibles? They have not affected Detroit. They have not been successful. It is the high-wage areas that have made the inroads into the automobile manufacturing capabilities of the United States.

Now, Mr. President, I would just like to point out what exports have meant to my State and what the predictions are for the future.

In 1987 in our State, we had 17,000 jobs, producing over 500 million dollars' worth of business through exports. Three years later, because of the growth of exports and the effort that is placed into it by our manufacturers, we have close to 22,000 jobs directly reliant upon exports. The value of the products we export have increased from $500 million to over $700 million.

Mexico is now the fifth largest export nation for products from my State. So Mexico is important, and we view this free-trade agreement with Mexico as being a plus when eventually negotiated. We do not know what it is going to be, but it is tailored we believe, like the free-trade agreement with Canada.

Many have said, well they talk about consultation, but they will not do it.

Let us give a little experience. Let us look at the record. I had the privilege of serving on the Finance Committee when the Canadian Free-Trade Agreement was negotiated. During the course of that negotiation there was constant consultation, certainly with our committee and other Senators who were interested.

Before that final agreement was made with Canada we knew what was in it; we knew how it would affect us. We had input into those negotiations and that will also occur in connection with the Mexican agreement.

It seems to me that the principal point of contention tonight is a free-trade agreement with Mexico and a fast-track procedure for implementation of that agreement.

I do not think anybody seriously can deny the fact that we need the fast-track procedure for the Uruguay round. If there is anybody who seriously suggests that, I think they are overlooking the real facts that exist when 108 nations try to negotiate among themselves. Moreover, they recognize that with all these Senators, all these Representatives, and every single individual who has a view on it, the trade agreement will not look anything like it did when it came here if everybody has an amendment and a vote up or down.

Mr. President, I would finally like to touch on the environment. This was a point that the distinguished Senator from Michigan touched upon.

The President has made a pledge that environmental review will be part of the negotiations. He said that there will be environmental representation on the President's advisory committee on trade policy and negotiations. Finally, he promised close consultation with Congress throughout the negotiations, which will encompass environmental consultation likewise.

Now, you might think, listening to the description that was given here, that Mexico is nothing but an open sewer with every type of pollution existing. We recognize that Mexico has plenty of environmental problems, just as we have environmental problems in this country.

It has been my experience that the best way for a nation to handle its environmental challenges is for that nation to be come a wealthier nation. If we can increase the wealth of a nation and make it more prosperous, then it will be in a greater position to attack its environmental problems.

Does any Senator here think that anyone in Bangladesh is concerned about environmental problems? They certainly are not; they are just trying to survive. And so it is in many nations in the world. If Mexico's economy is improved, if Mexico's income is increased, then Mexico's ability to deal with its environmental challenges will be greatly improved.

Does the man at the helm in Mexico care about all of this? I will just note the following: President Salinas was awarded the Inaugural Earth Prize for Distinguished Leadership in Environmental Statesmanship. This is an award that has come to the President of Mexico for the efforts that he has made to deal with environmental issues. The other recipients of this award are the Prime Minister of Norway, the executive director of UNICEF, and others.

So, Mr. President, following up on what our chairman, the distinguished Senator from Texas, said in his opening remarks, there is but one more note about the efforts that President Salinas is taking to improve the environment of Mexico. In 1992, all automobiles sold in Mexico will be required to have catalytic converters. This is necessary to reduce the tailpipe emissions from automobiles sold in Mexico.

You might think, where have they been? We have had catalytic converters since 1972. What is the matter with Mexico? Well, listen to this: the European Community does not yet require catalytic converters in automobiles sold in the European Community. So the step that Mexico is taking is a significant one in an effort to decrease the smog that exists within their nation and reduce the pollution that comes from automobiles.

Mr. President, Mexico is making an effort to improve its environment; hopefully, this trade agreement will as-

sist this effort and improve the economies in both the United States and Mexico. This is not a one-way street. But after listening to the Senator from Michigan, you would think we were doing everything for Mexico.

The PRESIDING OFFICER. The Chair informs the Senator the time allocated to him has expired.

Mr. CHAFEE. May I have 3 minutes? I will not use it.

Mr. President, we in Rhode Island believe that a United States-Mexican Free-Trade Agreement is good for us. As a U.S. Senator, it is a deal that I believe potentially is good for the United States of America and, if it is not, I will not vote for it. The Congress will have that decision when it finally comes here for us to vote up or down, yes or no.

Finally, Mr. President, on the environmental front, I would like to say that the President of the National Wildlife Federation, the Nation's largest environmental organization, printed a letter on Sunday, May 19, in the New York Times, favoring the United States-Mexican Free-Trade Agreement. So those who suggest that the agreement will result in an environmental disaster, and that we should have nothing to do with it, are not observing the facts.

This evening, I hope we will approve the fast-track procedure for the Uruguay round agreement and the proposed Mexican Free-Trade Agreement.

Mr. President, I ask unanimous consent that an article from the New York Times dated May 19, 1991 entitled "Nature Can Live With Free Trade" be printed in the RECORD.

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

[From the New York Times, May 19, 1991]

NATURE CAN LIVE WITH FREE TRADE

(By Jay D. Hair)

WASHINGTON.—President Bush's commitment linking the environment and free trade has made it possible for environmentalists to support putting the negotiations on the U.S.-Mexico pact on the fast track." The National Wildlife Federation can thus confidently call for Capitol Hill's endorsement of this process, which would prohibit amendments to the trade agreement and force Congress to accept or reject the accord in its entirety.

While Mr. Bush's position is not all that many environmentalists might want, the ideal should not be the enemy of the good. His word is his marker. The job ahead is to forge environmentally sound free-trade agreements, beginning with Mexico. We should not obstruct a path that can lead to significant international benefits.

When a handful of environmental groups first stepped into the free-trade discussion, they were greeted with condescending incredulousness by financial experts who viewed the talks as belonging to a closed club devoted excusively to commercial considerations. That presumption—that environmentalism and economics don't mix—has been punctured.

International trade is increasingly the basic way our planet's natural resources are allocated. The rules of trade profoundly influence whether these resources will be protected or degraded. The same rules determine whether pollution will be prevented or allowed to spread, harming all life on earth.

Free trade agreements are scripts from which we can read a future of sustainable development or accelerated environmental deterioration. If we get the script wrong, then the stage is set for costly and avoidable mistakes. From now on, free trade pacts are inherently statements of environmental policy

Mr. Bush has adopted this concept. His embrace is tentative, but that is less important than the precedent he has set. He has made the commitment that for the first time in free trade history, an environmental review will be part of the negotiations. This is a crucial step. Certainly, further strides will be necessary.

Mr. Bush has offered a framework within which the hard details of meshing environmental and free trade concerns can be worked out. It should be accepted as such, with a clear understanding that the structure is far from complete.

In its talks with Mexico, the United States should negotiate the enforcement of environmental standards and the adoption of a "polluter pays" principle for investment that results from the agreement. Discussion of these issues, from an environmental perspective, implies a good-faith commitment that all the talk will produce action.

At the same time, environmentalists must nor evade the logic of free trade. The means of addressing environmental concerns are directly tied to economic development. If environmental progress is not to remain solely the property of affluent nations, developing nations must have their fair shot at progress. Free trade incorporating sound environmental principles enhances that prospect of advancement.

Advocates argue that the underlying argument for free trade is that it will improve business conditions. Trade is intended to spur progress, not dismantle it. In this light, the President's commitment to protect U.S. environmental standards from attack as non-tariff barriers to free trade must govern the negotiations with Mexico.

President Bush has made two additional pledges. One is to include environmental representation on his advisory committee on trade policy and negotiations. The other is to consult closely with Congress throughout the negotiations for a free-trade agreement; this offer to maintain the dialogue should be taken seriously by all involved.

The President has pledged to deal effectively with the environmental aspects of a free trade agreement. So it is fair to take him at his word—and to hold him to it.

His commitment should be reciprocated by Congress; it should grant fast-track authority to begin the free trade negotiations with Mexico in earnest.

Mr. HOLLINGS. I yield 10 minutes to our distinguished senior colleague, the senior Senator from South Carolina [Mr. THURMOND].

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today in support of Senate Resolution 78 which will disapprove the extension of the fast-track procedures for congressional consideration of trade agreements which was recently requested by the administration.

Mr. President, since 1986 the previous and the current administrations have been negotiating the Uruguary round of the General Agreement on Tariffs and Trade [GATT]. The negotiators have worked to improve the trade rules that had been implemented in the previous seven GATT rounds. The major areas of negotiations have focused on agricultural trade, services and trade related to foreign investment, as well as protection of intellectual property rights.

The President has also proposed negotiating a Mexico Free-Trade Agreement. In negotiating such an agreement, the major areas of emphasis will be the elimination of tariffs, the elimination of nontariff barriers such as import quotas, licenses and technical barriers to trade, protection of intellectual property rights, and the improvement as well as the expansion of the flow of goods, services and investment between the United States and Mexico.

In 1988, Congress approved fast-track procedures which prevent Congress from amending trade agreements submitted for approval by the administration. The current authority for fast-track procedures expires on May 31, 1991, and the administration has requested a 2-year extension. If either body of Congress passes a resolution denying fast-track procedures before the deadline, then these procedures will not be extended.

While the current trade negotiations may be helpful to some of the industries of this country, they will be devastating to the domestic textile industry. It is estimated that over the 10-year phaseout period of the Multifiber Arrangements, as proposed in the GATT talks, the domestic textile and apparel industry could lose as many as 1.4 million jobs. Further, the industry could lose two-thirds of its production capacity. Some sectors of the textile industry would also be opened to unrestricted imports immediately, so they would not have the phaseout period to adjust to the agreement.

During the last 10 years, the national textile and apparel industry lost approximately 400,000 jobs. Further, 332 textile plants were closed, with 174 of these plants located in South Carolina. According to the U.S. Department of Labor, South Carolina lost 2,600 textile jobs during 1989. In 1990, South Carolina lost 5,400 jobs in the textile industry and 4,000 jobs in the apparel industry. From 1980 to 1990, South Carolina lost 42,643 jobs in the textile and related industries. The work force in South Carolina for the textile and apparel industry has decreased almost 10 percent since 1980. All of these lost jobs and disruptions have occurred with our current trade laws and policy. The proposed changes included in GATT will have an even more detrimental effect on this most important industry.

Mr. President, American businesses have been harmed by imports because our industries are not able to compete with foreign countries on an equal basis. If they did, our businesses could compete with those of any nation. However, our industries cannot be expected to compete or should they have to, with foreign industries that have unfair advantages.

One example where American business cannot compete is the wages paid to employees. Wage rates in Mexico average less than $10 a day. While American workers average nearly $10 an hour. The advantage of hiring one worker for a week for what it costs to hire a worker in another country for just one day is an unfair advantage that foreign countries should not be allowed.

Furthermore, many foreign businesses operate free of the health and environmental regulations that we believe essential to the protection of our workers and environment. In 1991, the United States will spend $24.40 per capita on environmental protection, while Mexico will spend only $0.48. Although Mexico has health and environmental regulations, they are not as stringent as those in the United States. Therefore, companies that operate in Mexico will only have a moral obligation to protect workers and the environment with standards as high as those encountered by businesses in the United States.

Mr. President, our current trade agreements have caused much damage to our domestic industries. We cannot allow these industries to be further harmed by current and future trade negotiations. The legislation we are debating today will not prevent consideration of the GATT agreement or a Mexico Free-Trade Agreement. It will simply take these agreements off the fast-track procedures so that provisions with regard to individual industries may be considered separately rather than as one package. This will help assure that all industries are getting a fair deal in trade negotiations. If the administration is confident that a fair trade agreement has been negotiated, there should be no objections to allowing the agreement to be carefully scrutinized.

Mr. President, last year the American textile industry celebrated its bicentennial. Congress passed House Joint Resolution 518 designating a week in October 1990 as "American Textile Industry Bicentennial Week" in honor of this occasion. The resolution states in part that this "industry has played a major role in the development of the American economy, social system and political history over the past 200 years." I am concerned that if the proposed trade agreements are implemented the textile industry as well as many other industries will not play as important a role in the next 200 years.

Mr. President, I urge my colleagues to support this measure to help keep jobs and workers in this country.

Mr. President, I just want to say this: The American textile industry represents 1 of 11 manufacturing jobs in the United States. In other words, 2.1 million workers, and it employs more women and more minorities than any other industry in this Nation. The American textile industry has been ranked number one in safety by the National Safety Council in 3 of the last 4 years. The American textile industry is larger than the paper, petroleum, primary metals or automobile industries combined. The American textile industry contributes over $50 billion to the Nation's gross national product.

I say this again, Mr. President, that in the last 10 years, 1980 to 1990, in this country we lost 453,000 jobs. In my State alone, we lost 42,600 jobs. And in the last 10 years, 1980 to 1990, 332 mills closed in the United States. My State lost 174 mills.

Mr. President, in all fairness, what is the objection to turning down fast track so we can offer amendments, if we need to offer them? If we do not, OK. But why foreclose and shut out and prohibit anybody from offering any amendment? It just does not make sense. It is not fair.

Mr. President, I want to say that we should allow amendments to be offered on those trade agreements, and we should kill the fast-track procedures.

• Mr. HELMS. Mr. President, as an original cosponsor of Senate Resolution 78, I urge my colleagues to take the time to review carefully the ramifications that fast-track extension will have on our country. Based on what we already know about the Uruguay round of the GATT talks, I am convinced that an extension of fast-track authority will have a devastating impact on the textile/apparel industry. Furthermore, a free-trade agreement with Mexico could also cause a major shift in our longstanding foreign policy toward Cuba.

Mr. President, the first objection I have to an extension of fast-track authority for trade agreements is that it is an abdication by Congress of its constitutional responsibility to regulate international commerce. As trade negotiations have moved beyond simple tariff reductions and into extensive modifications of domestic policy, active and aggressive participation of Congress is essential. Otherwise, Congress will have almost no control over the significant changes that will be proposed in both our international trading relationships and our domestic economic policies.

The administration responds that Congress will have input during the negotiations. Well let us look at one example of how well the administration has listened to the recommendations of Congress.

Between April 1989 and September 1990, approximately 35 meetings were held between representatives of the textile/apparel industry and staff from the office of the U.S. Trade Representative. These meetings were designed to explore with the administration various ways to solve the import problems confronting the textile/apparel industry.

In late 1989, the administration proposed that a system of global quotas could be used as a basis for a phaseout of the Multifiber Arrangement in the Uruguay round. This phaseout arrangement would last 10 years and would be linked to stronger GATT rules on other issues, such as dumping, subsidies, and so forth. It would also be linked to greater market access, particularly in the developing country markets for U.S. exports of textiles and apparel. It was also indicated by the U.S. Trade Representative's Office that there would be no significant cuts of U.S. tariffs on textile and apparel imports. This commitment was appropriate because the industry would already be giving up quotas over this 10-year period.

By April 1990, it became clear that the administration was not serious about pursuing a global quota system in the Uruguay round negotiations. Consequently, we reintroduced a textile bill that was very similar to the global quota approach proposed by the administration. The Senate passed that legislation by a vote of 68 to 32, the highest margin ever. The House of Representatives also passed the bill by the highest margin ever.

Did the administration heed this statement by the Congress? Not at all. First, the President vetoed the textile bill. Then, after Congress failed to override the President's veto, our U.S. Trade Representative's Office made a major shift in the U.S. textile proposal in Geneva and agreed to a phaseout mechanism that will be extremely damaging to the U.S. industry and its workers.

Moreover, our negotiators offered to cut textile and apparel tariffs by 33 percent, a direct contradiction of the earlier commitment with regard to tariffs.

Mr. President if other Members of this body are being assured that our negotiators will heed their input, I suggest they consider how much attention our negotiators have paid to Congress' clear voice regarding the importance of our textile industry.

Let me say at the outset that before Congress agrees to the fast-track proposal, Congress has a duty to know whether this is a fast track to American oblivion. A lot of people are wondering which American jobs the U.S. Trade Representatives will sacrifice this time.

Mr. President, I have reliable evidence that the USTR has had a deliberate plan to surrender the key American industries of textiles, steel, and automobiles. Sometime ago I was given an internal USTR memorandum on the strategy for the Uruguay round, prepared in 1984.

This internal USTR document was provided to me by a former official of that office. I have absolute confidence in the authenticity of the document and the integrity of the source. The document is entitled, "Strategy for New Multilateral Negotiations." One section of the document is actually entitled, "What we want, what we have to give." The trouble is that they are not giving away their industry; they are giving away other people's industries and other people's jobs.

Mr. President, let me read the key sentence in this astonishing document: "In order to get what we want from these negotiations, we will have to address U.S. policies affecting the commercial interests of other countries. Many foreign concerns focus on U.S. import restrictions in basic industries such as textiles, autos and steel."

Now, this was never disclosed to the American people, but this is precisely the plan that USTR followed. Apparently, the USTR was willing to sacrifice American jobs.

Mr. President, I ask that this document be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. Mr. President, I just do not buy the argument that fast-track authority is essential to a successful negotiation of new trade agreements. More than two dozen major multilateral agreements have been approved and ratified by the Congress since 1960 without fast-track procedures.

In fact, I believe that such fast-track authority encourages our trade negotiators to strike less favorable deals for domestic industries. It is much more difficult for our trading partners to make concessions during negotiations; however, with fast-track authority, our negotitators are able to—and do—trade off specific sectors of our economy at the negotiating table.

Mr. President, I cannot understand the administration's argument that our trading partners will not even come to the negotiating table if our negotiators don't have fast-track authority. In the Uruguay round of the GATT talks, the European Community negotiators do not have a comparable fast-track procedure. They must gain the approval of the representatives of their 12-member nations before they can agree to any concessions. Nevertheless, the United States still shows up at the negotiating table. Maybe our trading partners know something our negotiators don't.

In an article that appeared recently in the Harvard Business Review, Clyde Prestowitz, Alan Tonelson, and Robert Jerome provide an excellent analysis of why our negotiators repeatedly negotiate agreements that sacrifice important sectors of our economy.

The authors refer to our negotiators as "GATTists," which they define as those who "have been blinded by * * * a belief, bordering on a religious faith, in the power of ever-more detailed trade rules to solve major domestic and international economic problems; and a corresponding belief in the ability of the United States to impose its economic views on its trading partners."

Mr. President, the authors get to the heart of our trade problems when they observe that our negotiators naively "assume that countries will sacrifice individual interests and national sovereignty to create benefits for the world as a whole."

The authors go on to explain that, "World trade negotiators now routinely seek infringements on sovereignty that nations will not and, in many cases, should not accept. When pressed, most nations legitimately point to the still dangerous world they live in and cite their understandable desire to set their own economic, social, and political priorities. GATTists then castigate them as retrograde and protectionist. The real problem, again, is not with these nations but with the GATTist doctrine, which demands that nations act against their own self-interest or, more precisely, that they adopt a new and historically unproven definition of their self-interest."

Mr. President, I ask that a copy of this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. HELMS. Mr. President, the administration is selling this fast-track procedure by making grand predictions of the benefits that will result from a new GATT agreement. Well, we have heard that before. The same argument was made after the Tokyo round in 1979; yet, as trade concessions we made at the Tokyo round were phased in during the 1980's, our trade deficit went through the roof.

Mr. President, the administration has predicted that a Uruguay round agreement will increase U.S. domestic output by $125 billion in its first year. However, an independent study of these claims by the Economic Strategy Institute demonstrates that the claims of financial benefits to our economy are based on unrealistic assumptions and are grossly overstated. In fact, the ESI study reveals that the most likely Uruguay round scenario would result in an increase in domestic gross domestic production more along the magnitude of $18 billion, not $125 billion.

I ask that the entire text of the ESI study be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 3.)

Mr. HELMS. Mr. President, even if we believe everything the administration predicts about the outcome of the Uruguay round, I still have serious concerns about the fast-track procedure because of the devastating effect an agreement will have on our domestic textile industry.

Based on what we already know about the negotiations affecting textiles, a new GATT agreement will result in the loss of approximately 1.4 million jobs in the textile/apparel industry over the 10-year phaseout period. Those job losses would be felt most heavily in my State, North Carolina. In fact, it is estimated that in North Carolina alone, the combined textile/apparel industry will experience a loss of more than 223,000 jobs; related industries will lose more than 10,000 jobs.

Mr. President, when I hear predictions of such enormous job losses in the textile/apparel industry, I am particularly concerned because of the drastic erosion already taking place in that industry. During 1990, the textile mill sector in North Carolina experienced a loss of 10,100 jobs. Apparel employment dropped by approximately 2,400 jobs.

Mr. President, let me turn now to a few of the major problems I see with the proposed free-trade agreement with Mexico.

First, I share the well-documented concerns that any free-trade agreement with Mexico will result in a substantial flight of jobs from the United States. While most countries have governments that foster industry and economic development, the U.S. Government is often the greatest adversary of business. It doesn't take a genius to examine the various burdens that Congress places on domestic businesses, compare them to the business practices in Mexico, and reach the obvious conclusion that employers will be scrambling to take advantage of the low cost of business south of the border.

Mr. President, as I stated during the Mexico free-trade hearings held in the Senate Foreign Relations Committee, this is an issue that clearly has very serious foreign policy implications. Mexico Free-Trade Agreement negotiations should not, and must not be separate from discussions on the political and social characteristics of Mexico. Any agreement with Mexico which does not take into consideration these aspects cannot be positive for the United States.

Some have attempted to say: "We have done it with Canada, why can't we do the same with Mexico?" With all due respect, the only thing Mexico and

Canada have in common is that they are both contiguous to the United States. Beyond that, they are not similar in any respects.

Let's look at the per capita income of these countries: in the United States, it is $21,082; in Canada, $19,600; and in Mexico, $2,165. By the way, the per capita income of Germany, the richest economy in Europe, is $15,000. So it is one thing to make an agreement with Canada, where the standard of living is above the richest economy in Europe, but how can the United States possibly be equal partners with Mexico when there is such economic disparity between the two countries?

Mr. President, many people believe that President Salinas of Mexico has made some positive steps in that country. The argument has been made that the United States should hurry up and come to a speedy agreement with Mexico while President Salinas is still in office. Now, I am prepared to give President Salinas the benefit of the doubt. But he will be the President for only three and one half more years. A free-trade agreement obviously lasts forever.

The issue with Mexico is not President Salinas. The issue is Mexico's lack of democracy. Mexico has been a one-party state for more than 60 years. The few positive changes made by President Salinas do not constitute freedom and democracy.

Mr. President, there are several noneconomic issues that must be considered in any trade discussion with Mexico. I would add that these were never relevant with respect to Canada. I believe that the workers in the United States will be the losers if a free-trade agreement does not take into consideration a number of factors.

Perhaps the single most important problem in Mexico today is the institutionalized corruption. Massive corruption can be found at every level in the Mexican Government, as well as in Mexican industry. In Mexico, corruption is a way of life, and it is a fact that even my Mexican friends admit. A free-trade agreement must be based on good faith by both parties. But that is difficult when corruption is so pervasive in one country.

Then, there is the fear that free trade across borders will mean that everything and everybody will cross the borders freely. That means that illegal drugs and illegal aliens will be able to cross the borders more easily.

Mr. President, I have been informed that the issue of involvement in drug trafficking by Mexican Government officials will not be "on the table" at the negotiations of the free-trade agreement. President Salinas has had a few minor victories in the war on drugs. But at this point it could hardly be characterized as a serious war. It is well known that President Salinas' chief law enforcement officer—the Attorney General—has ties to major drug traffickers and money launderers. Furthermore, he is known by Mexicans to have presided over the coverup of the brutal murder of the U.S. Drug Enforcement Agent, Enrique Camarena.

Corruption, drug trafficking, and human rights abuses are common and well-documented among senior law enforcement officials in Mexico.

Mr. President, it will be a sad day in United States history if United States negotiators lead the Mexicans to believe that the United States wants a free-trade agreement at any cost—even it is means turning a blind eye to the dangerous flow of illegal narcotics coming across our southern border and contributing to crime in our neighborhoods.

Mr. President, there are numerous other issues which need to be addressed by the United States. And I remind you that not one of these was relevant to the agreement with Canada. What about lack of environmental controls in Mexico? What about massive capital flight out of Mexico? What about the serious problem of child labor in Mexico? Not one of these problems exists in Canada.

So, I ask my colleagues, "Is it possible to have a free and fair trade agreement between two societies with such different standards of decency and social justice?"

Finally, Mr. President, there are some very important foreign policy implications that must be considered before we commit Congress to a fast-track procedure for a United States-Mexico Free-Trade Agreement.

The Mexican Free-Trade Agreement will provide Cuba—and Brazil—an economic windfall by allowing them to substantially increase their exports of citrus and citrus products into and possibly through Mexico.

It will allow Mexico to substitute Cuban and Brazilian citrus for its own needs, while dumping its domestically produced citrus and other agricultural products into the United States. This will result in Cuba being able to substantially increase its exports of citrus and citrus products to Mexico.

Mr. President, Mexico was one of the first countries to recognize and establish relationshps with the Castro regime after the overthrow of the Batista dictatorship. In spite of the United States efforts to isolate Castro and his Communist regime both politically and economically, Mexico has maintained close political and economic ties with them. Mexico is Cuba's closet friend and strongest ally in the Western Hemisphere.

Mexico presently has as many acres of citrus planted as Florida, but it uses most of it—approximately 80 percent—for domestic fresh fruit consumption, exporting only 20 percent of its citrus production. Cuba also has major citrus plantings. In fact, Cuba has as many acreas of grapefruit as does Florida. A free-trade agreement will permit Mexico to divert up to 100 percent of its citrus production for export into the United States, meeting its own large domestic needs by importing citrus directly from Cuba and Brazil.

One of Communist Cuba's greatest needs is to import oil to keep its economy running. Until recently, it had exported its agricultural products to the Soviet Union in exchange for vital imports of oil. However, now that the Soviet Union's economy is in shambles and the Soviets are requiring hard currency for their oil, cuba isn't receiving the necessary oil it needs—and its economy is hurting.

Where can Cuba turn for its oil needs? Cuba can turn to its good friend Mexico. So Cuba takes its nationalized natural resources, its citrus and agricultural products, and exchanges them for Mexico's nationalized oil and gas.

Mexico then takes Cuba citrus and agricultural products and uses them as import substitutes, so that it can export even more Mexican citrus, vegetables, and other agricultural products into the lucrative United States market under a free-trade agreement.

A free-trade agreement will also adversely affect our relationships with the countries involved in the Caribbean Basin Initiative [CBI]. The fragile economies of many of these nations will be undermined by being thrown into direct competition with Mexico. The CBI currently excludes Cuba from its benefits until Cuba becomes a free country. Nevertheless, Cuba will be the obvious beneficiary in the Caribbean under a United States-Mexico Free-Trade Agreement.

Our trade representatives will reverse our CBI exclusion of Cuba by giving them a back door to sell to the United States either directly or indirectly through Mexican import substitution, which will be totally legal under a free-trade agreement.

The administration, with the aid and assistance of Congress, will be throwing Castro's Communist Cuba an economic life preserver, which will be handed to the Cubans by their good friends, the Mexicans—all at the expense of the American farmer.

A free-trade agreement, coupled with Mexico's expansive trade relationship with Cuba, effectively reverses almost 30 years of United States foreign polity to isolate, politically and economically, Fidel Castro and his Communist regime.

Mr. President, this is not just a trade issue. It is a complex foreign policy issue that goes beyond the expertise of our trade representatives and should be carefully reviewed by Congress. Congress should not give our trade representatives the power to undermine and reverse 30 years of U.S. foreign policy and the CBI by granting an extension of fast-track authority.

Mr. President, Congress must retain its responsibility under the Constitution to be able to modify any agreement to protect the well-founded concerns of the American workers.

EXHIBIT 1

STRATEGY FOR NEW MULTILATERAL TRADE NEGOTIATIONS

At the Williamsburg Economic Summit, President Reagan and the heads of government of other major trading nations agreed to the preparation of a new negotiating round in the GATT. The launching of new multilateral trade negotiations has become one of the key trade policy objectives of the United States. We believe it would make a crucial contribution to the revival of sustained non-inflationary growth in the world economy, and thus help assure a continued high-rate of economic growth in the United States.

The launching of new multilateral trade negotiations has also become an essential prerequisite for rolling back the accumulation of restrictive trade measures in recent years. Trade barriers and protectionist pressures have increased in recent years as a result of slow economic growth in many parts of the world, difficult adjustment problems in basic industries here and elsewhere, the large debt burden in many developing countries and the burgeoning US trade deficit. This protectionist environment makes trade liberalization a difficult goal to pursue either at home or abroad.

The very economic conditions that have led to protectionism make trade liberalization essential. Liberalization would help Europe to increase its economic growth by improving the allocation of economic resources and by expanding export markets, increase export markets for the developing countries and thereby relieve their debt problems, help the U.S. to maintain market oriented trade policies by reducing trade distorting policies abroad, and reduce the U.S. trade deficit through increased export opportunities.

The international response to US proposals for new multilateral trade negotiations in the GATT has been mixed. The Japanese government, under Prime Minister Nakasone's direction, has been taking an active leadership role. The European Community has been generally supportive, though it has been handicapped by French opposition and internal resistance to reform of its own agricultural trade policy. Major opposition, however, has come from India, Brazil and some of the other major developing countries. These countries are struggling with internal economic adjustment problems and are reluctant to address the liberalization of their own trade policy regimes or accept new trade disciplines in services or high technology. Moreover, developing countries that support new negotiations, such as Korea and the ASEAN countries, are reluctant to voice their support publicly for fear of being ostracized by the other developing countries.

The time has come for the major trading countries to exercise the necessary leadership by agreeing to initiate negotiations among themselves and any other countries that agree to participate. It is highly likely that the majority of countries would decide to participate if the large industrial countries decided to go ahead with negotiations. The key to success at this point is to get a decision among the major countries on initiating negotiations despite the continued opposition of key developing countries.

Although the United States is domestically handicapped by the large trade deficit, we are in the best position to provide the necessary leadership to get negotiations underway. Europe has weaker economic growth, is internally divided, and will have new leaders at the Commission in January. Japan continues to have credibility problems, and is reluctant to throw its weight around. Many developing countries are looking for American leadership, since they find it too difficult to make a decision on a consensus basis.

US leadership has to involve the use of both a carrot and a stick. We have to lay out the basis for a negotiation that will be in the commercial interest of all the countries that might participate. We also have to make it clear that in the absence of a broad agreement to negotiate in the GATT, the US will pursue negotiations with any group of countries or any particular country that will negotiate with us. In addition, we have to put countries on notice that we will take whatever actions are necessary to defend our own commercial interests. By clearly laying out the options, we would demonstrate that other countries cannot postpone a decision on negotiations indefinitely. Each country will have to choose between negotiating with us multilaterally, or dealing with us bilaterally.

There are at least two advantages to be gained by laying out possible US intentions with respect to trade negotiations. First, we would increase the incentive of other countries to join broad-based multilateral negotiations in the GATT. Second, we would expand US trade policy opportunities in the long run. The alternative options of negotiating among a relatively small group of countries (plurilateral negotiations) or with individual countries (bilateral negotiations), would be a useful tactic in getting negotiations off the ground. They may also be potentially viable US trade policy approaches that could complement any GATT-based multilateral trade negotiations.

In addition to laying out our negotiating options, we must also take actions over the next couple of months to convince other countries that we will do what is necessary to defend our commercial interests. The Omnibus Trade legislation passed by the Congress in October strengthens the President's hand in dealing with various unfair trade practices. By initiating a few cases under the new trade bill, we would convince other countries, Congress and the US public that the US government is serious about dealing with unfair trade practices and will do so either by negotiation or by unilateral actions.

WHAT WE WANT, WHAT WE HAVE TO GIVE

What we want from new multilateral trade negotiations is the reduction of barriers to US exports and the development of new trade rules in areas of policy affecting US trade interests. The principal US objectives are: a) the establishment of strict limits on the use of agricultural export subsidies, to remove the major obstacle to US agricultural exports; b) the development of rules that would limit the introduction of new barriers to trade in services and establish the basis for the negotiated reduction of existing barriers to services in the future; c) the reduction of barriers to US exports of high technology products, including restrictive government procurement and standards practices in telecommunications, inadequate protection for intellectual property rights in computers and pharmaceuticals, and reduction of high tariffs on electronic equipment and parts; d) establishing limits on the use of investment-related trade barriers such as local content and export performance requirements; e) strengthening existing GATT rules on safeguards and dispute settlement, to assure the credibility of GATT rules as a basis for fair trade.

We would also like to establish the basis for an expanded and strengthened multilateral discipline for foreign investment. Past US proposals regarding a "GATT for Investment" were unsuccessful, but we must try again to persuade other countries of the desirability for such rules.

In order to get what we want from these negotiations, we will have to address US policies affecting the commercial interests of other countries. Many foreign concerns focus on US import restrictions in basic industries such as textiles, autos and steel. In the area of services, foreign concerns focus on restrictions imposed by US regulatory agencies, in particular at the state level. In agriculture, foreign concerns are directed at both our Section 22 quotas and export credit practices.

Beyond the issues outlined above, we will need to address the possibility of broader tariff cuts. In light of the large U.S. trade deficit, proposals for new tariff reductions are not likely to find much domestic support. At the same time, it is difficult to conceive of a successful negotiation without a major tariff cut; also, it will be difficult to convince developing countries to cut their own very high tariffs without tariff cuts by the developed countries. What we may need to do is to agree that tariffs should be included in the negotiations, but defer negotiations until a time when the economic environment has improved.

TIMING AND ORGANIZATION OF THE NEGOTIATIONS

Our aim should be to start the negotiations at the beginning of 1986. With the strong political commitment of key countries, such a timetable is realistic. If the start of negotiations is delayed much longer, they would lack the credibility to influence economic decisions concerning global economic recovery, and fail to stave off growing protectionist pressures that could push the world toward increased trade restrictions over the years ahead.

Staff work has been underway in the GATT for the past two years on many of the negotiating issues that we would like to include in new multilateral trade negotiations. Some of the issues are sufficiently well prepared so that negotiations could start early next year; other issues may not be ready for negotiations to begin until January 1986. These and other considerations will dictate a more flexible approach to negotiations than in the past. We envision an early start on some issues (agriculture, safeguards), and an agreement to include other issues in negotiations at a later date after further preparations have been completed (services).

CONSULTATIONS LEADING UP TO NEGOTIATIONS

Discussions are underway among the US, Japan, the European Community and Canada on a Quadrilateral Trade Ministers meeting in early February. Our aim should be to reach agreement at that meeting on an agreed strategy for launching the new multilateral trade negotiations, following agreement at the Quadrilateral meeting in June 1984 on the contents of such negotiations.

The Quadrilateral trade ministers meeting will be followed by a meeting of the CG–18 (GATT Steering Committee at a deputies level) in March, which will provide an opportunity for the Quadrilateral countries to convey a coordinated political message to the rest of the world trading community.

This will be followed by the annual OECD Ministerial Meeting in mid-April in which we should use the Communique to clarify the commitment of OECD countries to launch new multilateral trade negotiations. A few days later, there will be a ministerial meeting of the Development and Interim Committees to discuss the world economic situation, including the link between finance and trade. This meeting will provide an opportunity to achieve broader understanding of the economic necessity for new trade negotiations, and to make clear to developing countries the intention of developed countries to launch negotiations by the beginning of 1986.

If everything goes according to plan, the stage would be set by early May for the key trading countries to announce their intent to launch new multilateral trade negotiations. We have indications that Germany, as host of the 1985 economic summit, would like to see a political decision on the launching of new multilateral trade negotiations.

The Bonn Summit may be followed in late May by a meeting of trade ministers from 16 key developed and developing countries in Stockholm, Sweden. This meeting would provide the occasion for a show-down between developed and developing countries on the nature, content and timing of new multilateral trade negotiations.

The next step in the process would occur in early July with a special session of the GATT Contracting Parties to consider the report being prepared by a group of wisemen established by the GATT Director General, Arthur Dunkel. We expect the wisemen's report to recommend the launching of new negotiations. Following the Contracting Parties Meeting in November, we would expect those countries that are prepared to participate in new multilateral trade negotiations to organize a Preparatory Committee, whose job it would be to organize the negotiations.

ALTERNATIVES TO MULTILATERAL GATT NEGOTIATIONS

Over the past few years, the United States pursued a number of bilateral free trade initiatives, including the Caribbean Basin Initiative, the free trade area with Israel, and sectoral free trade discussions with Canada. Senior US officials have also floated the possibility of free trade area negotiations with the ASEAN countries and other countries in the Pacific. These new initiatives by the United States have raised concerns in many quarters about continued US support of the GATT and the future evolution of the multilateral trading system. Free trade arrangements between countries are legal within the GATT, and need not be inconsistent with multilateral trade liberalization efforts. For example, the Kennedy Round of Multilateral Trade negotiations coincided with an expansion of the European Economic Community. Nevertheless, since the United States has been the major supporter of the GATT over the years, our pursuit of bilateral free trade arrangements does raise broader political and economic questions.

The concern of other countries about bilateral trade liberalization initiatives by the United States has had the welcome effect of making other countries more flexible in their attitudes toward new multilateral trade negotiations. In the recently passed Omnibus Trade Bill, Congress gave the Administration authority to negotiate bilateral reductions of tariffs. The implications of this provision has not been lost on our trading partners. Signals that the United States has not abandoned the consideration of bilateral free trade arrangements can be useful in the months ahead in building support for multilateral negotiations.

Over the months ahead, the Administration will need to examine the substantive desirability of negotiating free trade area arrangements with countries in the Pacific region, either as a substitute multilateral trade negotiations (should our attempts to launch them fail) or as a complement to such negotiations. Until such a review has been completed, discussion of this possibility needs to be characterized as informal ideas for tactical reasons. In any case, no formal discussions could begin until after the Senate Finance Committee and the House Ways and Means Committee have had 60 days to consider a concrete proposal for opening up negotiations with any country (other than Israel).

Another opportunity for bilateral negotiations has been opened by Congressional passage of the new GSP legislation, which authorizes the Administration to negotiate expanded tariff preferences in exchange for trade concessions by advanced developing countries. The Administration should make an early announcement of how it intends to implement this legislation, what we are prepared to offer specific developing countries in terms of expanded GSP benefits and what we want from them in terms of expanded market access for U.S. goods and services. Such an announcement could be useful in reminding developing countries that in the absence of multilateral negotiations, their only recourse is to negotiate with us bilaterally.

Another negotiating alternative we must consider is the possibility of plurilateral trade negotiations outside of the GATT among a group of interested trading countries. If the key developing countries do not accept a decision by developed countries to pursue trade negotiations in the GATT, the question arises how negotiations among developed countries might be organized. Another question that will need to be addressed is whether the results of such plurilateral negotiations should be extended to non-participating countries on a Most-Favored-Nation basis. A structured effort within the U.S. Government to address these questions could in itself send a signal that we are serious about this possibility.

UNILATERAL ACTIONS TO DEFEND U.S. COMMERCIAL INTERESTS

We should be prepared to use unilateral tools effectively and decisively to make clear our determination to defend our commercial interests. The new trade law provides three opportunities. First GSP provisions condition the continuation of duty-free treatment to LDC's on the reduction of specific unfair trade practices affecting our exports of goods and services to these countries. We should place appropriate emphasis on the new leverage we have in this area. Second, the new legislation gives the President authority to retaliate where foreign governments fail to protect intellectual property. And third, the law provides new authority under Section 301 to take action against trade-related investment measures imposed by foreign countries. It also clarifies the President's authority to act against unfair meaures by foreign governments adversely affecting our exports of services.

In the past, some of our unilateral measures have been taken haphazardly, relying on traditional American quasi-judicial processes to generate complaints that could lead to changes in trade and tariff treatment. A more carefully timed strategy of pursuing specific cases could have a meaningful effect on establishing a greater urgency and consensus among developed and developing countries for negotiations. We should make use of the new authority by selecting a "first case" under our new 301 authority to take action against unfair trade practices such as export performance and local content requirement, inadequate protection of US intellectual property rights, and barriers to our services trade. A strategy for self-initiation and timetables for tentative and final recommendations, should be drawn up early in 1985. This approach would crystalize the alternative of case-by-case, go-it-alone strategies or a negotiated understanding for dealing with problems.

SUMMARY

Our strategy should be one of offering mulitlateral negotiations, while insisting on some form of action to address trade practices affecting US export interests. We need to be diplomatically active in providing the leadership for the organization of new mulitlateral negotiations. We must also be tough-minded about taking actions to defend our interests. We need to consider how we can best communicate this policy stance early in the new Administration. Perhaps, the tone could be set in the President's State of the Union or Inaugural address and followed up by a more detailed statement by the Administration in the coming months.

[From the Harvard Business Review, March-April 1991]

EXHIBIT 2

THE LAST GASP OF GATTISM

(By Clyde V. Prestowitz, Jr., Alan Tonelson, and Robert W. Jerome)[1]

On December 7, 1990, U.S. Trade Representative Carla Hills appeared before the press in Brussels to announce the collapse of the four-year-long Uruguay Round of world trade talks. Casting blame on others, particularly on an intransigent European Community that refused to retreat on agricultural subsidies, she warned of dire consequences: world trade conflicts, global depression, even war. Although she defiantly declared that no deal is better than a bad deal, she lamented the loss of "new opportunities."

Since then, officials from many countries have scrambled in Geneva and in the world's major capitals to resuscitate the Uruguay Round. Like Hills, many commentators have bewailed the obstinacy they believe torpedoed it. There is talk of the death of the General Agreement of Tariffs and Trade (GATT) and even hints that, as a result, the world trading system will crumble into chaos.

Both the scrambling and the lamentations are in vain. No matter what they produce, the fact is that the Brussels trade negotiators have administered the coup de grace to a GATT system that has been dying at least since the end of the Tokyo Round in 1979. The Uruguay Round, conceived in 1986 as a last, desperate effort at revitalization was, in fact, stillborn.

GATT's 1940s-era assumptions and principles have become largely irrelevant to the world economy of the 1990s-and to America's interests in that economy. As long as this goes unrecognized, nothing that might have

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been agreed to in Brussels, or might yet be agreed to in Geneva, will halt continued erosion of GATT's elaborate legal structure.

GATT supporters seem unable to acknowledge three problems in particular. First, the global economic preeminence of the United States has largely faded. It was U.S. strength that permitted much of the system's early vitality. Second, when GATT's focus shifted from its early tariff cutting to eliminating nontariff barriers to trade, members stumbled into intractable conflicts over their sovereign rights. Each nation understandably insisted on setting its own economic and social priorities and would not—on many issues could not—give way to a more international vision.

Finally, and perhaps most important, such principles as "national treatment" and "most-favored-nation"—principles that underpin the whole GATT structure—are inherently disadvantageous to the most liberal and open societies. When America's power was truly exceptional, this all could be masked. But with America in relative decline and GATT setting an increasingly broad and intrusive agenda, the real penalties resulting from liberalism and openness have been exposed—and with them, the weakness of GATT's original structure.

Why have U.S. political leaders and the trade policy establishment not recognized these facts? They have been blinded by what may be called "GATTism": a belief, bordering on a religious faith, in the power of evermore detailed trade rules to solve major domestic and international economic problems; and a corresponding belief in the ability of the United States to impose its economic views on its trading partners.

GATTists have turned what was once a prudent, narrowly drawn exercise (again centered largely on cutting tariffs) into a futile, legalistic crusade to homogenize different nations—acting, at times, as if there are no such things as healthy expressions of diversity. The result has been a series of unenforceable rules applied to currently ungovernable areas of international economic competition. This, in turn, has produced a moralizing tone to U.S. trade policy; one that has needlessly inflamed many trade disputes and, ironically, caused repeated setbacks for the cause of freer world trade.

The GATTists' panacea of new global trade rules has also increasingly become a threat to the U.S. economy, particularly to the country's manufacturing sector. By focusing on process instead of results and by projecting U.S. economic practices as a world standard, U.S. trade negotiators have contributed significantly to the undoing of America's industrial and technological leadership.

The failure of the Uruguay Round can prove a blessing in disguise if it forces a reconsideration of current orthodoxy and prompts the United States to reformulate its economic and trade policies. For too long, GATTist doctrine has inhibited the real debate that should have been taking place: how to rebuild national economic strength.

FAILURE OF THE TOKYO ROUND

GATT entered into its death throes when the 1979 Tokyo Round manifestly failed to live up to its promise. Instead of producing multilateral market openings and despite reassurances from America's leading GATTists, the Tokyo Round failed to deliver concrete results form any of the measures contained in the final agreement: codes of conduct for international trade, government procurement, reform of the GATT framework, and reductions of nontariff barriers in specific product areas—notably aircraft and agriculture would be in the neighborhood of 60%, actually amounted to only 30%.

And the reassurances had been lavish. In the wake of the Tokyo Round, Special Trade Representative Robert Strauss predicted that changes to the government procurement code (all members had agreed to open up government procurement to outside bidders) would produce up to $25 billion worth of worldwide market access for American business. His office projected the creation of 50,000 to 100,000 new jobs in the United States. In fact, GATT figures from 1983 show that in the European Community procurement market, foreign companies won just .28% of the contracts covered by the Tokyo Round. Similar results could be seen in Japan and elsewhere. Countries that had not signed the agreement did every bit as well as those that had.

Nor did the agreements covering aerospace and high tech deliver. In 1979, the Congressional Budget Office predicted that the Tokyo Round would greatly benefit the U.S. aircraft industry because foreign governments would "use care in avoiding export subsidies or other practices that could hamper competitive trade." The Congressional Budget Office also claimed that newly negotiated standards codes would be particularly helpful to U.S. high-tech industries; the Department of Labor chimed in that the Round would boost employment in the U.S. computer and semiconductor industries by 3.3% and 3.6%, respectively.

But the years since 1979 have not been kind to the Congressional Budget Office nor to the Department of Labor—nor, more urgently, to the U.S. aerospace, computer, or semiconductor industries. The U.S. share of the international aircraft market has dropped steadily over the past decade, in part because the European Community absorbed substantial losses to develop Airbus—through enormous government subsidies that the Tokyo Round had presumably ruled out. Between 1980 and 1989, Airbus's market share went from 0% to 18.8% in narrowbody jets and from 25.2% to 49% in wide-body jets.

In computers, U.S. companies' share of the American market went from 94% to 66% and from 90% to 67% in semiconductors. Globally, the situation was even worse. In the world semiconductor market, U.S. producers' share tumbled from 80% to less than 40%. In the rapidly growing Japanese market, meanwhile, the Tokyo Round agreements did not result in any share increase for U.S. companies. According to a 1986 University of Michigan review of the final agreement, "the effects of the Tokyo Round on trade, employment, and welfare [in the United States] should be measured in tenths or even hundredths of a percent."

Some of this might have been predicted. To grease the skids in Tokyo, U.S. negotiators agreed to accept an injury test before duties could be imposed in dumping cases—a test that made it more difficult than before for U.S. industries to get relief. Such action was only part of a larger pattern in which U.S. negotiators have swapped relatively enforceable rules for unenforceable promises of market access; they have tended to accept wholesale violations of the Tokyo Round agreement—such as the Airbus subsidization—while faithfully adhering to the new stipulations that make U.S. industry more vulnerable to predatory activity.

URUGUAY'S WRONG AGENDA

For GATTists, the Tokyo Round was a victory: at least it gave them a five-year respite from domestic trade pressures. Negotiation could pass for action, and agreements—any agreements—could pass for success. For almost everybody else the Tokyo results were dubious.

International trade tensions only grew in the 1980s. Demands for protection, especially from U.S. manufacturers, ultimately forced free trader Ronald Reagan to hand out more import relief to more U.S. companies than any previous U.S. president; though his ambiguity and his too-little-too-late policies failed to satisfy either Congress or a growing portion of the American public. Granted, U.S. manufacturing ran into trouble in the 1980s for many reasons. Still, manufacturers have suffered from GATTist policies, and their setbacks inevitably ricocheted back onto the rules of trade, further exposing the weaknesses of GATT.

Unable (or unwilling) to change traditional political economic structures, worried about sluggish growth, and frustrated by GATT's spotty, slow, and leaky rules, one country after another sidestepped GATT rules using a variety of mechanisms. Trade relations between Japan and its trading partners became particularly troublesome. The combination of Japan's industrial policies and exclusionist business practices led to runaway trade imbalances and rising charges of unfairness.

What was the GATTists' solution to the growing tension? Another round, of course, to elaborate on the old rules and extend them to more complex and politically sensitive activities. The negotiations focused on services and agriculture, with emphasis on the developing nations and the EC—an agenda weirdly inadequate to America's worst manufacturing crisis since the Great Depression and strangely skewed away from disputes with Japan.

Services, so the GATTists said, were "the future." According to GATTist economic theory, services represented a higher stage of economic evolution—the "postindustrial age." Moreover, as Jay Dowling, international economist in the Commerce Department's Office of Service Industries, put it: "Services were perceived to be something we were relatively good at, something that the newly industrialized countries probably had a need for. [The decision] wasn't based on a lot of detailed microeconomic analysis. It was sort of a general perception. . . ."

Services had something else going for them too. GATT was created to deal with classic, easily identified and quantifiable trade barriers such as tariffs, quotas, and border controls. Japanese and European industrial targeting, administrative guidance, and research consortia were too subtle to fit into this classic trade framework. But services were, on the whole, an easily identified area that had remained outside the GATT rules. Was it not simpler to proceed in the old mold in a new area than to confront the much thornier contradictions threatening the old system?

Agriculture was not chosen after any detailed analysis either. Like services, it was simply a whole sector that had remained outside of GATT; one could imagine preparing a negotiating position in the classic style. At the same time, it seemed reasonable to expect that developing nations could be persuaded to accede to U.S. requests on services by promising them increased agricultural exports.

If services were the future, was manufacturing the past? GATTists have indeed brought to trade negotiations an antimanufacturing bias, based on the profoundly wrongheaded assumption that U.S. manufacturing is uncompetitive—not where the high value added is. And, ironically, one

of the proofs cited by GATTists that U.S. manufacturing is passé (hence, not worth defending) is that U.S. manufacturers have demanded trade relief. GATTists do not see how this demand is actually the product of GATTism's self-fulfilling prophecy, even in high-tech industries.

When, for example, predatory dumping threatened the American semiconductor industry in the early 1980s, policymakers were slow to react. When they did, finally, they assumed that any U.S. industries needing special favors must be dinosaurs. They portrayed memory chips as "communities"—cheap, mass-production items. They comforted themselves with the idea that the United States would surely continue to dominate in the more advanced sectors such as services.

Actually, manufacturing strengthens national competitiveness in at least five ways:

Manufacturing finances most research and development for commercial purposes.

Because both productivity growth and wages are relatively high in manufacturing, it is still engenders many of the best jobs.

Since manufacturers account for the great bulk of U.S. imports and exports, America's international accounts will never improve significantly without upgrading manufacturing.

National security depends on a strong manufacturing base.

Many services are linked to the manufacturing sector in a variety of direct and indirect ways. A strong service sector without a strong manufacturing sector is not possible in the long run.

And so the Uruguay Round was doomed from the start. The corrosives eating away at the system before the Round were not coming primarily from areas uncovered by GATT rules—to be sure, disputes had broken out periodically in agriculture, but agriculture comprises less than 11% of world trade. As for trade in services, it was growing more rapidly than trade in goods, suggesting that GATT rules might not have been essential for expanding international commerce in any case. No, the problems were coming precisely from the areas GATT was supposed to be regulating.

UNFAIR TO OPEN MARKETS

Because it was heralded as a kind of reformation of trade doctrine, the Uruguay agenda did attempt to provide something for everyone. In addition to services and agriculture, there were negotiations on tariff cutting, subsidies, antidumping, safeguards, intellectual property, dispute settlement, and non-tariff measures—the unfinished and failed business of the Tokyo Round. The developing nations received progress in textiles and natural resources-based products. And the scripturalists of GATTism were handed something called "functioning of the GATT system"—appropriately named FOGS.

But the Round was to be more of the same. No one contemplated review of the orthodoxy's core tenets: the principles of national treatment and most-favored-nation status. Adopted as the basis of GATT undertakings in 1948, these concepts appear at first glance to be the embodiment of fairness. They are hardly that in 1991.

Under national treatment, for example, the U.S. government agrees to treat foreign participants in its economy just as it treats domestic companies. In exchange, other GATT members agree to do the same. Why is this unfair? It is not, so long as all countries treat domestic operators more or less the same way. But the United States enforces strict antitrust regulations, refrains from bureaucratic intervention and industrial targeting policies, and applies a strict standard of nondiscrimination. In other, more restrictive economies—Korea's, for instance—governments behave very differently. The result is unfair.

Over a period of time, companies from more restrictive countries will penetrate the more liberal countries markets. Gradually, the restrictive countries' companies will sell more, enjoy lower costs, and begin to dominate international markets, setting the stage for charges of unfairness and demands for protection or retaliation.

There are similar problems with most-favored-nation status. According to GATT rules, if country A and country B negotiate liberal concessions with each other, they must extend these to all other GATT members, so as to prevent their new policies from discriminating against other signatories. But this means that the latter countries can keep their concessions to a minimum while picking up the benefits of substantial liberalization by the first two countries. Under GATT rules, in other words, restrictive countries can maintain high barriers, if they do so on a nondiscriminatory basis. It is all perfectly legal and perfectly unfair to competitors from more liberal economies.

The problem was slight for American companies in the early days of GATT. The U.S. economy was much more powerful than any other country's, and original GATT signatories were, on the whole, quite similar in their priorities and domestic structures. By the 1980s, however, many very dissimilar countries had joined the system and U.S. dominance was long gone. The result was dispute after dispute, in steel, autos, semiconductors, government procurement, aerospace, and many other areas.

Again, none of these issues were on the agenda of the Uruguay Round. The talks were stacked from the start against U.S. manufacturing—by far the biggest contributor to U.S. exports. The United States put agriculture and services at the top of the list. Our trading partners made it clear that the price for concessions in these areas would be further weakening of those U.S. laws enabling manufacturing to counteract predatory trade practices.

American negotiators, in response, accepted that all trade rules were equally important to the U.S. economy, and equally enforceable—an approach with obvious appeal for Presidents Reagan and Bush. By negotiating rules and ignoring the results, they could keep government and industry neatly separated. There would be no partnership with industry and commerce. No trade strategy or any other heretical departures from laissez-faire principles. It was more important to negotiate to save GATT than to save U.S. manufacturing. With a GATT as a shield, U.S. leaders could deflect criticism: "We've done our part, now it's up to you in business to do yours."

The real-world cost of theological purity has been devastating. In 1950, the United States accounted for 18% of world exports and 12% of world imports. Since the 1980s, these proportions have been, in effect, reversed. Some of this was to be expected and even desired, but clearly not all of it.

THE GATTIST'S MISTAKES

GATTists are not stupid. But their faith has driven them to make the cardinal mistake of most zealots and ideologues: they assume that if their dogma does not accurately explain reality, then reality should change to fit their dogma. This view puts GATTists in the always uncomfortable position of insisting that there is nothing wrong with their ideology that a complex transformation of human nature cannot fix.

The real problem with U.S. trade policy today is GATTism itself, which is based on three related misunderstandings about the post-1945 economy. GATTists misunderstand why the GATT approach seemed to work as well as it did; why GATT died; and why nations act as they do in the international economic environment.

Why GATT Worked. International agreements can only codify power realities; they cannot substitute for them. The nation whose views prevail in such negotiations will not be the nation whose views are objectively superior but the one that brings the most cards to the table and can either bend others to its will or buy them off. That is the real lesson of GATT's early successes.

According to GATTist gospel, the system worked because the United States converted its trading partners to its own laissez-faire economic principles. Specifically, the United States was able to convince other countries that international economics was not a zero-sum game, where one side's gain was another's loss, and that therefore they had no reason to try to build national economic strength at the expense of other countries.

But such conversion took place. GATT worked early on mainly because the United States was strong enough to absorb the cost of world economic leadership. And through its ability to bribe others to support GATT, the United States gave those nations an easy way to rebuild their power and prosperity after the devastation of war.

In the 1950s and 1960s, overwhelming U.S. economic strength in virtually all key industries permitted American leaders to absorb unequal trade liberalization in the name of GATT progress. The United States also had abundant financial muscle to help U.S. companies win a reasonable share of business in international markets. And despite American predominance, trade long remained relatively unimportant to the U.S. economy, never exceeding 8% of GNP through 1977.

Geopolitics also led the United States to open its market regardless of other countries' trade practices. Determined to contain communism by creating a stable and prosperous free-world camp and by underwriting Third World economic development and poltical stability, Washington encouraged its European allies to form a restrictive trade bloc, tolerated flagrant protectionism by Japan, and routinely wooed developing countries with lucrative trade concessions. In addition, GATT's task in these early days was a relatively easy one to accomplish—cutting tariffs.

Visible and easily measurable, tariffs are trade barriers that invite elimination. At the same time, the international monetary system that lasted from 1945 to 1971 magnified the relative importance of tariff cutting. Fixed exchange rates limited the ability of GATT members to reap unilateral trade benefits by manipulating the movement of their currencies. Meanwhile, worldwide expressions of endorsement of GATT norms appeared to confirm two of the GATTists' most sacred assumptions: that market-oriented capitalist economies are all the same and that, therefore, GATT was an agreement among fundamentally like-minded countries.

Convinced that all signatories shared common views about national economic and social practices—for example, the proper role of governments in the economy, the relative importance of consumption and protection, the optimal balance of power between labor

and management—GATT's founding fathers concluded that harmonizing these practices in the trade arena would be relatively easy. They were wrong.

Why GATT Died. Unfortunately, America's global dominance was unsustainable. Indeed, narrowing the gap between the United States and the rest of the world—restoring some semblance of pre-1939 "normalcy" to the world economy—was a leading aim of U.S. foreign economic policy. In 1947, U.S. officials unwittingly created a world trading system that required that history be frozen. They didn't allow for a change in the world economic power structure.

As America's global economic position declined from an early postwar peak, so did the country's ability to absorb painlessly the cost of economic leadership. Not only did the U.S. share of world trade decline substantially but earnings have also stagnated and many major U.S. industries have been driven out of business.

How Nations Really Compete. Some GATTists preach that rule-writing hasn't worked lately because most countries are too stupid, selfish, or narrow-minded to see that obeying such rules leaves everyone better off in the long run. Other GATTists suggest that a world bored with quiet competence and achievement is simply tiring of GATT in some psychological sense.

These conclusions rest on naive assumptions. They assume that countries will sacrifice individual interests and national sovereignty to create benefits for the world as a whole. They blame noncompliance with GATT norms on temporary, fluky, ultimately correctable problems—genuine misunderstandings and misinterpretations, moral lapses, and lack of information. Ultimately, GATTists believe that countries enter agreements "on the merits," regardless of international power relationships or the specific flow of benefits. And they hold that nations observe these rules in large part because nations become committed to the idea of observing rules.

Acccording to GATTists, in short, international trade regimes work just as the U.S. legal system does. GATT and other rule-making trade negotiations should be legal exercises. Just as domestic law can protect a country's citizens from arbitrary rule, the right kinds of trade rules can protect international commerce from arbitrary "political" forces. In this respect, GATTism also reflects another uniquely American belief—that economics can and should be divorced from politics.

It is, of course, completely unrealistic for the United States to expect to depoliticize world trade. Many pragmatists in the United States and most of the rest of the world have always viewed trade and trade negotiations as simply a continuation of economic conflict. They do not expect the competitive, anarchic nature of world politics to fade anytime soon. Rather, they see it as an unavoidable characteristic of a world of independent sovereign nations.

GATTists tend to believe that comparative advantage cannot be created and nations are stuck with the strengths and weaknesses that God gave them. Other nations disagree and cite, among others, the example of Japan, whose comparative advantage through the late 1950s was thought to be confined to dwarf trees and cheap, breakable toys.

Finally, GATT negotiators have made violations of trade rules all the more inevitable by adopting an ever-tightening spiral of more and more precisely worded covenants aimed at more and more subtle forms of national trade strategies. But national practices pose an unsolvable compliance and enforcement problems for GATT: many of the barriers reflect strong and entirely legitimate national preferences on numerous issues related to economic, political, and even social organization.

In fact, the GATTists' term "trade distorting" represents the ultimate fallacy of their worldview. It lumps together all manner of economic activities—from environmental regulation to consumer protection to government technology-promotion efforts designed to enhance long-term national wealth-creating capability—and implies that their immediate effect on trade is the only measure of their worth.

World trade negotiators now routinely seek infringements on sovereignty that nations will not and, in many cases, should not accept. When pressed, most nations legitimately point to the still dangerous world they live in and cite their understandable desire to set their own economic, social, and political priorities. GATTists then castigate them as retrograde and protectionist. The real problem, again, is not with these nations but with the GATTist doctrine, which demands that nations act against their own self-interest or, more precisely, that they adopt a new and historically unproven definition of their self-interest.

BEYOND GATT

What will result from the failure of the Uruguay Round? According to GATTists, terrible economic plagues are all but inevitable. A closer look reveals a more balanced picture.

It is hardly clear, first of all, that GATT was the main spur to the phenomenal post-World War II rise in international trade. After all, much of the expansion has occurred in sectors outside GATT's jurisdiction—notably services and agriculture—or in sectors that departed from GATT's discipline, as with textiles. Moreover, the emergence of the EC, of vastly improved transportation and communication, and of other political and technological developments were at least as important as GATT in spurring trade. The recoveries of Western Europe and Japan from wartime ruin, the advancement of the developing countries, and progress toward European economic integration owe more to the injection of American credit into the world economy than to any accomplishment of GATT.

Nor was the trade explosion primarily responsible for vigorous postwar growth. Indeed, it may be said that prosperity permitted trade liberalization in the postwar era, not the other way around.

This virtuous cycle ended not because protectionism began to increase. Rather, after the mid-1960s, as the United States added vast domestic social welfare obligations to its costly international military and financial burdens, its monetary policy became increasingly inflationary and, hence, unsustainable.

Second, the Uruguay Round did not have much bearing on the present leading conflicts. Current U.S.-EC agricultural trade disputes—over beef hormones, slaughterhouses, canned fruit, and pasta—are largely unrelated to what proved to be the Uruguay Round's agriculture agenda. Nor was the Uruguay Round set to do anything about the common foreign practice of industrial targeting that inevitably aims at U.S. industry.

GATT has been an inherently inappropriate forum for addressing what might be called American industry's structural handicaps—the unique problems posed by the Japanese keiretsu, the Korean chaebol, the German financial-industrial combines, and the French state-owned industrial giants, all of which enjoy political relationships with their governments and degrees of market control impossible for U.S. companies.

And the greatest threat the Uruguay Round was intended to preempt seems already to be a reality, namely, the fragmentation of the world into 1930s-style regional trade blocs. The development of EC 92, Japan's establishment of hegemony over the economies of the Pacific Rim, and the sudden emergence of a North American bloc built on bilateral free-trade pacts between the United States and Canada, perhaps Mexico—and even the rest of Latin America—are bound to continue regardless of what might have happened in Brussels or what may occur in other GATT talks.

Even though the global struggle for economic and technological leadership may well intensify, the trade-war scenario feared by GATTists is unlikely to unfold. Much of America's foreign trade and most international trade is based on bilateral agreements, formal and informal, outside GATT disciplines. These should survive the last days (or years) of the current world trade system quite nicely.

Indeed, the manifold activities of multinational corporations and banks of all shapes and sizes around the world have created a thick web of ties and relationships that are not about to disappear. Numerous and powerful interests in all the world's major countries have an overriding interest in containing economic disputes and reaching settlements. If anything, the Uruguay Round's failure has had the world walking on eggshells and should prompt a search for a new direction.

TRADING UP

Whether the international trade negotiations of the future are mainly multilateral, bilateral, regional, or functional, trade will become an ever-more competitive field of endeavor. And although economic links among many nations will broaden and deepen—to the point of speeding the formation of regional trade blocs—trade will continue to be dominated by rival political units.

As the Cold War winds down, economic strength will become the key to global power and influence, and ways of building that strength will become increasingly difficult to regulate. GATT-style trade liberalization will never keep up with the new strategies nations will devise to gain the upper hand. No matter how the details of a post-GATT world sort themselves out, the following principles should guide U.S. trade policy.

The United States should not formally abandon the GATT process. Future rounds may well produce some gains for the American economy. But Washington needs to spend much less time trying to breathe life back into the current GATT system and much more time developing, in cooperation with major trading partners, a new framework for world trade. America's principal challenge will be promoting its economic interests in a pragmatic, nonmoralizing manner.

The new trade framework must strike a more sensible balance between trade liberalization and legitimate national objectives than GATTism does. It must recognize that many current GATT signatories simply do not accept the laissez-faire economic principles characterizing the American version of capitalism. And it must replace the prin-

ciples of national treatment and most-favored-nation with a single standard to ensure that liberal economies are not penalized and closed economies rewarded.

Achieving these goals may first require creating a "superGATT" or a new, more restrictive version of the failed International Trade Organization (ITO) proposed in the late-1940s. Both would consist of a smaller group of truly like-minded countries willing to abide by a single set of rules. As the European Community has found, the only way to achieve a truly single market is to achieve such convergence. This harmonization effort would focus on a small number of economic policies and strategies aimed at stimulating trade and growth. The benefits of the rules, which might usefully be called "GATT treatment," would accrue only to countries willing to take on the new obligations.

But the United States also needs new policies for those countries remaining outside superGATT. In trade relationships where the classic principles of comparative advantage do not apply, where industrial policies intrude, or where, as a result, free trade simply does not exist, the United States needs an approach that copes with different national economic structures. There is no point picking a fight. It is better to negotiate bilateral, reciprocal agreements.

A good example of how reciprocity might work is international trade in airline services. Here the United States faces the problem of gaining access to foreign markets where, in many cases, the competitors of American air carriers are owned or heavily subsidized by host governments. In response, Washington does not grant national treatment. It grants to various foreign carriers only the kind of access to the U.S. market that their governments are willing to give U.S. airlines in their markets. Trade is not "free" by GATT purists' standards, but a considerable degree of competition is preserved.

Unlike GATTism, which would pretend that the structural problem in international airlines services trade does not exist, bilateral reciprocity leads negotiators to recognize, accept, and accommodate key differences among trade partners. And the principle of reciprocity continually drives negotiators to seek outcomes that bring specific, concrete benefits to their countries.

But a superGATT—much less a new ITO—is still many years away. And until they are within reach, U.S. policymakers must recognize that trade negotiations will be just one very limited aspect of the broader economic strategy that is needed. In the past, trade negotiators could afford to seek abstract goals, such as "fairness." Today abstractions must give way to concrete self-interest and results, future agreements must be judged according to their direct impact on the U.S. economy, not on their ability to prop up a legalist world system in which critical U.S. industries are mere bargaining chips.

TRADE POLICY IS NO SUBSTITUTE FOR NATIONAL ECONOMIC STRENGTH

A results-oriented trade policy need not entail the guarantee of a certain amount of overseas sales. But it must entail thinking about the specific, industry-related impacts of various trade proposals before international negotiations reach the home stretch—something never done for the Tokyo or Uruguay Rounds. Such a policy would also help remind officials that different trade rules will have different effects in various sectors. In particular, rules governing manufacturers will usually be easier to enforce than rules governing services.

This kind of policy would carefully weigh the impact on trade and international competitiveness of major economic decisions made by the federal government. Time and again, Washington has ignored these considerations, even when the wrong move jeopardizes the strongest of industries. Recall the breakup of AT&T. It was never reviewed by the U.S. trade representative. When it was implemented, one unintended result was a massive U.S. trade deficit in telecommunications equipment.

In all, cultivating U.S. economic strength will be the best guarantee of prosperity and security, whether the post-GATT world is stable and primarily cooperative or volatile and fiercely competitive. Trade policy is no substitute for the nurturing of national economic strength. This is a top national security priority; the stronger the United States is economically, the more freedom of action it will have.

Ultimately, America's best hope for securing access to international markets is not to negotiate it but to make products so outstanding that countries will have no choice but to import them. Luckily, the United States still has a unique combination of advantages—great size and military strength, secure borders, tremendous natural wealth, and dynamic social and economic systems. U.S. economic policy should aim first and foremost at preserving and building on these advantages, not frittering them away in a hopeless quest for a worldwide trade utopia.

After Brussels, it is time to say that the emperor has no clothes. GATTist views simply do not conform with the world's realities. It will no longer suffice for the U.S. government to preach laissez-faire principles, write the rules for them, and expect free market forces automatically to serve the interests of U.S. companies and citizens.

Until the nations of the world become more like-minded economically, America's top priority in the post-GATT world must be to meet a challenge that practically defines successful diplomacy and policy-making: recognizing the inevitable and turning it to one's advantage. By casting off the blinders of GATTism, the United States should be able to make the post-GATT world not one of peril but one of opportunity.

EXHIBIT 3

[ESI Analysis, Economic Strategy Institute, Oct. 23, 1990]

READ MY STATS: BOGUS NUMBERS THREATEN THE URUGUAY ROUND

The Uruguay Round of GATT multilateral trade negotiations (MTN), scheduled to conclude in six weeks, will shape the world's economic future for years to come. A real success is urgently needed; that means an agreement that brings clear benefits to the United States by boosting economic output and reducing the trade deficit. This success is needed both for the American economy and to shore up flagging U.S. support for multilateral trade liberalization.

This analysis makes two major points: First, the figures used by the administration to describe the likely benefits of an agreement are demonstrably wrong. Such overly optimistic predictions inflate expectations and damage the credibility of the GATT process. By the same token, overly pessimistic predictions about the costs of a Uruguay Round failure could produce an agreement that inflicts serious long-term damage to the U.S. economy, especially to the manufacturing sector.

Second, the administration's approach ignores major risks to manufacturing that could result from altering U.S. trade laws. Although modest gains in agriculture and services would be welcome, an agreement that puts manufacturing at serious risk is not acceptable.

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INTRODUCTION

The scheduled deadline for concluding the Uruguay Round of world trade negotiations is less than 6 weeks away. What can the United States realistically expect from the talks? Aside from agreement on new rules governing various kinds of economic activity all around the world, what kinds of substantive results will an agreement achieve for America? Will national output rise or fall? Will the trade deficit narrow or widen?

Although the Uruguay Round talks have been underway since 1986, the U.S. government has begun to examine these questions only very recently. A bare handful of official studies has tried to estimate the economic and trade impact of a Uruguay Round agreement. In fact, many of the administration's projections are based on an academic study from Australia.

America's recent experience teaches that a failure to anticipate the substantive results of trade negotiations is a formula for trouble—both for the U.S. economy and for the world trading system. The 1979 GATT Tokyo Round agreement, for example, contained all kinds of new trade rules; it generated high hopes in Washington that America's trade problems and world trade tensions would be significantly reduced. But by the early 1980s, the Tokyo Round has proven itself a cosmetic success only. Its failure to deliver on its promises led to disappointment, rising trade tensions, eroding credibility for the GATT system, and ultimately to the Uruguay Round.

The Economic Strategy Institute is pleased that the administration is now focusing on the merits of the Uruguay Round. But given the tardiness of this focus, the Institute has been concerned that America may be setting itself up for amother GATT-related disappointment. Consequently, ESI decided to analyze the economic estimates being used by the administration on behalf of a Uruguay Round agreement.

The Institute's analysis, presented below, finds that these estimates dramatically overestimate the likeliest benefits of an agreement. Just as important, they all but ignore the likeliest risks—especially to a U.S. manufacturing sector that, despite the Round's focus on agriculture and services, remains the key to national economic success.

HIGHLIGHTS OF THE ESI ANALYSIS

I. Overstated numbers

The administration overstates the economic benefit from a Uruguay Round agreement by more than 700 percent.

The administration has predicted that a Uruguay Round agreement will increase U.S. domestic output by $125 billion in the first year after its signing alone.

ESI's analysis indicates that a one year increase in GDP of this magnitude would require the impossible: as much as $500 billion in increased investment (a doubling of current investment levels). The $125 billion figure also rests on unrealistic assumptions: principally, a 30 percent worldwide reduction

in all trade barriers, and an instantaneous relocation and rationalization of the world's labor and capital assets. Further, the academic study cited by the administration clearly indicates that the most likely Uruguay Round scenario could result in an increase in U.S. GDP of $18 billion, not $125 billion.

Overestimating the benefits of GATT agreements is a tradition for U.S. administrations, and leads to bad agreements that undercut the credibility of the process.

In 1979, the Special Trade Representative's Office forecast that Tokyo Round tariff reductions would benefit U.S. consumers by as much as $10.6 billion per year. The Michigan Model of World Production and Trade estimates the total actual net welfare benefits to the U.S. economy at only $700 million.

STR claimed that the Tokyo Round Government Procurement Code would open a $25 billion worldwide foreign government procurement market for U.S. producers. GAO determined that actual U.S. annual sales to these markets were approximately $210 million.

The Uruguay Round results could boost the trade deficit by $14 billion per year.

The administration failed to mention that the same academic study that USTR cites to predict GDP growth also projects an increase in the U.S. trade deficit of $18 billion.

ESI estimates that, under the most realistic scenario, the trade deficit could increase by as much as $14 billion.

New rules on intellectual property rights protection will generate only small gains, and possibly losses, to U.S. producers.

USTR predicts that U.S. companies will reap a $60 billion gain from the tighter enforcement of intellectual property rights expected to be approved at the negotiations.

ESI has examined the International Trade Commission report on which this claim is based and believes that the trade gains are likely to be only $14 billion. Without tight enforcement of intellectual property rights around the world, the new rules could produce no gains for the United States. If Section 337 is not replaced with an adequate substitute, U.S. industry would almost certainly suffer substantial losses.

U.S. exports to third world countries will not increase by $200 billion over 10 years, as claimed by the administration.

USTR argues that a Uruguay Round agreement bringing the developing world into the global trading system could increase U.S. exports by $200 billion by the year 2000.

ESI considers this level of sales possible only with final resolution of the persistent debt crisis and the end of inflation in most developing countries. Equally remote is the prospect that these countries could finance huge increases in imports from the United States, especially given recent oil price rises.

ANNUAL EFFECTS OF A URUGUAY ROUND AGREEMENT

[In billions of dollars]

	ESI analysis	Administration claim
Domestic output effects [GDP]	+5–20	125
Total trade balance effects	−14	80
Improved intellectual property protection	0	60
Increased exports to developing countries	0	20
Trade balance effects of Uruguay round reductions	−14	80

II. Understated effects

Gains from the administration's top priority in the Round—agriculture and services—will be marginal at best . . .

The U.S. Department of Agriculture estimates that full liberalization of agriculture trade would yield only $3 billion in increased exports for the United States.

ESI estimates that if the administration achieves its own more modest goals of a 30 percent reduction in agriculture barriers, the benefits could be as small as $1 billion.

The U.S. government has not prepared any estimates of gains from services trade liberalization since the Round began in 1986.

ESI estimates that, even if the Uruguay Round brought a 10 percent increase in U.S. trade surplus, the U.S. trade surplus would gain only $2.7 billion annually.

* * * and these could place the full burden of the increase in the trade deficit on U.S. manufacturing by $17.7 billion.

An alternative scenario, in which U.S. trade laws are altered along the lines currently requested by U.S. trading partners, could result in lost export opportunities and increased import penetration of the U.S. market. The net effect would contribute additional billions to the trade deficit.

I. OVERSTATED NUMBERS

GDP effects

The U.S. Trade Representative's Office (USTR) has predicted that the United States can expect a $125 billion increase in domestic output in 1991 alone through the greater access to world markets resulting from the Uruguay Round. The source of this prediction is a study by the Centre for International Economics in Canberra, Australia titled, Western Trade Blocs. But the administration has erroneously described its results. According to the study, the $125 billion in gains are not a one-year gain, but a one-time gain from tariff and non-tariff measure cuts. A quick review of the relationship between Gross Domestic Product (GDP is the measure of a country's output excluding trade) and investment shows that a one-year increase in GDP of $125 billion would require the impossible: as much as $500 billion in increased investment (a doubling of current levels). Approximately 8 percent of total U.S. manufacturing would have to be converted from low-value to high-value-added activity.

The $125 billion figure is problematic for another reason. The Australian study utilizes a regional general equilibrium model of world trade. The $125 billion in GDP improvement projected by this study is based on an adjustment of the original Australian model results. The figure assumes a 30 percent worldwide reduction in all tariffs and non-tariff barriers to trade. The Round is unlikely to achieve such results—as the Australian study itself acknowledges.

The $125 billion figure, moreover, was the product of only one of several world trade liberalization scenarios presented by the Australian study. The GDP effects of a Uruguay Round outcome that the authors characterized as "likely" predicted that U.S. output would increase by $18 billion rather than the $125 billion cited by USTR. Plainly, the number cited by USTR does not tell the whole story.

Further, although it seems reasonable in contrast to the $125 billion estimate, the $18 billion estimate itself is tenuous. The Australian economic model rests on two shaky assumptions. First, it assumes instantaneous changes in the world's use of capital and labor, a totally unrealistic expectation. Second, the model assumes that major progress in reducing tariff measures will occur in its most likely scenario for the Round. Yet, negotiators in the Uruguay Round are hoping to reduce agricultural and manufacturing tariffs by only 30 percent. Further, agreements are unlikely to result in major reductions in barriers to trade in services, which now account for one-fourth of world trade. In addition, the model does not take into account exchange-rate fluctuations that could reduce any overall trade effects of a Uruguay Round agreement.

Trade effects

Reduction in Tariffs and Non-Tariff Measures (NTMs)

The Australian study cited by USTR for GDP effects also includes estimates of the Uruguay Round's impact on the U.S. trade balance. Although USTR used the $125 billion in GDP gains cited by the Australian study's best-case scenario, it neglected to mention that the same scenario projected an $18 billion increase in the U.S. trade deficit. According to the Australian study, the likeliest Uruguay Round outcome will cause a $3 billion deterioration in the U.S. trade balance in the first year.

In distinct contrast to the administration's estimates, other studies show that tariff and NTM reductions could result in a $14 billion deterioration in the U.S. trade balance. One study by Hufbauer, Berman, and Elliott, estimates that complete elimination of non-tariff measures (NTMs) in industrialized countries would raise U.S. exports by $20 billion and imports by $55 billion—thereby adding $35 billion to the U.S. trade deficit. Thus, using rough calculations, reducing NTMs by one-third could result in a $6.6 billion increase in exports and a $18.2 billion increase in imports. Another estimate, also developed by Hufbauer, shows that a complete elimination of tariff measures by industrial nations would increase U.S. exports by $8-billion and U.S. imports by $14 billion, and thereby raise the U.S. trade deficit by $6 billion. Taking one-third of this estimate yields a $2 billion increase in the GNP due to increased exports of $2.7 billon and increased imports of $4.7 billion.

Agriculture

Agriculture is considered to be one of two major U.S. priorities in the Uruguay Round. Yet a variety of studies, including some by the federal government, project only marginal potential gains from an agriculture agreement. The U.S. Department of Agriculture, for example, estimated that $3 billion might be gained from a complete liberalization of agricultural trade, including the elimination of European subsidies. Given the lack of progress on agriculture issues, however, a $1 billion improvement in U.S. trade (assuming a 30 percent reduction in agriculture barriers) seems closer to the mark. The U.S. Congress has already moved to cut U.S. agriculture supports by one-third. This, coupled with recent European moves in the Round to preserve their Common Agricultural Policy, makes it questionable whether the United States will realize gains in agriculture.

Services

The service sector is the other major U.S. priority in the Round—indeed, the Round commenced with U.S. insistence on the discussion of services trade. But, after four years, there still are available no offical estimates of the effects of the Uruguay Round on U.S. services trade. In other words the administration does not know how the Uruguay Round services agreement it is seeking will effect either U.S. output or the U.S. trade balance.

Gains from liberalizing trade in services are included in the Australian figures cited by the administration. However, ESI has found only one study that contains separate estimates for gains resulting from any kind of international service trade liberaliza-

tion—a report by the Commission of the European Communities from 1988 that estimates a 1.5 percent improvement in the European Community's GDP from removing all internal Community barriers of financial services.

ESI has prepared its own rough estimates of possible one-year U.S. gains from liberalizing trade in services. Using the blance-of-payments figures prepared by the Bureau of Economic Analysis (U.S. Department of Commerce), U.S. services trade—services trade plus income transfers—will add $27 billion to the 1990 U.S. trade balance (annualizing the first two quarters of 1990). If the United States added 10 percent to the U.S. trade surplus in services as a result of the Uruguay Round—surely an optimistic projection—the U.S. trade balance would improve by only $2.7 billion in the first year.

Yet several key service sectors, such as telecommunications, maritime, and aviation, are unlikely to be included in any final agreement. If their omission limited the first year improvement in the current service-trade surplus to 5 percent, this would result in an addition of $1.4 billion to the services trade surplus.

It is most likely, however, that the Uruguay Round will produce no changes in current rules concerning barriers to services trade, although it could achieve an agreement to limit the development of new barriers to trade in services. This would have little effect on the U.S. balance of trade in services in the first year after the completion of the Uruguay Round, but might have significant impacts in the 1990s.

Improved Protection of Intellectual Property Rights

The administration predicts a $60 billion gain for "U.S. enterpreneurs" from better international enforcement of intellectual property rights (IPR) from the talks. This figure was drawn from a 1988 U.S. International Trade Commission (USITC) study showing $24 billion in losses to American business from IPR violations around the world. USTR increased the USITC results by 2.5 times to compensate for the possibility that the USITC survey did not adequately cover Fortune 500 firms and other large U.S. companies. But, the survey itself argues that most of the losses suffered by U.S. corporations through inadequate protection of U.S. IPRs affected the largest firms in the Fortune 500. Therefore, increasing the losses estimated by the USITC study does not appear to be justified.

The 1988 USITC study's estimates also should be adjusted to properly measure the impact on the U.S. trade balance. The study found that U.S. firms lost $10 billion due to infringements on product sales. But a large part of these sales occurred at the expense of foreign subsidiaries of U.S. firms, and therefore should not be included in estimates of how enforcing IPRs will improve the U.S. trade balance. Using a procedure devised by the USITC itself, it is possible to estimate that the losses to U.S. firms due to such infringements were closer to $2.5 billion.

When added to other categories for losses included in the USITC study—lost exports of $6.2 billion, pirated imports of $1.8 billion, and lost licensing revenues of $3.1 billion—the total losses from intellectual property rights violations add up to approximately $14 billion.

A Uruguay Round agreement could net the United States about $14 billion if IPRs were enforced. But unless the agreement on IPRs is strongly enforced around the world—a result that experience warns not to expect—few of the anticipated gains will be realized. Further, if the United States, which has agreed to modify Section 337, does not replace it with something comparable, the net effect of new rules on IPRs could well be negative; the United States would almost certainly suffer substantial losses.

Increased U.S. Exports to Developing Countries

The administration's prediction of $200 billion in increased U.S. sales to devleoping nations by 1990 is another major overstatement. Greater sales to these nations on this order would require a resolution of the persistent debt crisis and the end of inflation in most developing countries. But these prospects remain highly remote, especially in light of the recent increases in the price of oil.

EFFECTS OF A URUGUAY ROUND AGREEMENT

[In billions of dollars]

	Administration figures			ESI analysis
	Claim	w/exclusions	Adjusted	
GDP effects (change in domestic output):				
Reduction in tariffs and nontariff measures	125	125	18	+5 to −20
Trade balance effects (exports less imports):				
Reduction in tariffs and nontariff measures:				
All sectors	n/a	−18	−3	−14
Agriculture	n/a	3	1	1
Services	n/a	n/a	2.7	2.7
Manufacturing (implied)	n/a	−21	−6.7	−17.7
Improved protection of intellecrual property rights	60	60	14	0
Increased LDC imports of U.S. goods/services	20	20	0	0
Trade balance total	80	59	11	14

Administration Claim: Includes estimates presented by the administration in a New York Times op-ed piece, September 19, 1990.

Administration w/exclusions: Includes Administration Claim, plus trade balance effects of GDP scenario cited by administration, plus USDA agriculture estimate.

Administration Adjusted: Includes previous categories. GDP effects converted to most likely Uruguay Round scenario as cited in Australian study. Revised intellectual property and LDC export estimates.

ESI Analysis: A more likely scenario.

The Tokyo Round

The official U.S. approach to this trade negotiation is not unique to the Uruguay Round. In 1978–79, Washington predicted that extraordinary benefits would flow from the Tokyo Round. Very few materialized.

Tariff Reductions

In 1979, for example, the Special Trade Representative's (STR) office projected that U.S consumers could save as much as $10.6 billon per year as a result of Tokyo Round tariff reductions. This large number rested on a key assumption: U.S. tariff reductions would be fully reflected in lower prices for imports. Likewise, cuts in tariffs would indirectly restrain price increases for domestically produced goods competing with imports.

But tariff reductions are never fully reflected in consumer prices. World prices and exchange rates invariably adjust in response to tariff changes. Further, Tokyo Round tariff cuts that were phased in over eight years (which reduced U.S. average tariff rates from around 6.5 to 4.3 percent; worldwide rates were cut from 7.8 to 5.8 percent) would probably have had only marginal effects in any given year.

A more reasonable estimate of the benefits from Tokyo Round tariff cuts comes from the Michigan Model of World Production and Trade. Unlike the official predictions, this computer model takes into account exchange-rate and price fluctuations. It estimates a total net welfare benefit to the United States of $700 million (ESI has annualized this to $100 million per year over the seven-year period of incremental tariff reductions) as a result of the Tokyo Round.

TARIFF REDUCTIONS

[Gains in billions of dollars]

	Strauss/STR claim	Michigan Model of World Production and Trade
Annual gain	10.6	[1].01

[1] $.7 total.

Government Procurement

In 1979, STR estimated gains of $25 billion in access to other signatories' markets as a result of the Tokyo Round government procurement code. These estimates assumed complete enforcement of the code and general compliance by all signatories.

According to the General Accounting Office (GAO) in 1981 (the only year studied) the worldwide total of government purchases under the code was $8.4 billion (excluding U.S. government purchases) rather than $25 billion. Yet only $4 billion of that was actually competitive (open to foreign bidding), because of single-tendered contracts and government contracts that fell below the code's threshold of 150,000 SDRs. And of this $4 billion total, only $210 million was contracted to U.S. suppliers. Data on 1982 procurement indicated no significant change from 1981.

GOVERNMENT PROCUREMENT

[In billions of dollars]

	Strauss/STR claim	General Accounting Office, 1981 actual
Annual market access	25	4.0
Annual export increase	1.3–2.3	0.21

The administration also predicted that 50,000 to 100,000 U.S. jobs would be created as a result of the government procurement code. However, using the Department of Labor methodology on which this estimate is based, and taking into account actual export activity (as estimated by GAO) a rough estimate of jobs created is 700–1,400.

II. UNDERSTATED EFFECTS:

GDP effects

The GDP effects of a Uruguay Round agreement could actually be negative. ESI estimates that a Uruguay Round agreement could result in a $14 billion deterioration in the U.S. trade balance for U.S. firms in the first year after its completion. It is difficult to estimate the precise impact of such a change in the U.S. trade balance without the use of an economic model. Following standard economic practice, however, it is reasonable to assume that the total impact of such changes in GDP will include some multiplier of their impact on trade as well as some efficiency gains. A multiplier of 1.5 is not unreasonable: Consequently, a $14 billion increase in our trade deficit would be reflected in a decrease of $21 billion in GDP. However, efficiency gains from increased export and im-

port activity are likely to be positive. Those ESI estimates that GDP effects could range from +$5 to —$20 billion.

Evidence for making this case can be found in some of the empirical studies that have recently been reviewed by David Richardson. One study of the formation of the European Community by Nicholas Owen uses an "imperfect competition" model that explicitly differentiates between large, profitable firms and smaller, marginal firms. Owen argues that trade liberalization brings significant consolidation of small, marginal firms. Substantial opening of the U.S. market would result in sizable adjustment costs, especially since weaker firms would no longer be able to compete with their foreign counterparts.

Other effects

The administration also overlooks several other components of a Uruguay Round agreement that could further widen the U.S. trade deficit. The USITC has estimated that the United States could suffer welfare losses of more than $3 billion a year if U.S. safeguards rules are abolished. In addition, estimates of the benefits created by Section 301 in promoting greater market access with U.S. trading partners should be counted in any Uruguay Round projection, since an agreement might restrict this law. For example, recent negotiations with Japan, Korea, Brazil, and Taiwan have added several billion dollars to the positive side of the trade ledger. Without Section 301, those benefits would be lost.

Another Uruguay Round scenario should also be considered. Many of the above estimated losses include only forsaken gains that have been achieved because of existing trade laws. If U.S. trade laws that deter predatory trade activity—particularly those covering dumping and subsidies—are altered along the lines requested by our trade partners, the results could be dramatic: increased targeting by foreign governments' industrial policies and dumping activity by foreign companies that reduces the domestic market shares of many U.S. firms. In several important manufacturing industries, including some of the more dynamic sectors, several corporations estimate that import penetration could result in a reduction of 5 to 10 percent in current output levels.

For example, many major U.S. industries—including computers, semiconductors, telecommunications, and fiber optics—are the objects of foreign trade campaigns. The European Community has taken direct aim at U.S. world leadership in civil aviation with its heavily subsidized Airbus program. If a Uruguay Round agreement entails significant alteration of U.S. trade laws, the U.S. trade deficit could rise by $20 billion in the first year after the agreement is signed. If this figure is added to the $14 billion that ESI's analysis concludes could be added each year to the U.S. trade deficit by a Uruguay Round agreement, the total annual increase in this deficit would hit $34 billion—a rise of more than 33 percent.

III. EXAGGERATED CONSEQUENCES

A critique of the analysis prepared for the MTN Coalition

The Stern Group, a private consulting firm, has recently issued estimates of the economic effects of the Uruguay Round for the MTN Coalition, an alliance of American private-sector interests promoting the Uruguay Round. These numbers, like those of the administration, are vastly exaggerated.

The Stern Group has made three principal points in its recent study of trade:

The United States could add $300 billion to GNP due to trade expansion if the Uruguay Round succeeds.

The United States could lose these gains and another $100 billion if the Uruguay Round fails.

The United States is gaining jobs from trade, not losing them, since U.S. "merchandise exports accounted for 90 percent of GNP growth in the first seven months of 1990."

These estimates provide erroneous information for several reasons. The Stern Group's projection is based on the same Australian study used by the administration. The Stern Group argues, however, that the $125 billion in GNP gains should be increased to $300 billion because the Australian model excludes "dynamic" effects. The Group assumes that removing trade barriers worldwide will give America the same kinds of advantages that the Australian model predicts the European Community will gain from removing its own trade barriers. But since most of these gains would come from integrating financial services and increasing economies of scale and productivity, it is difficult to assume that they would be achieved in the United States (or Europe) unless the industrial composition of investment was shifted from low-value-added industries to high-value-added industries.

In addition, few economists would combine the results from a static model with results from a dynamic one. Each gives a different picture of how changes in trade laws might influence GNP and trade. It is not methodologically sound to combine these two different pictures of one economic situation.

Further, the Stern Group calculates that nearly $100 billion in U.S. GNP losses will result from a failure to liberalize trade in the Uruguay Round. But this figure was generated from mistakenly adding the results of two separate scenarios in the Australian study—one projecting losses if North America as a whole (the United States and Canada, in their study) retaliates against the creation of a protectionist "Fortress Europe" ($64 billion) and one projecting losses if North America as a whole does not retaliate ($40 billion).

Finally, at the present time, the U.S. trade balance remains nearly $100 billion in the red. Overall, we are losing, not gaining, jobs from trade. Recent increases in U.S. exports should contribute to some job growth but this contribution is not substantial.

The "trade war" scenario

In addition to overstating the benefits of the Uruguay Round (and understating some possible effects), the administration considerably exaggerates the consequences of failure. This approach complicates negotiating tactics, and makes it more difficult to walk away from an agreement that is not in the U.S. interest.

According to the administration, a Uruguay Round failure is likely to heighten protectionism around the world. However, not even the construction of a "Fortress Europe", one possible result of a failure, need have significant negative impacts on the U.S. economy. According to the same Australian trade model cited for the USTR's estimates of gains from the Uruguay Round, greater protectionism in Europe would produce one of two possible outcomes:

Scenario I: Fortress Europe with no U.S. retaliation:

A loss of $52 billion in European GDP; and

A loss of $36 billion in U.S. GDP, but a $5.6 billion improvement in the U.S. trade balance, with imports declining by $24.7 billion and exports declining by $19.1 billion (this is derived by taking 90 percent of the original figures for total North American trade published by the Australian study.)

Scenario II: Fortress Europe with U.S. retaliation:

A loss of $132 billion in European GDP;

A loss of $58 billion in U.S. GDP; and

An $8–$9 billion improvement in the U.S. trade balance.

In no case would the United States lose $100 billion or more in GNP, as claimed in the Stern Group study; the same Australian study cited by the Stern Group shows that if North America (i.e., the United States and Canada) retaliates against a more protectionist Europe, the loss would be $64 billion in GDP, $58 billion of which would be lost by the United States.

All of these losses, moreover, are very likely overstated. They come from a static model that assumes major adjustments in the world's economies within the first year after any changes. This is quite unrealistic. Any major changes in complex industrial economies are likely to occur over a far longer period.

[From the New York Times, Sept. 19, 1990]

TEXTILE BILL: UNFAIR AND UNNEEDED

(By Carla A. Hills)

WASHINGTON.—The only good thing to say about the textile bill that passed the House yesterday is that the margin of approval fell short of the two-thirds needed to override an almost certain Presidential veto.

In all other respects, the bill is a disaster. It would expand three decades of protectionism, not only raising already artificially high U.S. apparel prices but also undermining global trade negotiations, now nearing completion in Geneva.

The bill, which would apply quotas to new items and make existing protections permanent, would badly hurt consumers, particularly at lower income levels. During the next five years, textile and apparel protection would cost about $160 billion, taxing every family of four about $2,600 a year.

What's more, the added protection is unnecessary. Economic indicators show that the U.S. textile and apparel industries are doing well.

Domestic shipments were up 7 percent and exports were up 27 percent in 1989. Factories are running at an all-time high; a higher rate, in fact, than the average for all U.S. manufacturers. Unemployment in the major textile producing states is generally lower than the national average.

Worst of all, the legislation violates our international commitments under the General Agreement on Tariffs and Trade, the Multi Fiber Arrangement and individual agreements with 38 of our trading partners.

Thus, at the very moment we are seeking to forge an historic alliance to confront Iraqi aggression, we are telling our allies that the U.S. is willing to ignore its international obligations. Indeed, the bill would violate recent agreements with Turkey and Egypt, two countries indispensable to our international efforts in the gulf.

Passing the bill also sends precisely the wrong message at a time when we are trying to convince other nations to dismantle their trade barriers. Approving such protectionist legislation after four years of negotiating to open world markets will be seen as the height of hypocrisy—in essence saying to the world "Do as we say, not as we do."

In Geneva, where negotiators are in the final stages of the Uruguay Round of talks on a new G.A.T.T. agreement, we are urging all nations to open their markets so that

trade can expand. But on the verge of completing this agreement to open others' doors, we are closing our own.

If the bill were to become law, the Uruguay Round would collapse, with staggering economic costs. We would lose the $125 billion in increased U.S. output we expect to gain in the first year alone from greater access to foreign markets. The $60 billion that U.S. entrepreneurs lose annually from the theft and counterfeiting of their ideas would continue to grow out of control.

New markets would be lost for U.S. services firms, which export $90 billion annually and create 9-out-of-10 new jobs. We would lose the opportunity to get an agreement opening world markets to investment, which helps generate more than $240 billion annually, or two-thirds of total U.S. exports. And we would lose the chance to bring the developing world into the global trading system, which could increase U.S. exports by as much as 50 percent, or $200 billion, between now and the year 2000.

Beyond the economic tragedy of a failed Uruguay Round, we would squander a vital, proven framework of international collaboration. The collapse of the round would lead inevitably to increased protections and political instability.

Failure to come to an agreement also could destabilize poorer nations, including the emerging democracies. Without an agreement, these nations will continue to be drained by the costs of protections now imposed on them—costs that total two-and-a-half times the aid they receive.

How tragic it would be if the reform governments seeking to replace command economies with market-oriented systems were to fail because of restrictions erected by the world's trading nations, and were then replaced by authoritarian regimes.

The Uruguay Round presents 100 nations with the extraordinary opportunity to forge a new trading system that could trigger an economic renaissance. The 1990 textile bill risks all that. Those who are selling it to the American people are trying to pull the wool over their eyes.

ACTUAL AND PROJECTED U.S. TRADE NUMBERS

In order to keep trade numbers in perspective, the following chart of leading current trade forcasts is attached.

[In billions of dollars]

	Actual			Forecast		
	1987	1988	1989	1990	1991	1992
Merchandise trade:						
Exports NIPA BASIS:						
Actual	250.3	322.0	368.9			
DRI				396.4	427.2	466.6
WEFA				400.8	430.1	469.5
OECD				392.0	442.0	(1)
Imports NIPA basis:						
Actual	409.8	449.0	480.2			
DRI				504.1	536.9	573.4
WEFA				498.8	522.1	563.6
OECD				499.0	547.0	(1)
Trade balance NIPA basis:						
Actual	−159.5	−127.0	−111.3			
DRI				−102.4	−104.5	−100.8
WEFA				−98.1	−92.0	−94.1
OECD				−100.0	−97.0	(1)

[1] Not applicable.

NIPA: National Income and Product Accounts.

DRI: Data Resources, Inc.

WEFA: WEFA group.

OECD: Organization for Economic Co-operation and Development.

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Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, it has been my great privilege to rise to speak on the floor of the Senate many times in the last 7 years. I have spoken on many subjects that I think are vitally important to America. Let me say, Mr. President, that I have never spoken on a subject that I think is more important than the subject we are debating tonight. In fact, all of our debates about the budget, our debates about taxation, our debates about regulation of American industry, all of those decisions that we have made here in the last 7 years, would pale by comparison with and be relatively insignificant to the dramatic negative impact that rejecting fast track and igniting a trade war would have on our great Nation and on the world.

Mr. President, I want to say tonight—because I think it is clear what the outcome of the vote is going to be—that I am proud that the United States is going to extend fast track for 2 years and allow us to move ahead in expanding world trade and tearing down barriers. I think it is a triumph of reason over passion. I think it is a victory of public interest over the special interest. Mr. President, that is a victory that does not occur enough on the floor of the U.S. Senate.

Those are big claims about the importance of the measure we debate tonight. Let me explain why I feel that way. First of all, the American success in the postwar period has come by and large through an expansion in trade. We often give great credit to the Marshall plan for rebuilding Europe and rebuilding Japan; but, basically, Europe and Japan were rebuilt, not by a small amount of aid from the American taxpayers, but by the opening up of massive markets to their products. That is what rebuilt and revitalized the economies of Western Europe and Japan.

The system of world trade on the American model turned South Korea, a backward nation with a per capita income of $50 a year in 1953, into the world's 11th largest economy, with a per capita income of over $5,000 today.

It made the people of Taiwan 13 times as rich as the people living on the mainland. It created in Western Europe a massive growth in production, a powerful opportunity machine.

Mr. President, people looked through the rust holes in the Iron Curtain and saw that opportunity, that prosperity, and that freedom. It was world trade that tore down the Berlin Wall.

Mr. President, we are going to vote on whether we will go forward, or whether we will go backward. We are going to vote on whether or not we repudiate everything that America has stood for in the postwar world. In the whole postwar period, on a bipartisan basis, Truman to Eisenhower to Kennedy, and every American President down to George Bush, Democrat and Republican, has tirelessly promoted a reduction of trade barriers and an expansion of world trade. If America has stood for one principle in the world, it has been trade. And we have been a great beneficiary from that principle.

If, today, we suddenly were to succumb to this siren song to build walls around America, to keep out competition, then I believe we would be repudiating everything we stand for in the world.

We have heard a lot of arguments tonight against fast track and against trade. They really boil down to the argument that we can be more competitive by not competing. That would be like a college football program that was in trouble, losing games, and so the president of the university calls in the coach and says, "Look, let's call off football for 10 years so we can get more competitive."

How do you get competitive except by competing? While we have heard many well-intended arguments here tonight and a lot of passion, the plain truth is we have heard special interest arguments based on single-entry bookkeeping. We have heard arguments that amount to the proposition that somehow all these foreign nations want to put their people to work, expend their capital, work and sweat and toil, all to sell things to Americans, with the objective not of benefiting themselves, not with the objective of spending the dollars they earn, but simply because they are somehow demented in that they are only interested in producing and giving us things. It is an absurd position, but it is a position that carries great credibility in trade debates in this country.

Now, Mr. President, let me talk about free trade with Mexico. There are some who oppose fast track because of GATT, and it is my belief that if we reject fast track, we kill GATT, we kill the Mexico free-trade agreement, and we clearly start a trade war, and we will be largely responsible for that calamity. But I think most people here tonight who are voting against the extension of fast track are looking at voting against it because of the Mexico free-trade agreement.

To listen to all of these arguments you would think that Mexico is going to flood America with goods, denying our people jobs. I wanted to try to come up with a figure that would demonstrate why this does not make any sense. Let me tell you the figure I came up with.

First of all, the Mexico economy is less than one-twentieth the size of our economy. Then, you look at data from the United Nations to define what a subsistence standard of living is, that is, what you have to consume in order to maintain human life. Next, you take that figure and you assume—and this is an absurd assumption, but it fundamentally is the assumption made by the opposition—let us assume that Mexico under the free-trade agreement imposed subsistence living standards on every man, woman, and child in Mexico. They dedicated all of their other productive capacity to the sole purpose of selling goods in America and bought absolutely nothing from us with the dollars they received. They just burned them up, put them in the mattress, or just looked at them. How big of an intrusion on the American economy would it be if the Mexican economy of today gave its own people just subsistence living and devoted every other bit of resource to selling goods in the American economy?

How big of an intrusion would it be? Mr. President, it would be less than 1 percent of American GNP. We are not talking about a threat here. We are talking about a small, poor, country that has virtually no productive capacity to threaten anything like the overall nature of the American economy even if the country were dominated by the lunacy in wanting simply to give us everything they could. So in terms of an overall threat, Mexico is no threat to the American economy, at the very worst, 1 percent of our GNP.

Second, and I know this point has been made, but I do not think it hurts to make it over and over again, we are not beginning from scratch in this free-trade agreement. Currently, American goods going into Mexico face a 10-percent tariff on average, and they face a lot of nontariff barriers. Mexican goods coming into the United States face on average only a 4-percent tariff, and 40 percent of their goods overall come in with no tariff whatsoever. If we adopted a free-trade agreement that had no exemptions, simply eliminated all tariff and nontariff barriers across the board, we are going to see the tariff on American goods fall by 10 percent. We will see tariffs on Mexican goods coming into this country fall by only 4 percent. So it is clear that the biggest beneficiaries are going to be American producers and Mexican consumers.

Finally, it is absurd to think that Mexico is not going to spend in America what it earns. After all, 70 percent of all of the foreign goods bought in Mexico are bought from the United States of America.

Currently on a per capita basis, Mexico buys about $300 per capita of American goods. By comparison, Canadians buy about $3,000 of American goods per capita. And the arithmetic works out beautifully because Mexican per capita income is about one-tenth of Canadian per capita income. So, Mr. President, if, through trade, Mexico prospers and grows and becomes a rich nation, they are simply going to move their per capita consumption of American goods up and we are going to be a beneficiary.

Mr. President, I want to answer specifically two charges that have been made throughout the debate in the country. I am going to answer them, because they have been made through the media and through all the so-called public interest groups, who know nothing about the public interest.

First is that this agreement, if we adopt fast track, if we have a free-trade agreement, imperils the environment. Mr. President, when somebody makes that argument, put them in the phony column. Mexico has an environmental problem for one and only one reason, and that is that Mexico is poor. I defy anyone in the U.S. Senate to name me one place in the world where poverty breeds good environmental policy. Nowhere does it breed good environmental policy.

But I will say on behalf of Mexico that they are a country, despite their great poverty, that is making great efforts to try to deal with their environmental problem. They shut down a refinery in Mexico City and put thousands of people out of work. They have entered into agreements with our country to try to clean up the Rio Grande River. The maquiladora plants that are every day criticized for the environmental problems they produce, criticized primarily by environmental groups who get their money from labor unions, are often the pace setters in Mexico in terms of improving the environment.

Mr. President, those who want a better environment in Mexico want free trade. Those who are for a better environment have to ask themselves, is Mexico going to have stronger environmental protections and enforce them if it is poor, or is it going to do more if it is richer? Mr. President, no person serious about the environment would argue that we are going to help the environment in Mexico and in our border areas by failing to do something to make Mexico richer.

Finally, I want to talk about working conditions and wages, not from the point of view of those who say we cannot compete against poor, unskilled workers. Mr. President, if we cannot compete against Mexico, against whom can we compete?

The answer I want to give here is not to that argument but to those who say, "Well, look, we do not want to trade with Mexico, we do not want a free-trade agreement with Mexico, because wages are low there and working conditions are bad. If you want higher wages in Mexico, and you want better working conditions, do you get them by rejecting fast track and by killing free trade? Is there anyone here who does not believe that a free-trade agreement with Mexico will improve wages in Mexico and will probably improve working conditions?

So I think if people are willing to put narrow, greedy, special interests in front of the public interest, well, that is a position that is advocated on the floor of the Senate every single day. But I do not think people ought to be arguing that they are against trade because of the environment, or they are against trade because of the working conditions in Mexico. We can improve the environment and we can improve the working conditions in Mexico, and we can do so through trade.

The PRESIDING OFFICER. The time yielded has expired.

Mr. GRAMM. I ask for 2 additional minutes.

Mr. ROTH. I yield 2 additional minutes.

Mr. GRAMM. So, Mr. President, if we want to improve the environment, if we want to improve working conditions, if we want to improve the lot of a neighbor, then we want this free-trade agreement.

Mr. President, I am for this agreement because it is good for the United States of America. I am for this agree-

ment because I believe it will benefit every State in the Union. I believe it is enlightened policy and that we are doing the Lord's work on this issue. I am also not indifferent to the welfare of our neighbor, because the well-being of Mexico ultimately affects our own great country.

Finally, let me conclude by saying that we do not often have the opportunity to make history. Most of us came to this body, gave up other jobs and other professions, some occupations better than others, but every one gave up something to come here. We came here, I believe, whether we are Liberals or Conservatives, Democrats or Republicans, driven by the fact that we wanted to make history. We wanted to do something important.

I submit to my colleagues that we are never going to have a better chance to do that than by the matter we are debating tonight.

I would like to conclude with the words of Daniel Webster. For those who served in the House, you will remember that this is a quote that is engraved right over the Speaker's chair. I think it is appropriate to the vote we cast tonight because I believe by voting to kill this disapproval resolution, we are doing what Daniel Webster challenged us long ago to do.

He said:

> Let us develope the resources of our land, call forth its powers, build up its institutions, promote all its great interests and see whether we also in our day and generation may not perform something worthy of being remembered.

Mr. President, I believe that we are making history tonight. We are doing something worthy of being remembered. I call on my colleagues to take the big view of what is in the interest of all of the people of our great Nation, not some small view about some special interest group, important though it may be. We are talking about the future of every man, woman, and child living on the continent of North America. I think it is very important that we renew fast track.

I yield back the remainder of my time.

Mr. HOLLINGS. I yield to the distinguished Senator from North Dakota [Mr. CONRAD] 10 minutes.

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

Mr. CONRAD. I thank the Chair, and I thank the distinguished Senator from South Carolina.

I rise in strong support of the resolution of disapproval of fast track. I rise in opposition to fast-track because I am for free trade.

The junior Senator from Texas has just given an excellent description of the advantages of free trade. And if, in fact, what we were voting on here tonight was a free-trade agreement, my vote would be cast in the affirmative, because I believe in the power of free trade. I believe in a level playing field. I believe in the efficiency that can come from people doing what they do best. That is precisely the economic policy that makes the most sense.

But, Mr. President, this is not free trade. This is negotiated trade, and we are losing the negotiation.

Let me give just one example using a sector of our economy that is the largest of all, the agricultural and food sector. My State is an agricultural State. It lives or dies with agriculture. However, it is not just my State that is at stake. The agricultural and food industry is, as I have described, the largest industry in America, accounting for nearly 20 percent of the gross national product of our country.

My idea of free trade, Mr. President, is a level playing field. If we do better, if we are more efficient, we win. If the other fellow does better, if he is more efficient, he wins.

But that is not what is before us tonight. What is before us tonight is an authorization for our negotiators to continue on the path that they are on.

And with respect to agriculture, Mr. President, there is no level playing field on that path. Oh, no. Our negotiators have abandoned that long ago. We are not going to get a level playing field out of this agreement. We are not going to have an economic regimen in which the one who competes the best is the one that wins the race. That would be free trade. That would have my support.

But instead, we are telling our negotiators to continue on a path that will lead to a result that is very clear. Understand that in Europe, they subsidize every commodity at two or three times world market prices. And our negotiators are not saying, well, what we ought to do is wind up with a level playing field with both of us at the same position.

What our negotiators are pursuing now is equal percentage reductions from an unequal base.

Mr. President, I brought a chart with me to show the unlevel playing field in the GATT negotiations and what it would mean specifically to major commodities in this country.

If we were to achieve the agreement that most think is likely in the GATT round, this is where we would end up. In durum wheat, the European Economic Community would receive $8.50 a bushel for durum. American farmers would receive $3.67. I ask my colleagues, is that free trade? Is it free trade when the European farmer gets $8.50 and the American farmer gets $3.70? Is that free trade?

It is not my notion of free trade. I never read about that in the economic textbooks. For corn, the European farmer would get $4.77; the American farmer, $2.62. Is that free trade? I ask my colleagues, is that free trade? It is certainly not my understanding of free trade. It tells me that it does not matter how efficient or inefficient the European farmer is, he is going to have a tremendous edge on the American farmer.

If we achieve what is the most likely negotiated outcome in the GATT round, the European farmer will get $11.80 a bushel for soybeans, the American farmer will get $4.92. That is certainly not my idea of a level playing field, and that is not my idea of free trade or fair trade.

"Well," some will say, "what does it matter? This overall deal is so important and so good that we ought to sign off on it." As I said, Mr. President, this is not free trade. This is negotiated trade, and we are losing the negotiation. And maybe that was OK after World War II when we were preeminent, Japan was flattened, and Europe lay in ruins. Maybe it was more important right after World War II that we lose the negotiation and help rebuild the world economy. But that is not what we face in 1991. All one has to do is read the headlines day after day after day. Our friends in Japan bought Pebble Beach Golf Course; they bought Rockefeller Center; they bought much of Hawaii; they bought the real estate in Los Angeles. They are on the move; they are on the march. Last year, for the first time ever, their assets worldwide exceeded our own.

The average German worker, last year, for the first time ever, saw their wages higher than the average wages in America.

As the Senator from Michigan pointed out, we have gone from being the largest creditor nation in this world to being the largest debtor nation. The question has to be asked: When does it stop, where does it stop, and who is going to stop it?

This country can no longer afford to lose the negotiations. We can no longer afford to take a path where the United States gives up an economic base in order to secure a political result. Over and over, that is what we have done since World War II.

When the Secretary of Agriculture and the Trade Representative unveiled their plan for the negotiations on agriculture, I told them then it reminded me of the Russian proverb, "When famine comes, the fat man gets thin, and the thin man dies." And, unfortunately, we are the thin man. We are getting pretty skinny out in my part of the world. We are getting pretty skinny out in the heartland of America.

There is real hurt in the heartland. We have just had a projection that 35 percent of the grain farmers in my State will not cash flow this year; 35 percent of the farmers in my State cannot survive with the level of debt they have. And we are told: "Just trust us. We are negotiating on your behalf." And if we succeed in the negotiation,

our competitors will get $8.50 a bushel for durum, but in my State we will get $3.70; in Europe they will get $4.70 for corn, and we will get $2.60; and they will get $11.80 for soybeans, and we will get $4.92. And they say to us, "Just trust us."

We do not trust them. We do not trust them because this is a disaster. This is a fast track, all right; it is a fast track to a train wreck, and we do not want to go on the trip.

We heard other Senators argue tonight, "All we are hearing is that 'I want my State taken care of.'" You bet we want our States taken care of. We want our people taken care of. That is our responsibility. That is why we were elected to come here, to make certain our people are given a fair shake. Not an advantage.

We do not seek, in my State, to have an edge on the competition. We do seek a fair shake. But the most likely GATT result is not fair. And it is not free trade.

I would like to have it explained to me how this could be fair trade.

Mr. President, I ask for 1 additional minute from my colleague from South Carolina.

Mr. HOLLINGS. I yield 1 additional minute.

Mr. CONRAD. Mr. President, we heard earlier on the floor my distinguished colleague from Michigan, Senator RIEGLE, saying the President has a plan for economic development for every country in the world but apparently no plan for America. We have a plan for Kuwait. We have a plan for Mexico. We have a plan for Europe. I can remember a plan to forgive Egypt's debt. But, there is no plan for America.

We have a President who is interested in foreign policy and he is bored by economic policy. He is bored by a jobs policy. He is bored by what is happening here at home.

Mr. President, we need leadership that understands America needs attention and needs it now. I urge my colleagues to join with me and reject the fast track. Join with me to send a signal that America is done negotiating losing deals.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield 15 minutes to the distinguished Senator from New Jersey [Mr. BRADLEY].

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 15 minutes.

Mr. BRADLEY. I thank the distinguished chairman of the committee for yielding.

Mr. President, I support the extension of fast-track negotiating authority. I hope and expect a good deal for American workers can be achieved in these negotiations. I believe there is no serious reason we can get rid of fast track and expect our negotiators to work out a deal knowing that Congress can amend it and pick it apart while Mexico or 105 other partners in GATT watch from the sidelines.

We have a chance now, each of us, to make clear what is acceptable to us and what is not. Throughout the negotiations we will be involved in advising and consulting with the negotiators and ultimately we will decide whether the negotiators produced a good deal for our country. The only reason to oppose the extension of fast track is if you believe a good deal cannot be achieved. In other words, why bother trying; we will reject any deal they come up with. Or, if you believe a good deal is not worth achieving.

I am an optimist on this front. I think good agreements can be reached. It will be difficult, but I think we should try. I think the potential of a strong GATT Pact and North American Free-Trade Agreement to revitalize our economy is enormous. If fast-track opponents prevail, we will never know the scale of the opportunity we will miss.

In the case of GATT, it is an opportunity to avert a global recession, and I hope everyone understands that now. The proposed North American Free-Trade Pact would be, I believe, nothing less than our best opportunity to create new manufacturing jobs in America at the kind of pace that will really make a difference for American families.

It is a disappointing fact that a lot of countries we trade with prefer not to buy American products. Fortunately, Mexico is not one of them. Seventy cents out of every dollar Mexico spends on exports goes into the American economy. United States exports to Mexico total about $284.4 billion, having more than doubled in the last 3 years.

My State, New Jersey, sold more than 390 million dollars' worth of chemicals, metals, pharmaceuticals, electronics, and foodstuffs to Mexico in 1989 alone, and this year it will be more. Exports to Mexico accounted for 11 percent of the increase in New Jersey's total exports over 4 years, enough to create about 4,000 new jobs.

It is also worth noting, by the way, that despite the poverty of most Mexicans they spend more than $300 per capita, every year, on American goods; about 15 cents of every dollar of income a Mexican earns comes to the United States.

By the way, our rich European friends spend about $265 here, per person. In other words, the average Mexican citizen spends $300; the average European $265. Geography really is destiny.

These sales could be far higher if Mexico lifted its remaining tariffs and import license requirements and, more importantly, if it could escape the economic isolation that severely limits the buying power of Mexican households and companies.

Jobless people cannot even consider buying steel, textiles, electronics, cars, and most of the other goods we export. Every percentage point increase in Mexico's gross national product—which is about one twenty-fifth the size of ours—would produce $300 million in new American exports, which is almost as much as New Jersey exported to Mexico in 1989.

Let me repeat that. Every percentage point increase in the GNP of Mexico will generate $300 million in new American exports. And every million dollars in new exports creates about 20 new jobs. This is an opportunity for job growth that we are not going to find anywhere else in the world.

Because of these new export opportunities, a free trade partnership with Mexico would create somewhere between 44,000 and 150,000 jobs. The bulk of them would be manufacturing jobs. Many of them would be linked to new investment in Mexico, with low-skilled, low-paying portions of the manufacturing process taking place south of the border and American workers gaining the high-skilled, high-wage opportunities.

Already, for example, Kodak uses Mexican plants for low-skill assembly of sophisticated parts made by United States workers.

Kodak's alternative would be to use low-skilled Asian workers in Thailand or Malaysia for assembly, and probably prepare the parts closer by in Japan or Korea. Blocking a new trade agreement, blocking the fast-track process, which is the only way negotiations can proceed, will not prevent U.S. companies from seeking lower wage locations to competitive advantage.

Jobs that require skills and wages far below those of the average American worker are already moving to Asia and to other locations, just as they are moving east in Europe and into Southeast Asia out of Japan.

The question is not do we want to keep jobs here, instead of letting them go to Mexico. Some jobs cannot be kept here, and we have to face up to that fact. The question is, is it in our interest to see job growth in Mexico? The answer is clearly yes; it is in our interest.

First, as I said, Mexicans spend a far larger share of their incomes buying products from the United States and, second, corporation in Mexico is far more advantageous than losing entire plants to distant countries. Like Kodak's, those jobs are far more likely to be linked to high-skilled manufacturing jobs here in the United States than are jobs across the Pacific Ocean.

Japan and Korea are forging partnerships with Thailand and Malaysia. The European Community is teaming up with Portugal and Spain and Turkey and Eastern Europe. In a world of pow-

erful international blocs, the United States needs a similar partnership with Mexico or our economy will stagnate while Asia and Europe create new jobs.

The fact is that American workers lost a lot of ground over the last decade, particulary because of policies that have put American workers last when it came to taxes, health care, and job security, and have allowed our Nation's manufacturing base to stagnate.

But, Mr. President, not a lot of those jobs and not a lot of that stagnation had to do with trade. But I understand the stresses on families because of these policies and the recession we are confronting today. Times are tough. The specter of unemployment is terrifying. We need to assure families that any agreement that would cost American jobs, that would let companies cut corners on basic standards of environmental protection or worker safety by relocating in Mexico will be dead on arrival.

We do not need the right to amend a bad deal. We cannot amend a bad deal into a good deal. All we need is the right to vote against a bad deal, and we have that.

Mr. President, it is also true that even an agreement that creates jobs will disrupt the lives of some American workers. A good agreement will include transition periods to manage this disruption, as well as a commitment from the administration to fully fund successful retraining programs. Education opportunity has to be flexible and broad enough to assure higher valued jobs are within the reach of every American worker who needs a new skill.

I understand the anxieties some Americans have of giving up a few very real jobs now for promises of better jobs in the future, but the solution is not to pass up an important opportunity to create new manufacturing jobs. It is better to prepare our workers for jobs that may require new skills.

The potential disruption of the Free-Trade Pact, in my view, would be nothing compared to the social and economic disruption we would cause by continuing to isolate Mexico behind a wall of denied opportunity.

Mr. President, earlier this month I visited Nuevo Leon, a prosperious state in northern Mexico, not far from Laredo, TX. One of the candidates running for Governor of that state told me about a small town called Decosse, with a population of 6,000; 4,000 women and 2,000 males.

The males are boys and old men. Almost all of the young and middle-aged men went to the United States. The men of Decosse did not want to break up their families, to leave their parents and wives and children behind. Like anyone, they would have preferred to remain in the town where they grew up, be with their families, be citizens in a stable, productive community.

But, Mr. President, there were no jobs. Prevented by trade barriers from developing businesses that could trade freely with U.S. consumers and industries, they had little chance of getting ahead.

And think of this, Mr. President. Half of the population of Mexico is under the age of 15. If there are not jobs and opportunity in Mexico, as those workers grow up, there will be no way to hold them behind a 2,000-mile border. Half of the population of Mexico is under the age of 15. They will be like the men of Decosse. They will continue to pour into America's cities and towns in search of a few new jobs that our economy is creating.

In fact, a recent New York Times story accounted that in the last 8 years in the New York-New Jersey area, the population of illegal Mexicans has quadrupled. Detached from their families, living illegally, they will take jobs from American workers anyway, but without helping to create a new export market for U.S. goods. To me, that is the most disturbing possibility.

In negotiating a free trade agreement, we are trying to build a partnership for growth, but we are not going to enter a partnership in which we are going to be taken advantage of. That means we need assurances from Mexico that they will hold employers to much tougher environmental standards. Out of the 1,800 Maquiladora plants around the border, 1,000 pollute. And my guess is the Mexican Government will commit to clean up those 1,000 in the next decade.

Mexican officials point out they have even tougher environmental laws on the books than we do, and in many cases that is right; that they are spending $3.5 billion to clean the air of Mexico City; that they shut down one of the largest refineries near the border.

Without economic opportunity, they argue, they will not be able to enforce their tougher laws or take these costly steps. They are right. But negotiations must establish specific goals for Mexico to achieve international standards.

They are also right that without economic growth to create jobs for parents, they will not be able to fully eliminate child labor and enforce their worker health and safety standards. Nonetheless, their negotiations must deal with all these issues and prevent companies from using Mexico to cut corners on basic standards of decency and respect for workers.

Mr. President, the fast-track procedure, by which all trade agreements since 1974 have been negotiated, is the right way to ensure that the agreement reached is a good one, because the final agreement is subject to an up-or-down vote in Congress. The negotiators simply have to pay close attention to what we say on this floor about what an agreement should look like, as well as the opinions of the public we represent.

The procedure resembles collective bargaining in which management and labor each designate a team of negotiators to work out a package that they believe is acceptable to their constituents. Union negotiators take the entire package that they have negotiated back to their membership for an up-or-down vote on the whole thing.

In this case, the union membership is Congress. Labor-management talks would be impossible if management could rewrite wage provisions or labor could change job security rules unilaterally.

There is nothing hasty about fast track, despite the name. If the agreement reached is unacceptable, Congress will reject it and start over. Fast track has the added advantage that Congress and the people we represent have a voice at the table at every step of the negotiations, and I know the distinguished chairman of the Finance Committee will insist on that.

When the negotiations are complete and Congress has taken all the time it needs to prepare implementing legislation, even then Congress has 90 days to review the draft and ask for changes before a vote is required.

Mr. President, I ask unanimous consent for another 4 minutes.

Mr. BENTSEN. Mr. President, I yield an additional 4 minutes to the Senator from New Jersey.

Mr. BRADLEY. The negotiations over a free trade pact with Mexico, quite simply stated, will be a test of whether Americans and Mexicans can overcome our stereotypes and suspicions of each other in pursuit of a larger goal, a more productive economy on both sides of the border. Can we be bold enough, imaginative enough to create the conditions that will enhance our children's future? Do we have the courage to face the fact that their chances for a better life depend on our raising our productivity, which in turn depends on our commitment to quality at home and finding common ground abroad?

Mr. President, a Mexican journalist told me once that what his country needed was "a market economy without a capitalist society." Achieving the efficiencies of the market without the excesses and exploitation of a noncompetitive state-protected capitalist culture can only take place in the context of a democratic society that is open both internally to ideas and movement and externally to the dynamic economies of a growing world.

Mexico is leading Latin America toward that possibility. It is a transition perhaps not quite as dramatic as the swinging of the Warsaw Pact from communism to capitalism but almost as difficult because the old system was not unnaturally imposed on Mexico from the outside. Mexican reform will be a model for Brazil and others in Latin America. We should not be so

complacent as to think that it cannot offer implications for the United States, Japan, and other developed nations as well.

America must stand for the efficiency of the market system without the excesses and unfairness of a noncompetitive capitalist system. Wealth should not be guaranteed by Government contracts, licenses, or subsidies. It should be earned by performance in the real world. Economies should be open to worldwide trade, investment, and competition because that delivers the lowest prices and the highest quality to the greatest number of people. It also engenders pride and confidence in those who work for world-class companies that can compete.

Those countries that balk at opening up their markets should be penalized by the rest of the world for depriving their own citizens of a higher living standard and for imposing their irresponsibility on the international system.

Tax systems should be progressive. If you have more, you should pay more, but rates should be low. Tax evaders should be punished rigorously.

The goal of economic activity should be to advance the greatest number of people to a higher standard of living. That means investments in health, education, and clean environment. An efficient economy that concentrates wealth and ignores human needs is doomed in the long run.

The fundamental challenge for a democratic society is adapting to change, facilitating and assisting individual citizens in their quest to find tomorrow's opportunities and adjust to yesterday's losses. For America to remain the land of opportunity, economic policy has to be human centered, and political leaders have to level with people, and the promise of our pluralism has to be fulfilled.

To the extent that we achieve this ambitious, imaginative goal within the emerging North American free-trade area, America, by example, can lead a complex and shifting world of races, religions, ethnicities, and of ambitious individuals in search of economic opportunity.

Mr. President, the choice is clear. On the one hand, we could try to hold onto the manufacturing jobs we have, creating new jobs only in services, isolating ourselves from export markets while all around us regional blocs pull together to compete aggressively in a dynamic world market, or we can be a part of that market, using the skills, drive, and ingenuity only American workers possess to make the goods the world wants and creating new high-paying manufacturing jobs at a pace we have not seen since the 1970's.

Mr. President, we may never have the chance to negotiate such a deal again. It is worth the effort.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 20 minutes to the distinguished Senator from Minnesota [Mr. WELLSTONE].

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 20 minutes.

Mr. WELLSTONE. I thank the Senator from South Carolina.

Mr. President, I rise to support the resolution of disapproval, but this is not an easy vote for me and it is not an easy speech to give. There are many distinguished Senators present, I believe, who have reached a very different set of conclusions on this very important question.

This vote is about a very significant procedure called fast track, but it is really a vote about fast track and two major trade agreements—GATT [General Agreement on Tariffs and Trade] and the North American Free-Trade Agreement—two trade agreements which will crucially affect the quality or the lack of quality of the lives of people in our country.

This is a debate that has taken place in the House of Representatives and the Senate, and, interestingly enough, since it is about trade agreements, it is a debate taking place across our country. Who would have predicted 6 months ago that op-ed pieces and editorials would be appearing in major newspapers all across the country about a preliminary mechanism called fast track, something that very few people even knew existed half a year ago? But today people in our country are waiting to see how we in the Senate will act. People are engaged; that is the good news. People are concerned; that is the good news. In my State, Minnesota, people are telling me to vote for and people are telling me to vote against extending fast track.

When I came to Washington—I am a first-term U.S. Senator, a freshman Senator—I was wary of the administration's concept of free trade. I was worried that this would be laissez-faire, headlong in conflict with the environment, working conditions, family farmers, some of the very people I love, believe in, and who I feel I need to represent and want to represent in the Senate. But I came here with an open mind. I certainly favor achieving freer and fairer trade. I believe in that. I have heard from Minnesota businesses and they have told me that exports are key to the economic vitality and to the economic health of the State of Minnesota, much less our country. And I will vigorously pursue market access for those companies.

My position on these trade agreements if not "no, not never." My position is "yes, if." Yes to trade agreements if they internationally recognize labor rights; yes to trade agreements if they guarantee minimum safeguards for the environment; yes to trade agreements if they do not abandon family farmers to competition from export-oriented megafarms abroad operating free from any environmental regulation; yes to major trade agreements if they do not displace thousands of workers without any adjustment assistance.

I was one Member—and there were others—who expressed these concerns. I came here to the Senate to be a good legislator. I am learning from my colleagues. So I attended committee hearings and wanted to see whether or not my questions could be answered.

Yes, if the blanks could be filled in by the administration or those who were in favor of fast track, then I could support these trade agreements. But I wondered how my concerns would be met without the right to amendment. So it was that I dug in and I tried to learn. And I had questions that I asked. I looked for the answers.

On the Labor Committee, altogether we had 45 minutes. Fast track has been on a fast track here. Carla Hills was there, U.S. Trade Representative; Labor Secretary Lynn Martin was there; and EPA administrator William Reilly—45 minutes for three witnesses about major trade agreements which crucially defined the quality or lack of quality of lives of people in our country.

Here are some of the questions that I asked. I asked this question: Since one of the most prominent pro-NAFTA economists of MIT believes that if we sign this free-trade agreement with Mexico, there will be a substantial shift of investment to Mexico and worker dislocation, and over the years to come we might need to spend over $50 billion—that is what he said as a proponent of this agreement—in adjustment to assistance to American workers, what level of the assistance is the administration willing to provide for people who could very well be spit out of the economy with no place to go?

I am on the floor of U.S. Senate. That is my honor. I get to speak to people in our country. I do not think there is one person listening to our debate anywhere in the United States of America who would accept being just simply nowhere to go, spit out of the economy, lose your job and no assistance. Everybody has the right to think about what assistance, what support—where will I be able to support my family, how can I put bread on the table?

Question No. 2, I asked: Why have major environmental and consumer organizations opposed fast track?

Question No. 3, Why do not we put some binding language concerning labor and environmental standards directly into the trade agreement? If I could see that language with some binding agreements, if you could

present that to me now, then I will not be so concerned.

I can tell you, Mr. President, that the content of the answer to these questions only underscored my concerns. The silence was deafening. Administrator Reilly is concerned about the environment. You know that. I think all of the representatives of the administration are operating in good faith, but they never could provide direct answers to those questions.

As a U.S. Senator being asked to make a decision on this kind of question, I have the right, we have the right, to receive answers to those questions.

Let me give you an example. Trade assistance, the Senator from Michigan talked about this. We know how the administration has performed on the issue of trade assistance. The adminstration's budget seeks to zero it out. Let me repeat that. We know the administration's record. The budget seeks to zero it out. Secretary Martin, in response to my question, sent me a letter. I appreciated that letter. She told me that dislocation would be best handled through something called—I am just learning about this as a freshman Senator—the Economic Dislocation of Worker Adjustment Program, the EDWA Program.

But this program is already inadequate. Where is the funding? The administration's promise to cooperate and deliver assistance to people who would be out of work as a result of these agreements ring hollow. It rings hollow unless the budget is there to back up the commitment, and the budget is not there. That is an irrefutable fact.

The administration tells us that this trade agreement will create new jobs. And to arrive at that conclusion, the administration makes two major assumptions that this Senator cannot let stand unchallenged. Assumption No. 1: There will be no significant shift of investment from the United States to Mexico. And, assumption No. 2: That we are somewhere close to full-employment economy. We are not close to a full-employment economy. We are in a recession.

And even if this free-trade agreement with Mexico creates new jobs for some, I do not think there is anybody in this Chamber tonight that will deny that others will be out of work. Where will be the assistance for working men and women who might very well lose their jobs? I have not heard an answer to that question, and promises are not sufficient.

Second of all, the administration has repeatedly assured me it "will do something in the NAFTA or GATT to weaken our environmental laws." But then I asked the same question: If the administration has given us this assurance and telling us they do not want us to have the right to attach any amendments dealing with these problems, then why does not the administration write directly into the agreements a prohibition on challenging our health and safety regulations which could very well happen?

We do not see those guarantees. I think we have succeeded in this debate, and in the discussion that has taken place in our country. I think it has been a good discussion. In raising these concerns—concerns about jobs, concerns about the environment, concerns about agriculture, and concerns about whether or not these agreements, fast track, will really be a step forward for people in our country or will it be a step backward?

And the inadequacies of the explanations that have been forthcoming from those who are the proponents of fast track is enough to make me want to vote against the extension of fast track. But there is more. We have heard economic analysis. The Economic Policy Institute has concluded that free trade as conceived by the administration would "cause major damage" both to the U.S. competitiveness and to balanced economic place in our country. I think it has been a good discussion.

They go on to argue that "not a single study convincingly has concluded that the United States economy will benefit substantially." Maybe they are right, maybe they are wrong. These are the questions that I have in my mind. But I tell you what my concern is tonight as we debate this question. My concern is that our primary export to Mexico will be jobs. I have not heard anything in this debate that will convince me otherwise.

I want also, Mr. President, to address a claim by the administration, and let me be clear, not one person in this debate on the U.S. Senate floor has come close to making such an argument. I do not mean to direct any of my remarks to any of my colleagues. But I am really offended and a little bit indignant at the claim by some in the administration that those of us who would question this free-trade agreement with Mexico have resorted to slurs against Mexico.

It is the very victimization of Mexican people by current free-trade practices as exhibited so clearly in maquiladora that has motivated so many of us to question whether or not this agreement will really be a good thing for people in Mexico or in our country. The Wall Street Journal piece reported that the maquiladoras are turning the United States-Mexican border into a "sinkhole of abysmal living conditions and environmental degradation." And when we on the Labor Subcommittee sent a staff person there to do an investigation, he came back with a video in which it was awful to see those conditions.

If the administration is so committed and so concerned about poverty in Mexico, and economic development in Mexico, as we all should be, then why not offer debt relief and why not offer some kind of an economic relationship that will be good both for people who work in Mexico and men and women who work in our country?

Mr. President, you come from North Dakota. You represent farmers in North Dakota. I represent another heartland State, Minnesota. Let me talk about agriculture.

Are we prepared, let me ask my colleagues, to drive our remaining family farmers from the land, further depressing our rural economy by opening up our borders to unlimited imports, some from foreign agro-export conglomerates, who exploit both labor and environment with no adequate safeguards that they will not continue to do so? My State is already losing dairy producers at the rate of 1,000 farms per year.

I did not like the 1990 farm bill. Some Senators in here probably favored it. Others did not. I will tell you one thing, Mr. President: I will preserve the right of every U.S. Senator to write agricultural legislation. And I will tell you another thing; I do not want to see the U.S. Senate forfeit its right, and its obligation, and its responsibility to debate and shape agricultural policy.

When I travel in the farm and rural areas, I say to family farmers, "the environment is the major issue," and people know that. People care about the 6 inches of topsoil. They care about the water that their children drink. Farmers care about the land; they want to be good stewards of the land.

But I will tell you something: All the sustainable agriculture organizations in our country, or at least most of them, have maintained, for good reason, that this fast-track procedure, and these agreements, especially the GATT agreement, will drive family farmers out of existence. We will see a massive transfer of ownership of farmland. And when people do not live on those farms and do not farm that land, and it is absentee ownership, then you are not going to have stewards of the land, or protection of the environment.

Of course, the White House should conduct trade negotiations. But there is no reason to give the White House autocratic power to do so. If a trade agreement cannot withstand the scrutiny of our democratic process, then it does not deserve to be enacted.

Mr. President, it is a serious mistake, it is a very serious mistake to characterize this debate we are having tonight on the floor of the U.S. Senate as a debate between free traders and protectionists. Negotiating trade agreements, fast track, and negotiating trade agreements is not about creating a free-trade world or protectionist world. That is not what is at stake.

What is at stake tonight is something very different. What is at stake is what roll will our national Government play in setting national policies which are all about where our country and our people fit in to an integrated global economy.

Mr. President, this debate about fast track, this debate about GATT, this debate about NAFTA, is a debate about major economic agreements, which affect family farmers, they affect workers, they affect our schools, they affect our revenue base, they affect the community we live in, and they affect the most important economics of the lives of the people that we are here to represent in the U.S. Senate.

I want to be clear that I will not, and I cannot forfeit my right, through some fast-track procedure, to represent the people of Minnesota on the most important kind of concern, when it comes to their future and the future of their children.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I yield 15 minutes to the Senator from Delaware.

Mr. ROTH. Mr. President, I rise in strong opposition to Senate Resolution 78, which disapproves the extension of fast-track authority for 2 more years.

Over the past several weeks, I have found much of the debate over extending fast-track authority to be misleading, inaccurate and simplistic. It has been portrayed as leaving Congress devoid of any role in the developing of U.S. negotiating positions or in the crafting of U.S. trade agreements with other countries. It also has been viewed as solely a mechanism to ramrod through the Congress trade agreements which are economically devastating to the United States. Some have even suggested that fast track is undemocratic. When one takes a closer look at just what is involved, one discovers that none of these portrayals is true.

First of all, fast track is not simply an up-or-down, take-it-or-leave-it mechanism which gives the administration a blank check in negotiating trade agreements. Congress is a full and active participant throughout the entire process of negotiating and approving multilateral and bilateral trade agreements. Not only are various notification and consultative requirements closely linked to the granting of fast-track authority, progress must be made in achieving specific negotiating objectives before the President submits any trade agreement for congressional consideration under fast-track procedures.

Above all, it is Congress who is the final judge of any trade agreement. It would be foolhardy for the administration to submit a trade agreement which ignores congressional concerns, and those of U.S. workers and industry, for Congress would vote against it. Moreover, Congress will unlikely grant futher extensions of fast-track authority if previous grants have resulted in unacceptable trade agreements, a point that is no doubt well appreciated by our executive branch.

On the other hand, providing temporary fast-track authority to the President is an essential tool for developing and implementing an effective trade policy. It gives the President the backing and credibility he needs to negotiate comprehensive trade agreements by demonstrating to our trading partners that Congress will consider a trade agreement on its merits by a date certain without unravelling the entire agreement.

Mr. President, what is at stake here is the procedural means for achieving one of our Nation's most important trade-negotiating objectives. This objective is the reduction and elimination of trade and other barriers to U.S. exports of goods, services and agriculture through major international trade agreements. Whether we achieve this objective or not is up to Congress.

Mr. President, both the Congress and the executive branch strongly share this and other important trade negotiating objectives, and we have worked closely together toward attaining them. At a time when exports are playing an increasingly critical role in promoting economic growth and jobs here at home, it behooves us to move ahead on this course by extending fast track.

Clearly, without fast track, we will be unable to pursue one of the greatest opportunities for reaching our trade negotiating objectives in the most comprehensive manner—the successful completion of the Uruguay round of multilateral trade negotiations. Unfortunately, too little attention has been paid to the enormous potential benefits we hope to gain from concluding what represents the most ambitious and complex multilateral trade round ever launched.

Some of these benefits deserve special mention. For example, we have within our reach for the first time the possibility of establishing strong and effective internationally agreed trade rules and principles in the areas of agriculture, services, intellectual property rights, and investment. In agriculture, we seek nothing less than substantial and fundamental reform of distorted worldwide agriculture trade, the yearly costs of which now exceed well over $200 billion. In services, we aim to cover and liberalize one-third of world trade not currently covered under our global trade regime to significantly increase the $90 billion in annual U.S. service exports. In intellectual property rights, we seek the elimination of piracy of U.S. ideas and innovations that have cost us an estimated $60 billion per year.

These are just a few examples of the potential benefits. Others include the opportunity to compete on equal grounds in the European Community's estimated $600 billion government procurement market and the full integration of developing countries under our global trade regime.

Overall, we now have before us the chance to strengthen U.S. global competitiveness by bringing about greater overseas market access across all sectors, fairer and stronger trade rules to which over 100 countries will adhere, and a more modern and better-equipped multilateral trade system, which has steered the world economy along a path of expansion and growth for over four decades.

The Uruguay round has been 4½ years in the making. As we all know, we had hoped to conclude the round last December at the Brussels Ministerial, but due to the intransigence on the part of our major trading partners, particularly the European Community and Japan, the Brussels Ministerial resulted in the round's suspension.

Just this past February, we broke the deadlock and decided to resume the trade talks. The last thing we should do now is fail to extend fast track for this would provide a convenient excuse for our trading partners to blame the round's failure on the United States. Rather, we should preserve the fast-track process and demonstrate our continued capacity to lead in promoting a stable and expanding world economy. The onus should remain on our trading partners to demonstrate that they too have the political will that is needed to conclude the round. They must remain on notice that the success of the round is largely in their hands, and that the United States will accept nothing less than the substantial agreement we originally set out accomplish. It is high time that the European Community and Japan started putting action behind their words of commitment to a successful round. The European Community, in particular, must do so in the area of agriculture.

As is widely known, fast track is also needed for moving ahead with our proposed negotiations for a free trade agreement with Mexico under a North American Free-Trade Agreement. I believe this initiative holds great promise for all three sides of the border for it will create the largest free market in the world. In doing so, it will bolster our overall competitiveness on a worldwide basis.

I share many of the concerns that have been raised with respect to a free-trade agrement with Mexico, and agree with the majority of my collegues that issues such as the environment and labor must be addressed in one form or another. The President in his May 1 action plan underscored the commitment of both the United States and Mexico to work together in a cooperative fash-

ion to do just that. The opportunity and will are there, and by extending fast track we will be able to take advantage of it.

We all know that Mexico has a long way to go in cleaning up its environment, but we should not ignore that President Salinas has seriously begun to take strong steps in this direction. The permanent closure of Mexico's largest oil refinery in Mexico City this past April, at a cost of $500 million and 5,000 jobs, and the recent permanent shutdown of 82 other industrial facilities for environmental reasons highlight this positive cleanup trend. The Salinas government has also mandated that all new automobiles must now have catalytic converters, something which not even all members of the European Community require.

Clearly, more must be accomplished, including the full enforcement of Mexico's already existing strong environmental laws, and assurances that new investment in Mexico will be done in a environmentally sound manner. A free-trade agreement will not further degrade Mexico's environment, it will help Mexico find the resources needed for dealing with costly environmental problems.

I am troubled by the concerns raised by United States workers that a free-trade agreement will lead to a massive flight of United States plant relocation to Mexico and worker dislocation. Liberalizing trade, however, is not a zero-sum game. Quite the contrary, it has been proven to lead to overall job creation not job loss. Just looking at the historic economic liberalization program that President Salinas has undertaken since 1986, highlights the impact that it can have here at home in terms of economic growth. Since 1986, our exports to Mexico have more than doubled to $28.4 billion, which has lead to an estimated 264,000 new jobs. Of each dollar's worth of goods Mexico imports, 70 cents is spent on goods of United States origin. It seems apparent that eliminating all of Mexico's trade barriers, which are much higher than ours, will lead to even greater United States export and job growth.

Regardless of the expected positive economic impact of a free-trade agreement with Mexico, we must ensure that the special needs of United States import-sensitive industries are taken care of. The specific commitments made in the President's May 1 action plan to ensure long transition periods in phasing in certain parts of the agreement, to provide strong country-of-origin rules to prevent third-country transshipment, to create special safeguard mechanisms to address instances of injurious trade, and to work with Congress in establishing an adequately funded and effective worker adjustment program are all designed to specifically address these special needs. I intend to work toward ensuring that any possible trade agreement with Mexico contains provisions along these lines.

A lot of tough negotiating remains ahead of us in both the Uruguay round and in our free-trade talks with Mexico. Many key concerns and issues will have to be addressed adequately and effectively in order to garner congressional support for the final agreements that are ultimately reached. I, for one, intend to continue to closely gauge the progress being made throughout both sets of negotiations, and will carefully examine the entire contents of a Uruguay round agreement and a trilateral North American Free-Trade Agreement prior to deciding whether or not to give my support to them when they come before the Senate for approval.

By extending fast track we will provide the President the backing he needs to forge forward in seeking the type of trade agreements that Congress expects, and that are ultimately in our Nation's best economic interests. Our negotiators are not blind. They know they must bring home agreements that are good for America, and they have delivered such agreements in the past, agreements which were overwhelmingly approved by the Congress. I am confident that the President, in partnership with the Congress, will bring home similar agreements during the next 2 years, if we are willing to let him by extending the fast-track authority he needs.

For all of these reasons, I urge my colleagues to vote against Senate Resolution 78.

I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield 10 minutes to the distinguished Senator from Iowa [Mr. HARKIN].

The PRESIDING OFFICER. Will the Senator repeat the amount of time yielded?

Mr. HOLLINGS. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, I take the floor to speak in favor of the submitted resolution introduced by my distinguished colleague from South Carolina [Mr. HOLLINGS]. I have concluded, after giving the matter a good deal of thought, that to extend the fast track procedure would not be in the best interest of our country.

Contrary to the assertions of the proponents of the fast-track procedure, a vote against extending fast track is not a vote against trade negotiations, nor is it a vote against reaching agreements with Mexico or under the GATT. It just means that we here in Congress retain our right to consider and modify those agreements to ensure they are in the best interest of our country. Fast track is not essential to trade negotiations or to concluding and adopting trade agreements.

Earlier this evening the distinguished Senator from South Carolina pointed out that 90 multilateral agreements had been approved since 1974, many of them concerning trade, and only one of those under fast track. I have not heard one opponent of this fast-track resolution get up and show why we now cannot use the procedure that was used for all of those agreements. It has worked well in the past. But now we are told that will not do.

The burden is on those who want the fast-track extension to demonstrate why, after all these other agreements have been hammered out with the Congress being able to work its will, that now we have to use the fast track. That burden has not been borne by the proponents of extending fast track.

I heard someone say earlier this evening that if we do not extend the fast track, Mexico will not sit down and negotiate with us. Well, is that not something? We here in the United States have a $5½ trillion economy. Mexico has an economy of about 3½ percent of that. And they are saying they will not sit down and negotiate with us? Talk about the tail wagging the dog.

What have we become, my friends? A pitiful, helpless giant when it comes to negotiating trade? That is what President Bush would have you believe. We are a pitiful helpless giant, with a $5½ trillion economy, and here is a country with a fraction of that telling us what we can and cannot do.

It seems like any time anyone questions the administration's trade policy they say we are guilty of protectionism or we are kowtowing to special interests.

Mr. President, I want trade agreements, but it is high time to make sure those agreements provide for fair trade and are in the best interest of the people of this country. Is that so wrong, for us to stand here and fight for the people of this country, to fight for jobs for our workers?

Mr. President, I took an oath of office to uphold and defend the Constitution of the United States against all enemies, foreign and domestic. That does not just mean the enemies that want to lob bombs in here. That means those who want to take away our jobs and our income from our people.

I did not take an oath of office to uphold the President of the United States, regardless of who that President might be, or to give a blank check or rubberstamp what a President may want. So I make no excuses. Am I here to protect the interests of my farmers and workers? You bet I am. And I make no excuses for it.

That does not not mean we will not have trade. I am all for it. But let us have fair trade in the best interest of both countries. This administration's

idea of trade policy is to open up our borders and hope that other countries reciprocate. But other countries take a different approach. They pursue policies that further their national interest. And I do not blame them for it.

Well, the result is predictable. Our country continues to get taken to the cleaners by our trading partners.

The prospect of a free-trade agreement with Mexico has caused a great deal of concern among our working people in this country who fear their jobs will be moved to Mexico where there are lower wages, weaker protection for workers, and less effective environmental protection.

Mr. President, wages in Mexico are only about one-seventh of those in the United States. They are even lower in the maquiladora area along the border. There are 30 million workers in Mexico willing to take low-wage jobs. And worst of all, Mr. President, 5 to 10 million children in Mexico are working illegally.

You know, people often ask me, "Harkin, what is your bottom line on this Mexican trade agreement?" I will tell you what my bottom line is, Mr. President. It is simply this: This country ought not to import any item from any country that permits the employment of child labor, period. That ought to be our policy.

I will tell you what. You take that out to the countryside and you see if people will support that. Do not import any item from any country that permits the employment of child labor, period. I will tell you what kind of support you will get all over the country for that. Unanimous support for that kind of a policy.

Now, who is going to bear the brunt of these jobs moving to Mexico? High-wage people? No. It is going to be those workers in our country, 75 percent of our work force, who do not have college degrees. My Lord, they are already under severe stress. They cannot make ends meet. They cannot pay their medical bills. They cannot buy their own home. They cannot afford to send their kids to college. They are the ones who are going to bear the brunt of a free-trade agreement with Mexico. Ten million people in our country unemployed. Extending the fast track would be saying, "Sorry, you do not count any longer."

Studies show that about 550,000 to 900,000 U.S. jobs in 10 years would be lost under a Mexico Free-Trade Agreement. Well, the administration cites economic studies that are fatally flawed because they assume that United States investment will not move to Mexico. And they also assume full employment in our country—no loss of jobs under a free-trade agreement.

Well hallelujah, Mr. President. They have assumed away the critical issues in this debate: The movement of investment and the loss of U.S. jobs. Maybe the Bush administration is now going to send down the Humphrey-Hawkins bill for full employment.

Now, I will tell you what. We will bring up Humphrey-Hawkins and let us see how much the administration supports a full employment bill in this Congress.

Now, to underscore something my colleague from Minnesota pointed out a little bit ago: The administration says it will support transition assistance to workers displaced by a Mexico free-trade agreement. Well, big deal. The proof of the pudding is look at the administration's budget they sent up this year. It comes under my appropriations subcommittee. Guess what their budget request is for trade adjustment assistance to workers this year? Zero. That is what they want.

Now the administration is telling us go ahead and rubberstamp this fast track procedure and extend it and we will have trade adjustment assistance for our workers. Again, look at what they sent down this year for trade adjustment assistance. Zero. That is what they are asking for.

Do you have confidence in promises of worker assistance from this administration? I will tell you what: I will bring my appropriations bill out on the floor and we will have a vote, maybe to bust the budget, do away with the caps, and raise funding for trade adjustment assistance, and we will see how many people want to vote for that.

I will assure you we will not have any support for that from the administration.

Mr. President, I am all in favor of improving economic conditions in Mexico. But I say we should not lower our standard of living and our workers' wages to the levels there. We ought to help them raise their wages and living standards up to our level. And in that way we can truly compete on the quality of products and not on the misery and the suffering of the people who make them.

That ought to be our bottom line. I want America to compete, but not on the misery and suffering of children or of people who are making 57-cents-an-hour with no health benefits, no Social Security, nothing. And to those who argue that somehow a Mexico-Free-Trade Agreement is going to help us because they can sell those imported products in this country cheaper and it helps our consumers, I challenge anyone here to find one product produced in another country made by children that sells in this country at a cheaper price than products made in this country. You will not find it.

The Senator from South Carolina last year held up a shirt made in that land, and the same brand name, same shirt made in this country. In that land they were making $3 a day; our people in this country were making $7 or so an hour. You would think one shirt would cost a lot less than the other? No. Same price. Someone is making a killing and it is not the people who are working to make the product.

And then we have the GATT talks which are critically important to farmers, agricultural industries and the entire economy of my State. I fully support reaching a good agreement in the GATT negotiations, but again, I am not prepared to relinquish my rights to debate and seek to modify an agreement that I find unacceptable.

I am not satisfied that our negotiators will reject a bad GATT deal, nor has the administration made adequate commitments for dealing with the impacts on farm families and rural communities that would arise from a GATT agreement that reduces support to agriculture.

I am very concerned about the direction the GATT talks on agriculture are headed. There is now on the table a proposal to cut support to agriculture by a given percentage across the board. European farm subsidies are much higher than those in the United States, so a set percentage reduction would still leave U.S. farmers at a definite disadvantage compared to European farmers. The EC countries will spend around $54 billion this year on farm supports. The United States will spend around $12 billion or so. With equal percentage reductions in support, our U.S. farmers still would be at a big disadvantage.

Our U.S. trade and agriculture officials offered American farmers the prospect of a level playing field in return for giving up Government support. Now our negotiators appear ready to accept far less than a level playing field.

The EC has shown little willingness to make significant changes in its farm subsidy policies. And it appears that the EC will demand significant concessions from the United States before it makes even modest changes in its policies. Hence, I fear that the pressure to reach an agreement will lead the administration to make concessions that are not in the best interest of our farmers.

The administration seems to be more interested in slashing support to our farmers than in achieving a good GATT agreement for them. Again, I believe this reflects a lack of a well-conceived strategy for furthering the best interests of our country in international agricultural markets.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I yield 3 minutes to the distinguished Senator from Iowa.

Mr. HARKIN. I thank my colleague for yielding me a little bit of additional time.

Finally, let me say this. It seems to this Senator that President Bush has an economic plan for a lot of other countries, but there is no economic

plan for our country. The President has a $150 billion program this year to defend Western Europe from the Soviet Union—$150 billion of our taxpayers' money going in to bolster the German economy, the French economy, all of the European economy, and they come back and hit us with unfair trade in agriculture and other areas.

We forgive other countries' debts, we send taxpayers' money to them.

The President has a jobs program for other countries. He has a jobs program here for Mexico, a jobs program for China, a jobs program for South Korea. But there is no jobs program for the people of this country.

President Bush is saying to the people all over the world: Don't worry, we are going to make sure you have jobs; don't worry, we are going to make sure you get American taxpayers' dollars.

But what President Bush is saying to our workers in this country is: Don't worry; be happy. Don't worry about this, just be happy; this is the best we can do.

I say it is time the President quit spending 90 percent of his time worrying about the rest of the world and 10 percent worrying about what is happening in this country, and start spending 90 percent of his time worrying about what is happening in this country and pulling this country together and sticking up for our workers and our people and our business in this country, rather than trying to negotiate trade agreements on the fast track that will undermine the very strength, the very character, the very wealth of this country.

We Members of the Senate should not abdicate our rights or our responsibilities to insist that we treat these trade agreements just like we have the 89 others since 1974. Yes, let them negotiate, and when they come back let us take a look at what they have. And let us in the Congress of the United States represent the people that we were elected to represent, and not give a blank check to the President to send our jobs and our wealth out of this country.

Not this administration's brand of free trade, Mr. President; not their so-called free trade—instead fair trade. Because fair trade leads to economic improvement throughout the world. The kind of so-called free trade this administration wants leads only to the loss of jobs, wealth, and living standards in this country and the exploitation of poor and impoverished people in other countries.

The PRESIDING OFFICER. Who yields time? The majority leader.

Mr. MITCHELL. Mr. President and Members of the Senate, over the past few hours, I have consulted with the distinguished Republican leader, the chairman and ranking member of the Finance Committee, the distinguished chairman of the Commerce Committee, and several other interested Senators, in an effort to establish a firm schedule for disposition of this matter that would accommodate the schedules and interests of as large a number of Senators as possible.

As is always the case, those interests do not entirely coincide, and it is not possible to complete this schedule in a manner that fully accommodates each Senator.

But I will momentarily propound an agreement that attempts to accommodate as many as possible, and I would hope we can get this agreement, the reason for which will become clear as I propose it.

Mr. President, I now ask unanimous consent that at 9 a.m. on tomorrow, Friday, the Senate resume consideration of Senate Resolution 78; that there be 3 hours remaining for debate on the resolution, with the time from 9 a.m. until 10 a.m. under the control of Senator HOLLINGS, and the time from 10 a.m. until 12 noon to be divided as follows: Senator HOLLINGS controlling 1 hour, and Senators BENTSEN and PACKWOOD controlling 30 minutes each; that at 12 noon, without intervening action or debate, the Senate proceed to vote on the resolution; and that tonight, debate continue as long as any Senator desires to be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, could the leader tell us at what time the leader is proposing we have a final vote on this resolution? At noon?

Mr. MITCHELL. Noon tomorrow.

Mr. HARKIN. Is there any possibility of shortening that time?

Mr. MITCHELL. The Senator, having just spoken——

Mr. HARKIN. But the Senator only having taken 13 minutes of time, I remind the leader.

Mr. MITCHELL. And I appreciate that. This represents a significant shortening of the time tomorrow. It permits unlimited debate this evening and into the early morning hours of tomorrow for those Senators who wish to do so.

We considered and discussed at some length the possibility of remaining straight through this evening, because there are some Senators who would be better accommodated by that schedule.

Unfortunately, it appears that it would require staying in all night without any certain time for a vote tomorrow. We might end up voting at noon in any event. So it seems as though—once again recognizing that it is not humanly possible to precisely accommodate the interests of every Senator, since they do not all coincide—that this is the most reasonable approach for the greater good of the larger number.

Mr. HARKIN. I thank the leader. I do not object, and I yield the floor.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. MITCHELL. Mr. President, accordingly, there will be no rollcall votes this evening. And the only rollcall vote tomorrow will be at 12 noon on the resolution.

I thank my colleagues for their cooperation. I thank the distinguished managers, and I especially thank the chairman of the Commerce Committee, Senator HOLLINGS.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, just so those who want to speak on our side in favor of the agreement understand, we can speak as long as we want tonight. But I urge all those who want to speak to come tonight and speak. Because tomorrow the chairman and I only have a total of an hour divided between us.

It has been my experience before that people will come rushing in tomorrow and want 10 or 15 or 20 minutes, and the time supply will not be available. But anyone who wants to speak can speak tonight.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I strongly urge the Democrats to carry out the same request tonight and make their speeches tonight, those who are the proponents. Because I share very much with my colleague the concern that tomorrow we will just not have that time available.

With that, I now yield 15 minutes to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. ROCKEFELLER. I thank the Chair, and I thank the distinguished chairman of the Finance Committee for yielding to me.

Mr. President, I rise—with some reluctance and reservations—to support the extension of fast-track procedures so that trade negotiations can, in fact, go forward. My reluctance is based on my concerns about the process and my deep skepticism about the proposed free-trade agreement with Mexico.

My support essentially stems from the potential good that the other trade agreement—the Uruguay round—can do for my State of West Virginia and for our country. I have concluded that it is neither wise nor responsible to terminate the process that may lead to a successful conclusion of these GATT negotiations.

With respect to the fast track itself, it is fair to say that no great issue of the day—and this is one—should be decided on process. I am confident that will not be the case today. At the same time, however, the Congress is right to be concerned about process. This President has asserted executive authority over trade policy to a greater extent

than any of his recent predecessors. His vetoes of the FSX resolution, the Chinese immigration bill, and last year's Export Administration Act Amendments, for example, all claim executive primacy in the regulation of foreign commerce that is belied by the Constitution. Unfortunately, Mr. President, we will confront that issue, and we will win, but we will not do it today.

In broad terms, the fast track gives the President the right to timely consideration of trade agreements without parliamentary games. The Congress surrenders its right to amend the agreement in exchange for close consultation with the administration throughout the negotiations and the opportunity to draft the implementing legislation.

Congress' role is not cosmetic. It has become a real part of the process. Congressional concerns have been well reflected in our Uruguay round negotiation positions. I hope that will prove true for the Mexican talks as well.

While it is doubtless true that many Members of Congress believe that the fast track constitutes an unacceptable surrender of congressional prerogatives, we all know the real debate today is not solely about process. Instead it reflects the depth of feeling about the substance of these potential agreements, particularly that with Mexico.

This has been an intense debate that reflects our deep concerns about the health of our economy. Because if our economy were anywhere near as strong as Presidents Reagan and Bush have claimed, the prospect of free trade with Mexico, with an economy only 4 percent the size of ours, would alarm no one. Instead, we have had a heated debate over this agreement, which has been, as it should be, a debate over our country's economic future.

The heat that has been generated therefore, should come as no surprise. For more than a decade, the Republicans have preached free trade without noticing that other nations were practicing mercantilism. They have defined free trade only in terms of what comes into the United States with little concern about what goes out.

They do not believe that it is Government's role to care about workers who have lost their jobs to imports or to try to stop the erosion of our manufacturing base. They are, in fact, actively purging from the Government anyone who even suggests that a Government role in technology development is important.

They immediately label a protectionist, or even worse, an advocate of the dreaded industrial policy, anyone who expresses concern about competitiveness.

They have stood by while our industries have died and our workers have suffered while the rich have only gotten richer. If people did not like it, they could, in the famous Republican phrase, "vote with their feet."

My State, Mr. President, has suffered grievously from the policy, and the country has suffered likewise. It will be a long time before we recover from the damage of a policy that has managed to be both naive and cynical at the same time.

But in 1988, over the objections of the Reagan administration, Congress committed us to a new trade policy. The premise of that legislation was that the era of one-way trade was over. We were no longer prepared to open our markets to the world without comparable access in return for our products and services. Nor were we prepared to suffer in silence the imports of nations which through subsidies and dumping evade the discipline of the market.

To that end, we strengthened section 301 to give the President new tools to open markets and break down barriers to our goods and services, and we gave the President specific objectives for the Uruguay round.

The negotiations we debate today are potentially consistent with those objectives. The round is first and foremost an effort to subject other nations to the discipline of the market system that has served us so well for over two centuries. Bringing newly industrialized countries like Korea under full GATT discipline, establishing new rules for services and investment, eliminating subsidies on steel and other manufactured products, and reforming agriculture throughout the world are all ambitious goals, but critical ones for the trading system of the 21st century.

Success will do much to restore our position as the world's economic leader. It will also do much for West Virginia. My State's exports will increase. Chemicals, wood products, and coal, in particular, will share in the net expansion of trade. This will mean more jobs for West Virginians. Economists have predicted that a successful round could increase U.S. output by $1 trillion over the next decade. West Virginia will share in that gain because its export dollar earnings per capita are second only to the State of Washington.

At the same time, I must also state, Mr. President, that while administration objectives in the Uruguay round have thus far been consistent with those mandated by Congress, there is always the possibility of major last minute concessions. Americans by their nature are impatient people. It is one of our strengths as a nation, but it is not a desirable quality in negotiators. If we reach the point where reaching an agreement becomes more important than the substance of an agreement, we will have lost our leverage and with it any hope of a round that helps American workers.

But make no mistake about it, the bad guys are out there. Our trading partners who have done very well in our open markets want to weaken our trade laws so they can do even better, because we will have no defense against dumping or subsidization.

These laws are critical to the steel industry, among others vital to West Virginia. As chairman of the Senate Steel Caucus I worked with my friend and colleague, the late Senator Heinz, to achieve a multilateral steel agreement to end unfair trade in steel and to preserve U.S. trade laws. The President assured me, in a meeting I attended with other Senators 2 weeks ago, that he will steadfastly oppose any attempt to dismember those laws. I hope so, because that attempt will surely come. In fact, it has already begun.

It is obvious from these few examples that a successful conclusion to the round will not come quickly or easily. The European Community's intrasigence on agriculture last year proved an insurmountable obstacle to agreement, and there is little evidence to suggest that has changed. But given the magnitude of benefits possible from a successful round, it simply makes no sense to abandon the effort now, particularly as we teeter on the edge of global recession. To do so would only shift the blame from the failed negotiations from the Europeans, where it belongs, to the United States.

On the other hand, Mr. President, I have major concerns about the proposed negotiations with Mexico. I wish the process enabled us, in fact, to separate the question of fast-track authority for the GATT talks, from the question of fast-track authority for the proposed free-trade agreement. I take a much more negative, wary view toward giving the green light to an agreement with Mexico, in light of many serious problems and issues.

These are problems which the administration has done its best to ignore. Members of Congress, labor unions, environmental leaders, and consumers have pointed out the enormous difficulty of negotiations between countries at such different stages of development. They have documented concerns about job losses and plant relocations, about environmental degradation on both sides of the border, the possibility of products entering the United States that do not meet our health and safety standards, and the possibility of our developed trading partners like Japan or Taiwan stealing American jobs by locating assembly facilities—screwdriver plants—in Mexico. The Senator from New York [Mr. MOYNIHAN] has spoken eloquently on the Mexican political system and whether one can truly have free trade with a country that "isn't free."

Ulitmately, the administration produced a lengthy action plan that begins to recognize and address these prob-

lems. I do recognize that the President has now made a commitment, following his meeting with the Senator from Texas [Mr. BENTSEN] to work with the Congress to develop a new or expanded trade adjustment assistance program for impacted workers.

The administration's commitment is particularly noteworthy because it has spent the last 10 years trying to kill the limited Trade Adjustment Assistance Program we have now, without regard to its demonstrated effectiveness. That program has made the critical difference in the lives of West Virginians and their families. With the income support and job training provided by TAA, displaced workers in my State have gained the skills needed to regain jobs that pay good wages and provide opportunity.

So, I appreciate the President's newly discovered interest in worker adjustment assistance. But I question the validity of considering any agreement at this time that will result in more job losses and more dislocation for Americans.

I must say that I note with some irony the efforts of the past decade on the part of both administrations to kill the Trade Adjustment Assistance Program, a program that has made the difference, Mr. President, for West Virginians in getting back into good paying jobs.

I have a whole range of serious concerns about the potential impact of the North American Free-Trade Agreement. Most economists have concluded that the benefits of such agreements for the United States will be marginal and there is little doubt that some industries will be seriously hurt.

One that particularly concerns me is glassware. U.S. tariffs on glassware are in the 20-percent range, reflecting its import sensitivity. I have joined a number of my colleagues in a letter to the administration urging that glassware be excluded from an FTA. Failing that, I have asked the President to structure the agreement to minimize dislocations in the industry by providing a very long transition period for any tariff reductions. The President assured me this will be an important objective in the negotiations.

There is not much doubt that this agreement will be good for Mexico. Their gain, however, should not be at the expense of the American worker. If that occurs, I will oppose the agreement.

Mr. President, I have met with many of those who oppose the fast track. I share their concerns and I recognize their commitment. The opponents include friends and allies, whom I have joined in fighting the good fight against the misguided economic and trade policies of the 1980's. Together, we have stood up for trade adjustment assistance and plant closing legislation for the victims of those policies. We have fought for the health and safety of workers. We believe our Government has been too long indifferent to manufacturing's arrival in this country.

But the validity of all those concerns cannot justify denying the other effort affected by the fast-track process before us tonight—the Uruguay round—and foregoing the potential benefits of a successful agreement. As the regionalization of the world trading system goes forward, and the EC continues to build its protectionist cocoon, we make a major mistake if we fail to stand for open markets and free and fair trade.

We may not achieve that goal, but that is a judgment that can be made only after we have made the effort. In fact, if either effort fails to meet the test of what is good for America, America's workers, and America's families, I, along with others, will oppose the relevant agreement and defeat must be and will be unacceptable.

I thank the Chair and yield the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished Senator from South Carolina, chairman of the Commerce Committee.

Mr. President, article I, section 8 of the Constitution provides that Congress shall have the power to regulate commerce with foreign nations. Over the more than 200-year history of this country that is exactly what the Congress has sought to do. In fact, some of the most intense debates and struggles on the floor of this Senate have taken place over the exercise of this very power.

When we entered into the GATT negotiations, the argument was made that our trading partners needed assurances that the agreement negotiated by the administration would be considered by the Congress on a take-it-or-leave-it basis: Here is the agreement that we negotiated; vote it up or down.

They asserted that it would be very difficult to go back to 107 countries that have concluded negotiations on an agreement and renegotiate it after changes have been made by Congress. So the Congress ceded some of its authority over trade matters to the executive for the purposes of negotiating a multilateral trade agreement.

However, what is happening now is a procedure that was created for a special circumstance is being turned by the administration into a standard operating procedure. In this instance, they are seeking the same procedure for the negotiations with Mexico that would exist with the GATT. They are both wrapped up into one in this resolution, so to deny one you have to deny the other. Of course, the Congress can come back and give fast track authority for the GATT, if that is your judgment.

I have voted for this procedure on GATT in the past. I was moved by the argument that if you go to a negotiation with 107 negotiators, it is very difficult to go back and renegotiate it. I have some reservations about that position, but I have taken it. But now, the administration is extending this to negotiations with individual countries.

Fast-track authorization is a tremendous grant by the Congress to the executive of the congressional power to regulate commerce with foreign nations. What it means is that the executive will make the judgment on all the balancing and the tradeoffs of the various pieces that go into the trade agreement. What will you get to help investment bankers on the one hand as opposed to what might hurt plant workers on the other; what will you get that covers intellectual property rights but may sacrifice certain environmental protections? What is to be done for agriculture and which agriculture? Is it going to help the wheat farmers at the expense of the dairy farmers or the other way around?

In a bilateral or a trilateral negotiations, there is not the practical impediment that has been asserted with respect to GATT that you cannot go back to that bargaining table if the Congress thinks the pieces should have been done differently. In fact, the nation with whom we have negotiated may be willing to accept whatever changes the Congress might make. The Congress might not make any changes. The agreement may be brought to the Senate and we may look at the substance of the agreement, and the ultimate judgment of the body may be that the agreement should go through as is. But the body would have the opportunity to alter pieces of the agreement if it decided that it was advisable to do so.

That is the issue. The issue is not whether you are going to have an agreement or not, nor whether you are going to try to negotiate an agreement. I am in favor of trying to negotiate a trade agreement with Mexico. I am not in favor of giving the administration the authority to negotiate an agreement and then present it to the Congress for a yes or no vote. Congress must have the authority to change or modify that agreement.

What is the practical argument against the Congress exercising its right to amend an agreement. I know what they argue on GATT. I have heard that argument. I have been moved by it to some extent. They say we cannot go back to 107 nations; however, we can go back to the bargaining table if it is a single country or even two or three countries. In fact, we have been able to modify agreements in the past that

have involved a significant number of countries.

People have talked here about the substance of the agreement, and what they expect to happen. Well, you do not know what is going to happen. That is just the point. We do not have the substance of the agreement before us.

Then they say, Mexico will not negotiate with us unless fast-track authority is granted. That is their position now, after our administration has given out the song sheet and said this is the sheet you are supposed to sing from. Only in mid-March, just a couple of months ago, Mexico's free trade chief negotiator stated "negotiations would continue with or without fast track."

Now of course the standard line by our administration is that if we do not get this fast-track authority, there will be no negotiations. Why is that? Why would there not be negotiations without fast-track authority?

These are difficult issues. People have talked here about the potential sweeping impacts of a trade agreement with Mexico. Some have talked about it positively. Some have talked about it negatively. But it is very clear on both sides of the question that there will be a sweeping impact.

If that is the case, let the agreement come to the Congress and let it be fought out on the floor of the U.S. Senate. Let each Senator then be able to respond to the important economic interests that are being affected and register a judgment, and not be bound by a framework that says you must either accept or reject this agreement.

You know and I know the argument that will be made then with respect to the agreement. It is being made now when we are talking about how you negotiate the agreement. But I can guarantee you that then the argument will be that this agreement must be approved in substance; otherwise the relationship with Mexico will be blown to pieces.

I want a positive relationship with Mexico. I think it is important to achieve it. I think there is a way it can be done and the prospects are there. But it ought not to be done in such a way that the Congress and most importantly the people we represent are shut out of an opportunity to participate in that process.

We are told the administration is going to allow us to participate in this process. The Congress and the American people have expressed a lot of misgivings already about an agreement and the administration has announced an action plan to address some of these questions, some that were raised so ably by my distinguished colleague from Michigan, Senator RIEGLE—fair labor standards, environmental standards, and adjustment assistance.

Adjustment assistance? The administration is giving us assurances about adjustment assistance as to the impact of a free-trade agreement with Mexico when they did not put a dime in their budget request for adjustment assistance—not a dime. Now we get a letter from the President that says he is very sensitive and concerned about the adjustment assistance issue.

The impact on employment. This administration has an extended benefit trust fund under unemployment that had a balance of $7.2 billion at the beginning of this fiscal year. The fund is building up additional surpluses as the year proceeds, and the administration will not support extended benefits for the unemployed. There are families that do not have an income, and are not being supported by unemployment insurance; and the administration continues to build up a surplus in the unemployment insurance trust fund right in the middle of a recession.

Mr. President, supporting this resolution, rejecting fast-track authority, does not mean that negotiations with Mexico cannot go forward. They can go forward. And they should go forward. But the Congress ought to retain the authority to examine that agreement when it comes back to the Congress and to make our own evaluation of it.

What is the guarantee that the administration's evaluation of the regional and sectoral interests that are involved will coincide with the evaluation that would be made by the Members of this body? And yet, this cessation of authority allows them to make those balances, put the package together and then present it to us on an all or nothing basis. Yes or no on the total package, with all the pressure that will come from the assertion at that time that if we do not approve the substance of this trade agreement with Mexico that our relationships with our neighbor to the south will be placed in disarray.

I can hear the argument coming right now. I can hear people say, you may not be happy with all of the pieces of this agreement but we have to approve it because of our relationship with Mexico.

All of these statements here that we are not going to approve the agreement if every "i" is not dotted, and every "t" is not crossed—will be overcome by that argument.

People have talked about wage levels in Mexico, about environmental considerations, and all of those are reasonable concerns. Could a trade agreement address them? Yes. Will a trade agreement address them? Who knows? We have to see the substance of the trade agreement.

Then they say, you cannot place the agreement before the Senate and let this thing be addressed and pulled apart by different interests. Why not? What is this body for? The interests that have concerns about the agreement are special interests. The interests that want the agreement because they in one way or another have assurances that their concerns will be addressed and protected—oh, they have a broad view of what is in the national interest.

Who is to say that? The judgment ought to be made here. The agreement ought to be presented here. We ought to have a chance to examine the agreement. We ought to have a chance to modify it if we choose to do so. We may not do so. We make other very important agreements—arms control agreements, sweeping in their import. They come to this body and are subject to change. They are not presented to us with the only options being a yes or no vote.

The argument is made at the time, do not change it because we will have to go back and renegotiate it. And we may or may not accede to that argument. But we keep the authority to change it, if we make the judgement that is what ought to be done. That is what we should do in this situation.

On that basis, Mr. President, I support this resolution. I do not think the fast-track authority should be extended to the Mexican negotiations. I do not support the administration's path of moving to make fast track standard operating procedure in each trade negotiation that comes along.

I hope very much that the body will support the resolution and vote down fast-track authority. That does not preclude us from coming back and considering the GATT question separately and addressing the complications raised by a multilateral negotiation with 107 nations. But what is happening is that a special situation is now being transformed into the standard situation, and the standard situation is an abdication by the Congress of its responsibility to represent its people and its economic interests.

Yes, the fight will be difficult on this floor. The fight ought to be difficult on this floor; it has been in the past. But we are not sent here by our States and by the people we represent simply to abdicate that authority to the Executive, reserving only the ultimate authority of saying yes or no to a total package which contains within it innumerable tradeoffs and bargains, some of which may sacrifice very important regional and sectoral economic interests.

Mr. RIEGLE. Will the Senator yield at that point for a moment?

Mr. SARBANES. Yes.

Mr. RIEGLE. Mr. President, the proposal that I have developed and am offering with several other Members as a modification, or as an alternative to this, would do precisely what I hear the Senator from Maryland saying should be done, and that would reserve for the Senate the right in at least five specific areas to be able to go into a proposed agreement that is brought back

and to examine it and to offer amendments in the area of environmental protection, workers' rights, and adjustment assistance for displaced workers, dispute resolution in terms of the legal process, and the rule of origin, to make sure that other countries like Japan do not use the free-trade agreement with Mexico as a platform for movement of large volumes of their goods into the United States. That would be an approach, it seems to me, with time limits that would allow us to get at the very issues the Senator speaks about.

The Constitution, it seems to me, gives us that responsibility. I do not believe we can give it away properly. We are assigned that duty by the Constitution, and it seems to me that we are under an obligation to exercise that responsibility. But I am wondering if the approach that I have developed as an alternative might be a way to let us do exactly what the Senator from Maryland is suggesting we should do.

Mr. SARBANES. Well, I commend the Senator for his approach. It is an imaginative effort to place, even in bilateral negotiations, some restraints, so you are not completely caught up in all of the details of the agreement and, yet, reserve the opportunity to amend those aspects of it that are judged to be the most severe and the most substantive in terms of needing to be addressed.

My concern is, what can we address in terms of the substance of the agreement when it is brought to us? And what can we do about representing the people, the economic concerns of the people, who have sent us to the Congress of the United States? What this procedure is going to do is put you into a box where people will come to you with economic concerns, and you will say, you really have a good point about your economic concerns, and that was not negotiated very well in the agreement. I would really like to do something for you, but now this is part of this big agreement, and the only choice I have is to vote yes or no. I cannot try to help you unless I am prepared to jettison the whole agreement, and we are being told if we do that, the whole relationship with Mexico will be destroyed.

Why are we abdicating our responsibilities? People say we will not be able to handle our responsibilities. Well, that is a sad comment on our expertise and our abilities. We ought to hold to the constitutional role that we have been given to regulate commerce with foreign nations.

Mr. DANFORTH. Mr. President, parliamentary inquiry. How much time has expired of the 10 minutes yielded to the Senator from Maryland?

The PRESIDING OFFICER (Mr. KOHL). His time has expired. The extra time used has been extracted from the time allotted to Senator HOLLINGS.

Mr. DANFORTH. Mr. President, I yield 15 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, as I listen to my colleagues on the other side of the aisle, I think I understand the bit of wisdom of our predecessors who wrote the laws which have guided international trade policy.

The issue before the Senate this evening is not an agreement with Mexico, and it is not a multinational trade agreement with the member nations of GATT. The question before the Senate, appropriately, as it was before the House of Representatives earlier today, on which we will be voting tomorrow, is simply: Do we want to deny the President of the United States the authority to negotiate on behalf of this country for a reduction of international trade barriers against America?

I have had the opportunity over the last few weeks to speak to the leaders of agricultural and business groups in my State and to give them a chance to share their concerns. Based on those meetings and my discussions with the administration and the leadership of the Finance Committee, I have decided that it is in the best interest of Minnesota and the United States to let the negotiating process go forward. The benefits of agreements in GATT and with Mexico and Canada are very real and the problems which have been raised can and will be dealt with.

A vote for the resolution before us says, in effect, that the status quo in international trade is just fine; that we would rather stay where we are, or even step backward in international trade rather than take any chance on a new agreement. This is not kind of decision the world's leading economic power makes.

Just a few months ago, we showed the world our leadership in the Persian Gulf. Now it is time for us to show the same fortitude at the bargaining table of international trade.

Mr. President, if we vote down fast-track authority, we will send a signal to the rest of the world that we are satisfied with current foreign government policies that subsidize foreign agriculture. We will tell the world that theft of intellectual property rights is not something we are interested in. We will tell the world that service trade should remain protected behind outmoded and outdated national rules. We will tell the world that barriers to trade should be raised, not lowered. We simply cannot afford to send those kinds of messages.

Mr. President, I believe trade agreements will be a substantial benefit to our entire economy and to the farmers, businesses, and citizens of Minnesota. A strengthened GATT agreement is vital to Minnesota agriculture and agricultural processors—corn, wheat, soybeans, potatoes, sugar, and dairy—which must have both unfettered access to all world markets, and the end of unfair competition from government subsidized competitors.

A GATT agreement is critical to the computer and high technology companies in my State—3M, Cray, Honeywell, Control Data, Medtronic—that require uniform protection of their intellectual property rights and need an open international market to sell their world-class products.

A GATT agreement holds open great new possibilities for our highly competitive service industries—banking, finance, and insurance—that must have a set of established uniform rules to deal in the international marketplace.

All of these industries stand to benefit but only if the United States can go back to the GATT talks armed with the commitment of fast track.

Mr. President, Minnesota sits in the heartland of America as does the Presiding Officer's State of Wisconsin. Our States are known worldwide for high quality agricultural and industrial products. They are known for a highly skilled and a dedicated work force. They are known for innovative, management skills, techniques, and invention. When Soviet President Gorbachev wanted to see a vision of what the future could look like for a free-market Soviet economy, he chose to visit the State of Minnesota.

World trade is so important to the economy of Minnesota, that the State has set up world trading offices in Japan, France, Great Britain, Sweden, Norway, Belgium, and Costa Rica. Approximately 50,000 jobs in Minnesota are linked to exporting. That includes jobs in farming, mining, manufacturing, telecommunications, transportation, and finance.

With 17 percent of our manufacturing jobs linked to exports, Minnesota ranks ninth among the States in manufacturing employment linked to exports. Export trade is worth more than $8 billion a year to our State's economy—more than 18 percent of Minnesota's production. In addition, import trade plays a vital role in our State economy. In 1990, import and export activities just in the Port of Duluth-Superior supported nearly 3,000 jobs in my State and probably a comparable number the State of the Presiding Officer.

Mr. President, one of the most admired companies in America—3M Corp.—is headquartered in Minnesota. Fifty percent of its sales and profits come from sales in the United States, and 50 percent comes from outside the United States of America. One in six of 3M's 23,000 Minnesota employees owes his job to 3M's export activities. Those are jobs in St. Paul, in Hutchinson, in Alexandria, in New Ulm, and in Farmington, small towns all over our State. These jobs would not be there if it were not for export activity.

I point out, however, that it is not just the world famous 3M, or Cray, Pillsbury, Cargill, and Medtronics—names known to everyone in this room—that need open world trade. Companies of all sizes in my State depend on free access to the world market because they manufacture internationally competitive products. Let me just cite a few examples.

A company in Coon Rapids, Li'l Orbits, manufactures minidonut machines. The company employs 420 people and exports account for 70 percent of its business. FSI International, a Chaska Minnesota manufacturer of semiconductor equipment, employs 325 people and relies on exports for 60 percent of its business. North Central Plastics, a 50-person company manufacturing solar powered electric fencing, has seen its export business triple in the last 18 months.

These are just a few of the hundreds of companies in my State who need the assurance that America will be at the GATT bargaining table to negotiate improved rules for international trade. These are not companies that want our negotiators to pack their bags and turn their back on the world trading system.

Mr. President, several of my constituents have expressed serious concerns and reservations about the U.S. negotiating stance at the GATT. In particular, I am referring to sugar beet and dairy farmers in Minnesota who are afraid that the GATT negotiations will undermine our domestic agriculture programs and put our farmers at a competitive disadvantage in the world.

I understand their fears, but believe they can be answered. This administration—and I have heard this directly from the President—is committed to real and meaningful foreign agricultural reform as the critical linchpin of the Uruguay round. That was amply demonstrated last December when our negotiators walked out of the talks because the EC, the Japanese, and the Koreans refused to commit to substantive reform of their agricultural policies, and that was after 4 years of work.

We scuttled the entire GATT round because of agriculture. And because we would not take no for an answer on agriculture reform, the EC has now backed down and agreed to negotiate specific binding commitments in three primary areas: Domestic support mechanisms, market access, and export subsidies.

Mr. President, one of the biggest problems our farmers face in world trade is the distorting agriculture subsidy policies of the European Community. Look at what the EC subsidy policy has done to the sugar industry. In 1975, the EC was a net importer of more than 8 million tons of sugar. In less than 15 years, the EC's sugar program has turned its subsidized farmers into net exporters of more than 5 million metric tons. That is about 20 percent of world trade in sugar. No wonder American sugar beet and cane farmers want the EC to end its ruinous subsidy policy.

I am convinced that if we can negotiate an end to those policies, our farmers will be able to effectively compete in any open market in any part of the globe. But there will be no hope that the EC will make any significant changes in its agriculture policies unless we sit at the table and can negotiate. And that will only be possible if our negotiators retain fast-track authority.

Mr. President, I also want to address the proposed North American free-trade negotiations which would also be authorized under the fast track. I was an early supporter of the free-trade agreement with Canada. I thought it made sense to integrate our two economies because there is a large degree of economic, labor, and environmental parity between our two countries.

I began with reservations about a similar economic integration with our neighbor to the south, Mexico, because I could see the huge disparity between our economies. In wages, in environmental enforcement, in labor conditions, Mexico is decades behind the United States. Like many of its Third World neighbors in the hemisphere, Mexico has been struggling under the weight of more than $100 billion in commercial debt while trying to cope with an exploding population and environmental degradation.

But as we have learned from the economic transformation in the Pacific Rim, it is only in raising economic productivity and economic wealth that a nation can reduce is social and environmental degradation. And improved economic conditions in Mexico hold the promise of new export opportunities for all types of American products and services.

Legitimate concerns about Mexico's commitment to cleaning up its environment have also been raised. The administration recognizes these concerns and has indicated that it will include environmental issues in the free-trade negotiations and will expand cooperative environmental programs between our two countries. Furthermore, many American companies that have manufacturing facilities in Mexico apply the same environmental standards to their Mexican plants as they apply in the United States. I invite you to examine the record of Honeywell which operates that way in Mexico, so does 3M which operates that way in Mexico, and so does Green Giant Co. of Le Sueur, which applies the same kind of pesticide regulations and controls on Mexican products today as it is required by the EPA and our laws to apply in these countries. These plants should serve as environmental models for any new plants that are opened in Mexico.

Moreover, Mr. President, free-trade negotiations with Mexico will provide the United States with real leverage to get a commitment from Mexico that it will be serious about cleaning up its rivers and its air pollution. The economic benefits that could flow to Mexico if we reach an acceptable agreement will surely convince the government of Mexico that labor conditions and environmental conditions must be changed.

Mr. President, if recent history is a guide, a free-trade agreement could benefit both the United States and the people of Mexico. Since Mexico embarked on its economic reform program in the mid-1980's, our exports to Mexico have jumped by nearly 130 percent, from $12.4 to $28.4 billion. And while the United States has reduced its trade deficit with Mexico from $4.9 to $1.8 billion, if you exclude trade in petroleum products, our trade balance moved from a deficit of $1.5 billion in 1986 to a surplus of $2.7 billion in 1990.

Minnesota businesses and farmers have also benefited from the expansion of trade with Mexico. In just 2 years, from 1987 to 1989, Minnesota's share of exports to Mexico went up 80 percent—from $90 to $163 million. Mexico is now the State's ninth largest export market.

Between 1987 and 1989, Minnesota exports of livestock jumped 700 percent—from less than $60,000 to $4.2 million. Our State exported 24 million dollars' worth of agriculture products; processed food product exports tripled from $10.6 million to more than $31 million. And sales of computer and industrial machinery jumped nearly 90 percent of $75 million.

Mr. President, the Minnesota farm economy stands to benefit greatly if we can negotiate an open trade border with Mexico. Our 33,000 soybean farms currently export 50 percent of their soybeans throughout the world. Mexico could become a tremendously important market for our soybean growers and for our corn growers because of Mexico's proximity. Shipping costs are so much lower for United States farmers than for competitors in Europe and Australia that if we could open up and expand the economy of Mexico, and the rest of Latin America, we could gain an overwhelming share of their market.

Mr. President, legitimate concerns have been raised as to whether a free-trade agreement would invite an exodus of American companies to move across the border into Mexico. The fact is that because of intensive global competition, many companies already have had to move low-wage assembly operations in the United States to Mexico. In some instances, these moves preserved jobs in the United States because the alternative for some compa-

nies was simply to move their entire production and assembly operations to the Far East.

Mr. President, our national security, and our economic security, are in large measure based on improving economic and social conditions in our hemisphere. A free-trade agreement encompassing Mexico and, one day, expanded to other countries in the hemisphere and in the Caribbean could serve to shore up the economies in this hemisphere that have been mired in debt and poverty for decades.

Such agreements could bring political stability to a region that has only recently begun to experiment with democracy. And in many cases, they will either trade goods and services with us or they will export their unemployment to California, Texas, and the rest of the country.

Before I came to the Senate, I was counsel to the H.B. Fuller Co. That company long ago recognized the need to do business in Latin America, in Asia, in Europe. Today, it serves as a model for many other businesses seeking to sell their goods and services throughout the globe. An expansion of trade links throughout the hemisphere, and paralleled at the GATT round will ensure continued vitality and prosperity for this country. It is for that reason that we must not look inward and fall back on protectionist instincts. The talks we are authorizing look forward to the global marketplace of the 21st century.

Mr. President, we do not have a North American Free-Trade Agreement before us today nor a GATT agreement. What we are voting on is simply to allow this Government to talk to other governments about improving trade conditions. Will we allow our negotiators to sit down and begin that discussion?

This is not the last chance for the Senate to express its will on this subject. Senator BENTSEN, our distinguished chairman of the Finance Committee, has made it very clear that the Senate will assert its prerogatives throughout the negotiating process. The administration has promised thorough and regular consultation throughout the negotiating process. The word of George Bush and LLOYD BENTSEN should be enough to satisfy any Senator.

Mr. President, my State of Minnesota, and the whole United States has much to gain from a reduction of trade barriers. And we have very little to lose by giving the President the ability to talk.

I will vote against the resolution to deny fast track and I urge my colleagues to do likewise.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 45 minutes to our distinguished colleague from Ohio, Senator METZENBAUM.

Mr. METZENBAUM. Mr. President, I rise as a cosponsor and supporter of Senate Resolution 78 to disapprove of an extension of so-called fast-track trade procedures.

But I want to commend my distinguished colleague from South Carolina, Senator HOLLINGS, for his leadership in bringing this resolution before the Senate. And I want to doff my hat to the Senator from Michigan [Mr. RIEGLE]; the Senator from Maryland [Mr. SARBANES]; the Senator from Iowa [Mr. HARKIN]; and so many others who have addressed themselves to this issue. And my failure to include all is because I was not on the floor when all of them spoke. But the arguments I have heard them make are certainly persuasive and make the point.

I came to the Senate nearly two decades ago as an avowed free trader. I was a strong supporter of the 1988 Omnibus Trade Act that contains the fast-track procedure we are now debating.

In fact, Mr. President, I was one of the principal authors of the Worker Readjustment Program incorporated in that Trade Act. I supported the United States-Canada Free Trade Agreement that was negotiated pursuant to fast-track procedures. But my experience with that agreement has eroded my enthusiasm for free-trade pacts pushed through on a fast track.

In hindsight, we should have taken a much closer look at that agreement. Certain troubling issues have now come up in the context of the Canadian agreement, particularly regarding imported beef and asbestos products. Those issues could have been and should have been addressed fully by Congress. But they were not debated fully at the time because of the fast track.

The public health and safety of American consumers is now at risk because a trading partner is challenging our domestic asbestos regulations as unfair trade barriers. According to its brief filed in the fifth circuit, the Canadian Government claims that the EPA rule that bans the importation of asbestos products "is not necessary to achieve a legitimate domestic objective, and therefore runs counter to U.S. free-trade agreement commitments."

How absurd can we be? What an unbelievable situation for the Canadian Government to argue that our EPA rule that bans the importation of asbestos products is not necessary to achieve a legitimate domestic objective, and therefore runs counter to our free-trade agreement with them.

In addition, since the free-trade pact with Canada, there has been a dramatic reduction in border meat inspection, thereby undermining our efforts to enforce our domestic food safety standards. Those are very troubling developments that we cannot ignore in our discussion of the proposed United States-Mexico Free-Trade Agreement.

If at this point, we are having trouble with Canada, a respected partner, a neighbor of ours, with respect to the asbestos content provisions of our own laws, our EPA laws, and with respect to the problem of meat inspection of beef, what doors, what Pandora's box will we be opening when we enter into a free-trade agreement with Mexico? We must learn from the Canadian experience, and be extraordinarily cautious before extending the fast track again.

I recognize that it will be difficult, if not impossible, to negotiate a comprehensive General Agreement on Tariffs and Trade, GATT, if each nation reserves the right to modify any or all of the particular provisions of the final agreement. Therefore, although there may be significant substantive problems with the GATT, I am willing to grant our negotiators wide-ranging authority for global trade talks involving more than 100 nations in the Uruguay round.

I am confident that to reach a consensus among so many diverse national interests, there will have to be significant safeguards in the final agreement so as to protect the interests of this country. That is why I can more readily accept the argument for fast-track procedures for comprehensive, multilateral trade agreements.

But the proposed North America Free-Trade Agreement is not a global negotiation. It involves only three countries. Moreover, it is an unprecedented attempt to integrate two of the most widely divergent economies in the world. This agreement could have staggering implications for working people and the environment on both sides of the border.

Now, let me be perfectly clear. I support the administration's efforts to negotiate a North American Free-Trade Agreement. But for the sake of the American people and the environment, the Congress must retain the authority to modify any final agreement with regard to certain critical issues.

I feel so strongly about this issue that I will vote for Senate Resolution 78 even though it includes denial of fast-track procedures for the GATT negotiations. I would prefer to extend fast track for GATT, but modify it for the North American Free-Trade Agreement. But the strict procedures included in the 1988 Omnibus Trade Act guarantee only one opportunity to vote on this issue: the all or nothing disapproval of fast-track procedures embodied in the pending resolution. That is the rather absurd position that we have put ourselves in. We did it to ourselves in the Congress.

Senator RIEGLE has introduced a resolution that accommodates my concerns. His resolution is carefully crafted to preserve the finality of the trade provision of any agreement with Mex-

ico. At the same time, Senator RIEGLE'S approach protects workers and the environment by allowing for amendments in five areas that focus on enforcement of environmental and labor standards, adjustment assistance, dispute resolution, and rules of origin.

Therefore, the Senate should be on notice, if we fail to approve the pending Senate resolution of the Senator from South Carolina, I will do all that I can in the weeks ahead to assist Senator RIEGLE in his effort to bring his more narrow resolution before the Senate for an up or down vote.

The rules of the Senate are wonderful. It makes it possible for us to put Senator RIEGLE'S amendment on almost any piece of pending legislation. And the fast track is nothing more than an agreement to consider legislation under a certain procedure. But we have the right, at any time, to change that agreement by majority vote.

I hope that we can resolve this issue now by adopting the Hollings resolution. But, if we cannot, we will revisit this issue on this floor, focusing on the United States-Mexico agreement in the near future. Time and time again, the administration has argued that there must be a fast-track procedure to ensure this free-trade agreement. For example, last month a State Department official testified that failure to extend fast-track procedures, "would take the United States out of the trade negotiating game. The other nations of the world will pin the blame on us for walking away from real bargaining."

I am confident that with or without the fast track we will be able to negotiate a free-trade agreement with Mexico. The Mexican Government wants and needs this agreement. They want it with or without the fast track. Perhaps the best evidence of this was a recent interview in which the leading Mexican trade negotiator publicly admitted to journalists in his country that either option is acceptable to Mexico. Frankly, the administration should do its homework before making sweeping assertions to the Congress. The administration has tried and tried to convince us that Mexico insists on the fast track. They have told us that. They have sent us messages. They represented that. But the Mexicans are not saying that.

The chief trade negotiator for the Mexican Government, Herminio Blanco, in a public statement published in El Financiero, a respected Mexican newspaper, stated in March of this year that: "With the fast track or without it, in any case the negotiations will be carried out." That is the Mexicans speaking.

Mr. President, I ask unanimous consent that a translation of the El Financiero article, prepared by the Congressional Research Service, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METZENBAUM. To this day Mr. Blanco has never denied making that statement. The fact we discovered this article in a widely read public journal embarrassed those arguing that Mexico claimed it was absolutely necessary to move the agreement on a fast track. It is fortunate that someone on my staff reads Spanish well enough that they were able to bring the article to the attention of the Senator from Ohio. The Mexican Government did not challenge the accuracy of the statement when it was published. I released Mr. Blanco's statement in both the original Spanish and a English translation on April 29.

What happened? How interesting it was. That very day, 46 days after the statement was published in Mexico, the Mexican Embassy in Washington, in a release to the United States press, contended for the first time that Mr. Blanco was misquoted. He was not misquoted for the 46 days before that, but when the matter was made public in this country, at a hearing of the United States Senate, suddenly the Mexican Government—and I am not sure whether they were or were not prodded by the United States Government to say so—but the Mexican Government said Mr. Blanco was misquoted. Mr. Blanco himself did not and has not contested the accuracy of the statement.

More than a week later there was a press campaign launched in Mexico to downplay the impact of the Blanco statement. The Mexican Government and the supporters of this agreement have retained dozens of Washington lobbyists, the highest paid around, for this fast-track vote, at a cost of millions of dollars. Apparently one of the byproducts of this effort is that we have exported the concept of spin control to Mexico.

In an attempt to bury the Blanco statement, several articles were published in the Mexican establishment press questioning the motives of this Senator and other Members of Congress who oppose the fast track. Needless to say, no Mexican journalists ever contacted me before writing these stories.

Congress should not be confused. We hit a raw nerve when we released the Blanco statement. No amount of spin control can hide the obvious. The Mexicans initiated these trade talks. The Mexicans want this agreement. And the Mexicans will continue to negotiate with or without the fast track. That is the reality. Although we are debating fast-track procedures today, we should not lose sight of the underlying substantive issues involved in this proposed free-trade agreement.

Regrettably, this whole debate has been confined largely to the all or nothing category. Labels have been preassigned. It is an either/or situation. You are either for free trade or you are protectionist; you either support fast track or you oppose any agreement; you either side with Presidents Bush and Salinas, or you stand with American workers and environmentalists. The preassigned labels are nothing more than simplistic political posturing. These labels do not address the complex moral questions and ecological conditions involved in this proposed agreement. This either/or approach does nothing to confront the real human needs that hang in the balance on both sides of the border.

What is the basis for my concern about the proposed agreement with Mexico? In the last 4 weeks, I have chaired two joint hearings of the Labor Subcommittee and the Committee on Environment and Public Works on this issue.

At the first joint hearing, citizens of the United States and Mexico described life in the current free-trade zone with Mexico, the land of the maquiladora. Those witnesses told us about widespread, appalling squalor within a stone's throw of our border. The environmental degradation, the working standards and the living conditions were truly unbelievable. The troubling lessons of the maquiladora sector have direct relevance to the proposed free-trade agreement with Mexico.

The joint hearings raised a number of troubling questions. The questions that remain unanswered in this debate are not minor details that will be smoothed out in casual negotiations or side agreements or letters of understanding. They are tough questions that cut to the core, and they will not be resolved easily.

My colleagues in the Senate—not many are present here this evening, some are possibly within ear range. Let me say, if my colleagues were to go down with their wives or any of their children and saw the conditions that exist in the maquiladora, saw the kind of living conditions those people are working under, saw what American industry is doing with the people who work for them in that part of the country, in Juarez and other places nearby, saw the lack of environmental protection, there is not one who would vote for fast track. You would insist upon the protections in advance.

The conditions are abominable, they are abhorrent. The conditions are below human dignity. And for the United States to be a party to this and want to have more of it is just incredible. Why? Because some corporate lobbyist and the corporations they represent think they can make more money for their corporations in this country if they can do more business down in Mexico, more manufacturing.

I know the argument, we are going to export more to Mexico. The only problem is, Mexico does not have the money to buy the exports from this

country. Why has more not been done to address the dangerous and wretched working conditions faced by hundreds of thousands of young Mexican workers in the maquiladora industries? Why has it not been done before? The occupational facility rate in Mexico is four times that in the United States. The living conditions for workers in the maquiladora sector are a true abomination. For those who support the fast track: Go, go and see for yourself and then come back and say you are for fast track.

Oh, we are going to get all the protections. I have heard that argument. There will be some little protections. But I say the working families who are living in hovels made of refrigerator packing boxes and the children who are drinking water from discarded barrels that previously held toxic chemicals, they are the ones, and their children and their brothers and their cousins and their sisters, who will be suffering more by reason of fast track. The hazardous warning labels printed in English on the barrels from which those kids are drinking, are still visible on the barrels. And nothing is happening. And all the talk from the administration that we are getting is not going to change that a scintilla.

Small creeks and washes near the factories have become dumping grounds for toxic waste and raw sewage.

These conditions are not a world away. They are not in South Africa where I was recently and saw how the squatters live. The squatters in South Africa, about which we protest so often, are not living any worse than the Mexicans living in the maquiladora, in the areas where United States manufacturers are employing those who live in the maquiladora, right within sight of our border.

Why have our two nations allowed the border region to become, in the words of the American Medical Association—and very seldom do I quote the American Medical Association, particularly in connection with any particular issue—"a virtual cesspool and breeding ground for infectious diseases." Where does the money come from for the environmental safeguards, the pollution controls, and adequate infrastructure in Mexico? Remember, Mexico's budget for environmental protection is less than $40 million. By comparison, EPA is budgeted to spend more than $6 billion next year, 150 times as much. Earlier this month, the administration released its proposal to address the critical environmental labor issues that flow from the proposed free-trade agreement.

Look at the facts. In 1989, the per capita spending on environmental protection in the United States was $20.80 and in 1989, it was 8 cents in Mexico. In 1990, it went up in the United States to $21.60. It went up in Mexico to 20 cents, one one-hundredth of the figure. And in 1991, we are expected to spend $24.40 for each individual in the United States, and in Mexico 48 cents.

Does anybody truly believe that there will be some comparability, that there will be some kind of protection? The administration acknowledges that labor and environmental issues must be included in these trade discussions. But I must say I am disappointed with the substance of the proposal. It is simply inadequate to address existing problems and I say, frankly, I do not trust the American negotiators to provide the kind of protection necessary with respect to the environment, nor with respect to labor conditions.

Let us look at the cold reality. We face a growing environmental nightmare on the border that, if left unchecked, could spread to the rest of our Nation. As we learned at our joint hearings, Mexico's environmental laws are not enforced aggressively largely because of a pitiful lack of enforcement resources.

The administration proposes to address this problem by holding meetings, exchanging information, and conducting training sessions and, yes, maybe playing tiddlywinks at the same time. Endless meetings and information exchanges may produce hot—and I do not believe they will produce—may produce hot air, but I do not believe they will produce clean air.

We must have a tough, effective international enforcement mechanism included in the trade agreement. Side deals and letters of understanding are not worth the paper they are printed on unless there is the necessary force of law to ensure effective enforcement. Equally important, there must be significant funds dedicated to environmental enforcement. But that is just not the reality; it is not going to occur. The money is not there.

Let us be realistic. The Mexican Government wants to entice foreign capital to Mexico to create new industry. If anything, foreign corporations will be pressuring the Mexican Government to relax environmental enforcement. Tell me one person who is for fast track who is willing to say that, oh, yes, the American companies will go down there and they will insist upon strict environmental protection as far as their plants are concerned. Suddenly, they will be something totally different than they are in this country because day after day we see notices of the kinds of penalties that are needed with respect to so many American companies, and that is where we have tough laws with strict enforcement and high penalties.

Is somebody going to suggest that when they go down to Mexico they are suddenly going to change their colors and they are going to insist upon strict enforcement of Mexico's environmental protection laws? We need an international mechanism to counter the push by the multinational corporations to avoid and evade strict environmental protection.

My recent experience proves my point. Under pressure to persuade the United States Congress on the free-trade agreement, Mexico has stepped up environmental enforcement. I hope such aggressive enforcement will continue, but the only way to sustain improved enforcement is through continued pressure to clean up the environment from both sides of the border. Despite recent and welcome increases in Mexico's budget for environmental protection, the sad truth is that Mexico spends less than 50 cents per person to enforce its environmental laws. In comparison, the U.S. Government spends more than $24 per person.

Let us not kid ourselves. This agreement is designed to benefit private corporations and financial institutions. They are the big winners. That is the reason you see so many of their lobbyists working the halls. They have gone home tonight. They think they have the votes and they very well may have it. They have been working the halls on this particular piece of legislation for a good many weeks and months and they have been persuasive.

The lawyers will be the big winners and the corporations they represent will be the big winners. But the workers and the environment and the American public are getting, at best, the trickle-down effects. They should not be forced to pay for the privilege of being the losers in this free-trade pact.

I believe the funds for tough environmental enforcement should come in large part from the private corporations that stand to reap huge profits from the free-trade agreement. It cannot come from anyplace else because Mexico does not have it. These corporations have the ability to pay; by contrast, the Mexican Government just could not possibly come up with the funds for comprehensive environmental enforcement for years, if not decades, to come. Yet, the administration proposal is silent on the issues of funding and effective enforcement.

Let us turn to another subject. Let us look at the matter of labor problems. The administration's proposal is nothing less than a cruel hoax. The administration wants to rush into a free-trade agreement that could eliminate hundreds of thousands of high-paying American manufacturing jobs, then retrain those workers for low-paying service jobs. That is the Government's version of a bait-and-switch game.

The absurdity of the position is that we are going to put American workers out of jobs, put them out of work and we are going to retrain them, but we do not know what we are going to retrain them for because we do not have the jobs for them. The unemployment rate is rising in this country. I am not sure

what all the retraining and readjustment is going to do. Is it going to give them a slow way to the poverty line, to become permanently unemployed and possibly to lose their homes and to become the homeless? It is not going to solve the problem. I am for retraining and readjustment when there are conditions over which we can do nothing. But here is a situation in which we are creating the conditions, and that is the difference.

Let us look at the situation with respect to compensation between the United States and Mexico, and the disparity is growing, not lessening. In 1980, the average compensation per hour for manufacturing workers in the United States was $9.84 and the nonmaquiladora workers were getting $2.96 and maquiladora workers were getting $1.42.

What has happened since then? By 1985, the average worker's wage in the United States had gone up to $12.96; 1987 to $13.40; and 1989, $14.31. Meanwhile, what has happened in Mexico? The average wage of the nonmaquiladora worker has gone from $2.96 down to $2.09, down to $1.57, and now back up to $2.32, which is still less than it was back in 1980.

When we look at what is happening in the maquiladora situation, it is even worse. It was $1.42 per hour in 1980; it went down to $1.07 in 1985; it went down to 81 cents in 1987; and it has now gone up to the munificent figure of $1.15—$1.15 as against $14.31 for American workers. You think that any American employers are going to want to continue operating in this country under those circumstances? They are going to move everything and anything they can to Mexico. Compensation in Mexico is some 7 to 14 times less than that in the United States.

In the maquiladora plants, which rely on modern American technology, Mexican productivity is now approaching our own level. A little common sense will tell you the obvious. Cheap Mexican labor will result in massive dislocation in this country. That has been our experience with the maquiladoras. In the 1980's, the devaluation of the peso turned Mexico into one of the lowest wage countries in the world. American companies rushed to Mexico to pay workers less than a dollar an hour.

But do not take my word for the massive dislocation and the toll on families and communities. I say to my colleagues, Senators LUGAR and COATS, go to Indiana and ask the more than 2,000 Thomson Electronics workers who lost their jobs when the company shifted work to Mexico. Or to my other colleagues, go to Oklahoma, go to Arkansas, go to New Jersey, go to California, Illinois, or Virginia, and talk to one of the thousands of dislocated AT&T workers. Visit my own State of Ohio and listen to workers who were laid off at such companies as Westinghouse Electric, Ford Motors, United Technologies, Seimens, A.O. Smith, Square D, and the Hoover Division of Maytag.

I understand the administration contends there will be a net gain in U.S. jobs because of the trade agreement. First off, I think their figures are phony. The administration jobs in this Senator's opinion are phony. They are the same kind of figures we have been getting from them on the budget, and those have not been very reliable. But even using the figures they keep trumpeting, it is only a net gain of 64,000 jobs over 10 years or an average of 6,400 jobs per year. With a work force in this country of well over 100 million people, even the administration's own best figures show that any job gain from this agreement will be minimal.

I have grave doubts even about that claim. The Economic Policy Institute predicts this free-trade agreement could produce a loss of 550,000 high-wage American jobs in the next 10 years. The Economic Strategy Institute, headed by a former Reagan administration official, predicts potential job losses exceeding 900,000.

One thing is sure. Without adequate safeguards, this free-trade agreement will wreak havoc on the lives of hundreds of thousands of American working men and women.

The administration proposes to ease the pain of job loss by working with Congress to enhance readjustment and training programs. As I noted earlier, this Senator was one of the principal authors of the new worker adjustment program enacted as part of the 1988 Trade Act, so I know the value of such programs. Retraining is a safety net that should be a last resort, not a preferred option. We should be saving American jobs first, not cutting workers loose, then trying to cushion the fall with a readjustment program.

In the 1988 act, we worked together with the Reagan administration to authorize nearly $1 billion per year for the retraining program. Since then, however, the Bush administration refuses to seek full funding for the program. In each year since the new adjustment program has been in full operation, the White House has requested funding at less than half the authorized level.

In fiscal year 1990, the first full year of operation for the program, the administration requested only $400 million of the nearly $1 billion authorized. Congress provided $463 million. Despite this increased funding by Congress, the next year the White House once again asked for only $400 million of the nearly $1 billion authorized. Congress, recognizing the pressing needs for this assistance, upped it a bit and provided $527 million.

In the most recent budget, the Department of Labor calls for $527 million, and that looks pretty good because at least they used the last figure of Congress, but that figure is somewhat misleading. The request includes a new $50 million program created by Congress to aid workers dislocated by the Clean Air Act, and therefore the current administration proposal really amounts to a $50 million cut to a request for only $477 million for the existing program—once again, a cutback from the $1 billion that was intended and a cutback from the amount already appropriated by Congress.

In every year since the enactment of the retraining program, including this year, the administration has called for the abolition of the separate trade adjustment assistance program. I find it ironic, to say the least, that the centerpiece of the administration's proposal to address the serious impact of this free-trade agreement on workers is a new commitment to adjustment programs. If that is not talking out of both sides of your mouth, I do not know what is.

Earlier this year, all we heard from the administration was that labor and environmental issues were off the table in these trade talks. But under pressure from Congress the administration has put them on, or at least near, the table.

I am heartened that the prospect of meaningful congressional action has led to changes in the administration's position that will improve this trade agreement for working people and for our environment. But if we adopt the fast track, meaningful pressure on the negotiations will be reduced if not eliminated. The elected representatives of the people will be largely shut out of the process.

I have no doubt that if this agreement is negotiated under the fast track, in back rooms and behind closed doors, the interests of big business will be well represented. Multinational corporations and major financial institutions will not have to worry about being shut out of the process, and some of those who are in key committees that have to do with the procedures and the approval will probably be in a position to negotiate special arrangements for their particular constituency. But the fast track in reality could become a fast shuffle to a fast buck for a few fast operators.

That is not how our system should work. We must preserve the important right to engage in full and open debate on the proposed free-trade agreement. We must knock the fast track off track to ensure that the American public has a seat at the negotiating table. The threat that Congress might modify the final agreement would guarantee that the critical economic and environmental issues I have discussed today will be raised up front.

The choice is upon us.

I urge my colleagues to support Senate Resolution 78. By doing so, the Sen-

ate will retain a real opportunity to work with the administration to craft a free- and fair-trade agreement with Mexico. But I repeat once again, that if, as predicted, the votes will not go our way and the Hollings proposal is not adopted, we will return to this subject. We will find a way to give the Senate an opportunity to really deal with the subject on an up-or-down vote on the basis of taking into account all of the other issues that are contained in the Riegle proposal.

Mr. President, I yield the floor.

EXHIBIT 1

[Congressional Research Service, the Library of Congress]

"SLOW ROUTE" POSSIBLE IN FREE TRADE AGREEMENT

IN ANY CASE IT WILL BE NEGOTIATED; WITHOUT THE FAST TRACK, MORE DIFFICULT: BLANCO

(By P. Munoz, J. Sanchez, I. Rodriguez)

Herminio Blanco, head of the Free Trade Agreement Negotiating Unit, admitted the possibility that the negotiations will have to be carried out via the "slow route," keeping in mind the statements of U.S. trade representative Carla Hills to the effect that more time would be needed than originally thought.

The negotiator warned that the negotiations would be conducted with or without the "fast track," although he admitted that it would be much simpler if the U.S. Congress approved the "fast route."

It is very difficult, he stated, to negotiate without this mechanism, because if it is not used, then in the approval or rejection of the draft treaty, each representative and each Senator can introduce changes and amendments to all of the articles.

The relationship between Mexico and the U.S. does not begin or end with the FTA, but rather there are meetings of the Binational Commission and at them other subjects in addition to economic questions are discussed, Blanco stated.

THREE-NATION MEETING OF PARLIAMENTARIANS

U.S. President George Bush, meanwhile, met in Ottawa with the Prime Minister of Canada, Brian Mulroney, to whom he described as a priority the bill to establish the North American Free Trade Zone.

Bush insisted that he will continue to ask the Congress of his country to facilitate the negotiations with Mexico, through the approval of the fast track mechanism.

In Mexico, the President of the *Gran Comisión* of the Chamber of Deputies, Guillermo Jimenez Moralez, in turn, reported that he is preparing a meeting of parliamentarians from Mexico, the U.S. and Canada for the first week in June, in order to examine the most critical points in the FTA negotations.

Jimenez Moralez also said that the treaty will be the subject to which the legislators of Mexico and the U.S. will give the most time at a binational meeting that will take place in Cabo San Lucas the first half of May.

The President of the Confederation of Industrial Chambers (Concamin), Luis German Carcoba Garcia, noted that the FTA should establish minimum 10-year periods in the lowering of duties in sectors in which Mexico has a disadvantage.

Page 10, El Financiero:

POSSIBLE TO DO IT THROUGH THE SLOW ROUTE: HERMINIO BLANCO—WITH OR WITHOUT THE FAST TRACK, THE NEGOTIATION WILL BE CARRIED OUT

INFORMATION LACKING IN THE U.S. ON PROGRESS IN CONVERSATIONS; IF MECHANISM NOT APPROVED, ARTICLES COULD BE CHANGED

(By Patricia Munoz Rios)

The chief negotiator for the free trade agreement for the Mexican Government, Herminio Blanco Mendoza, warned yesterday that "theoretically the possibility exists that the negotiations on the trilateral agreement will be carried out via the slow track and not the fast one."

In holding a short talk with reporters in the press offices of the Office of the Secretary of Commerce and Industrial Development, the official said that in the case that the negotiation of the trilateral treaty is not carried out through the fast track, each Senator and Representative in the U.S. will be able to change the articles from what has already been negotiated, so the negotiations would become very slow, but they can be carried out.

However, he said, "with the fast track or without it, in any case, the negotiation will be carried out," although it would be simpler and more appropriate for the negotiations if the U.S. Congress approved the fast track."

Herminio Blanco explained that the fast track is a figure that the U.S. Congress invented, which consists of the Executive of that country introducing a certain arrangement or trade agreement in Congress just for it to approve it or not, but not to change or question it.

This because it is very difficult to negotiate without this "fast track" and that's why the U.S. Government has adopted this since the Tokyo Round of GATT.

He made it clear that the passage of this fast track mechanism is important for the U.S., not just to pave the way for the FTA with Mexico, but also because that mechanism is needed for its negotiations with Canada, in the Uruguay Round of GATT and in the Americas Initiative.

Therefore, the U.S. Executive must convince his Congress to grant him this fast track, "We aren't the ones that have to convince, but rather the president of that nation himself is," Blanco Mendoza explained.

UNAWARENESS OF WHAT'S BEING DONE

Questioned about the versions coming from the U.S. that the Congress of that country would pressure for inclusion in the negotiation of subjects such as the environment and even labor questions, he answered: "Information is lacking in some U.S. sectors on how much progress has been made and what has been accomplished between the two governments. These reports are wrong."

He added that in the same sense these positions are the result of the lack of knowledge of what is being done.

For example, regarding the point on the environment, what is happening is that in the U.S. there is still a lack of important information. They do not know that between the Office of the Secretary of Urban Development and Ecology of Mexico and the counterpart in the U.S., the EPA, there is an intensive work program.

Now, he stated, it must be admitted that the relationship between Mexico and the U.S. neither begins nor ends with the FTA; there are meetings of the Binational Commission annually and at them other subjects are discussed in addition to economic questions.

Although certainly there is a lack of information about how much progress there has been in the different fronts in this relationship, "it is a lack of information that will be resolved in years to come, explaining to all these people what has been done already and how much we have cooperated and achieved between the two countries on all fronts," he noted.

In addition, he talked about the studies being conducted by the Coordinator of Foreign Commerce Business Entities (COCEC), a point on which he said that already an important part of the monographs of each industrial sector of our country has been handed over.

Based on these studies, he noted, the strategy will be designated for the negotiation of each sector, and until all the work is done, the period of consultation will not begin and much less the negotiation. Upon reaching this point, Herminio Blanco Mendoza repeated that the negotiation will last however long it has to last."

CLEAR RULES

In addition, the official talked at a meeting with British businessmen where he maintained that if the trilateral negotiations unfold in a constructive atmosphere, "we hope that the treaty will go into effect in 1993."

Before the businessmen, he noted that Mexico will try to see that the regulations to be established with this agreement are simple and not protectionist.

As he explained, a treaty of this nature can eliminate all tariff obstacles and those of another nature, such as the phytosanitary, but the regulations on origin that are imposed could be strict in order to prevent one country not a member of the agreement from benefiting from these preferences in exchange for nothing.

On another aspect he stated that the Mexican anti-dumping legislation is one of the most advanced in the world, but does not claim to be protectionist, but rather a guarantee of protection to unfair competition.

In addition, the general coordinator of the negotiations unit for the Trade Agreement, Jaime Zabuludovsky, felt that the formal negotiations on the trilateral FTA will begin before the year is over.

The country is preparing for this process, proof of that being that on the eve of the negotiations 23 groups of experts have participated in the various productive branches, he said, and he added that this agreement should be seen as an instrument for giving meaning to the relationship "that is going to keep existing and that keep growing."

He felt that at the end of the negotiations a tariff elimination will be seen between Mexico, the U.S. and Canada, which could take 20 to 15 years, as well as the elimination of tariff barriers, restrictive and phytosanitary, and the establishment of a mechanism for the solution of controversies in trade, among many other benefits.

(Translated by Deanna Hammond, CRS—Language Services, April 1, 1991.)

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

Mr. BAUCUS. Mr. President, I yield 15 minutes to the Senator from Florida.

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

Mr. GRAHAM. I thank the Chair.

Mr. President, there are a number of ways in which this debate has been characterized this evening, and I believe that the quality of the debate in-

cluding that of our colleague from Ohio and the current Presiding Officer has been very eloquent.

We have characterized this as being pro-American versus pro-Mexican, protectionist versus free trade, constitutionalist versus excessive Executive power. Those are all ways in which one could look at the essence of this debate.

The Greeks had a way of describing politics as being the extension of the personality of citizens. I believe that concept of looking at this issue as how we as individual human beings might react to it can be helpful.

Change is almost always tinged with anxiety. There is apprehension created by the unknown that will accompany a changed position. But also opportunities for the future offer a sense of excitement. They create an energy, the potential for some new, positive result.

I believe that this debate could be characterized as a question of are we more afraid of the unknowns that will result for change, or are we more excited about the excitement and the challenge of a new future?

I am going to vote against Senate Resolution 78 because I believe that we have no reasonable alternative. If we refuse to grant fast-track authority to the President, I believe that it is a statement that we are a nation traumatized by fear of change and fear of the unknown. My feeling is reinforced in my own sense of confidence by the fact that it is shared by a wide range of citizens in our States.

I ask unanimous consent, Mr. President, to insert into the RECORD editorials from the largest paper in our State, the Miami Herald, and one of the smallest papers in our State, the Washington County News of Chipley, FL, both editorials in support of granting the President fast-track authority.

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

[From the Washington County News, Feb. 28, 1991]

TRILATERAL TRADE PACT IS VITAL

With the future of the global trading system known as the General Agreement on Tariffs and Trade now in doubt, the idea of a North American free-trade zone is all the more vital. Thus it is welcome news that the United States, Canada and Mexico have agreed to negotiate a three-way agreement on free trade.

The newly established framework for the talks is, in President Bush's words, "a dramatic first step toward the realization of a hemispheric free-trade zone, stretching from Point Barrow in Alaska to the Straits of Magellan."

The United States, Canada and Mexico encompass 360 million consumers and a total annual output of roughly $6 trillion in goods and services. Altogether, a North American common market would be larger than even the 12-nation European Community.

But the free trade zone that President Bush envisions is by no means a fait accompli. For starters, American trade negotiators must craft an agreement that Canadian Prime Minister Brian Mulroney and Mexican President Carlos Salinas de Gortari can sell at home.

Then President Bush has to persuade Congress to extend "fast track" authority, under which trade pacts are either accepted or rejected by Congress in their entirety, with no amendments. This authority is scheduled to expire May 31. Without it, U.S. Trade Representative Carla Hills maintains, there is little hope for successful completion of the free-trade talks.

At the moment, most members of Congress appear to look favorably on a trilateral trade agreement. The chairman of the Senate's international trade subcommittee, Max Baucus, D-Mont., said recently that he welcomed the negotiations. And the chairman of Senate Finance Committee, Lloyd Bentsen, D-Texas, released an International Trade Commission report indicating that a free trade pact with Mexico alone would provide a substantial boost to the U.S. economy.

Yet, even though these key players are on board, the path to congressional approval is marked by several obstacles. Perhaps the biggest is the politically powerful AFL-CIO, which has already declared that its top legislative priority for this year is to derail the trade pact.

[From the Miami Herald, Mar. 21, 1991]

CLEAR THE "FAST TRACK"

President Bush has asked Congress to extend his "fast track" authority to negotiate trade agreements, and Congress should grant it. The authority assures the White House that any trade agreements that it reaches with foreign governments would move promptly through Congress.

The President primarily needs "fast track" authority to negotiate the intricate Uruguay Round of trade talks and a free-trade pact with Mexico. The Mexico talks would take place over two years. The resulting pact would phase in over 10 years.

The extraordinary economic community created by the agreement was unthinkable only a decade ago. It would group Mexico, Canada, and the United States in a grand North American trade zone that would bring greater prosperity to all three. It could also be a prelude to a common market covering the entire hemisphere.

In proposing such intimate economic ties with the United States, Mexican President Carlos Salinas de Gortari has made a revolutionary break with Mexican political tradition. Thus his political risks are great.

The AFL-CIO has voiced vehement opposition to the pact. It claims that the pact would threaten U.S. workers' wages as American industry moves south to take advantage of cheaper labor. South Florida vegetable farmers voice similar concerns that Mexican growers are free of protective labor or environmental laws.

These objections fail to note that U.S. investment in Mexico creates jobs in both countries. Further, if American companies cannot take advantage of Mexican labor, they will move elsewhere. And if American companies cannot invest advantageously in Mexico, foreign firms will.

In the short run, the Mexican economy will benefit greatly from a free-trade pact with the United States. But in the long term, such development will stabilize Mexico and help create a vast market for American goods and services. Thus Congress should give the President "fast track" authority to negotiate with Mexico. The prosperity of America's third-most-important trading partner is vital to the future of the United States.

Mr. GRAHAM. Mr. President, I am not naive. I recognize that Mexico is not Canada. I recognize that North America is not Europe. There are very fundamental differences. Within the European Community the greatest disparity is that between Germany and Portugal. That is a disparity of approximately 5 to 1 in terms of per capita income. We are dealing with a situation here between the United States and Canada and Mexico of differentials of 10 to 1 in per capita income.

I recognize as a result of that extreme differential in the state of development that there are a whole set of other issues other than trade itself which are appropriate to setting the context for trade.

Mr. President, I ask unanimous consent to insert into the RECORD at the conclusion of my remarks as illustrative of one of those in the field of agricultural practices a series of articles from the Palm Beach Post on the use of pesticides in Mexico.

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, I believe it is important that we face this with a sense of reality of the relationship and the nontrade issues that must be taken into account.

Having said that, how do I square that with my previous statement that I am going to support the fast track? I do so in part because there are sources that give me confidence that we have the ability to deal with the issue of agricultural practices and other concerns.

One of those is the fact that the administration has recognized that there will be the need to engage not just in trade negotiations but also in a series of other parallel negotiations with Mexico on questions of the environment, of labor practices, agricultural practices, law enforcement, other legitimate issues of the relationship between the United States and Mexico.

Second, I am given confidence by the fact that the administration has indicated that there will be an open participatory process, for instance, in the area of agriculture. There will be agricultural technical advisory councils, agricultural production advisory councils, farmers who will work directly with our trade negotiators to ensure that those issues that are important to American farmers are considered at the bargaining table.

Mr. President, our State has some particular concerns for this because probably our State, more than any other, will be in direct competition in terms of the type of winter vegetables and citrus products that we produce, and what is and will be produced in Mexico.

I look to the administration to be faithful to the commitments that it has made, that it will see that those interests are properly taken into account. I am also given confidence by our trade negotiator, Mrs. Carla Hills. Mrs. Hills has impressed me as a woman of unusual ability. She has a broad, strategic vision of where the United States should be moving in terms of international economic policy. She has a staggering command of the specific detail.

The fact that Carla Hills was willing to walk away from the last best offer of the Europeans at the end of the GATT round in late 1990's tells me that this is a lady of real toughness. And it convinces me that she will be prepared to walk away from another GATT round if the final offer is not acceptable and will be willing to walk away from a United States-Mexico agreement if not successful.

Finally, Mr. President, I have, as a source of confidence, the fact that the vote we are going to take at noon tomorrow is not the last vote that we are going to take on this matter. This agreement is going to come back to the U.S. Senate for the final vote.

Do we take the position today that we are so temperate, that we are so without a sense of our own self-worth, that we are fearful that any agreement that rolls into this Chamber after having been negotiated, assuming one is negotiated, that we will automatically accept it?

What a comment that is about ourselves, my colleague. I will say tonight I will be prepared to vote no. If this agreement does not meet my standard of what is necessary in areas of the environment, in areas of parity, of production practices for agriculture, I announce tonight that it is my intention to vote no.

But it is not my intention tonight to take the position that I am so fearful of what that negotiation will be, and I am so absent of confidence in my ability to evaluate it and make a judgment that is in the Nation's interest that I will not even provide the authority to try.

I have a sense of excitement about the opportunities that are available. I am going to ask a question which was asked to me just a few hours ago by a representative of a major automobile manufacturing firm in this country. Mexico is a country, Mr. President, that has almost the lowest priced gasoline in the world, probably maybe some places in the Middle East, but I think it is about 25 cents a gallon—very inexpensive gasoline. It has lots of very bad roads. Those sound like conditions that would be ideal for the sale of a vehicle such as a Jeep, the old, rugged American Jeep.

How many Jeeps do you think were sold by the Chrysler Corp., which builds them, in Mexico last year? What do you think the number is? Well, the answer is zero. There were zero American-made Jeeps sold in Mexico last year. I ask why? Why? Because Mexico has such high barriers against the sale of the United States-produced automobiles in Mexico. There not only are economic barriers. There are also barriers that require certain parity of sales of Mexican-produced cars in order to be able to import American-manufactured vehicles.

On the other hand, do you know what the tariff is for cars made in Mexico sold in the United States? Two-and-a-half percent.

There is no effective tariff barrier against the sale of Mexican-made cars in the United States. The things that keep the American automobile industry from moving en mass to Mexico, a suggestion that has been made about that and other industries, are not the tariff barriers. They are production standards. They are questions of basic infrastructure, cost of transportation. None of those are going to be eradicated by passing the free-trade agreement. Those are inherent to the production capability of Mexico.

I am excited about the fact that we are going to be able to sell some American Jeeps in Mexico, Jeeps made by American workers, which will find a ready market in Mexico.

Berg Steel is a firm in Panama City, FL. They make very big pipes, which are used for the petroleum and natural gas industry. They are excited about the opportunity of putting their 250 people to work selling their pipe into Mexico, a difficult sale today because of barriers Mexico has against the sale of United States-manufactured large-diameter pipe.

I am excited about the fact that already in Florida we are experiencing a 40-percent-a-year increase in our trade with Mexico. What are we selling to Mexico from our State of Florida? Chemicals, computers, industrial machinery, electric and electronic equipment, scrap, and waste and paper products. Those represent 64 percent of the $424 million our State sold to Mexico last year. I am excited about the growth potential those industries have and additional jobs it is going to mean for Americans.

Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes remaining.

Mr. GRAHAM. May I have 2 additional minutes?

Mr. BAUCUS. I yield two additional minutes.

Mr. GRAHAM. Mr. President, I close with some comments about a party to which I and members of my family have belonged for many generations and for which I have great pride. I am proud of our Democratic Party, and I am particularly proud about our party being one whose traditions are rooted in the willingness to lead America to new challenges.

The first major domestic issue in this Nation's history is the issue we are debating tonight. On the one hand was Thomas Jefferson, who took the position that America should have a policy of economic openness to the world, and we should be prepared to compete with the world. On the other hand was Alexander Hamilton, who advocated a policy of protectionism in order to create a controlled economy, so that New England industry could flourish. I believe Thomas Jefferson was right when he advocated that economic policy.

Fifty years ago, Mr. President, we had a great debate in this Chamber. The man who held the seat I now hold was then Senator Claude Pepper. Claude Pepper introduced a bill to provide for lend-lease, that the United States would cooperate with England in the depths of the Battle of Britain.

Do you know what happened to that legislation Claude Pepper introduced 50 years ago? It was defeated by a vote of 18 to 1, within months of the United States entering World War II. It was because of Franklin Roosevelt and his sense of vision of the United States' responsibility to protect freedoms around the world that the United States was as prepared as it was, that England was able to survive an onslaught unknown in the previous history of war.

I am proud that Franklin Roosevelt, was a Democrat, had that vision of the world. I am proud that Harry Truman, with a 19-percent approval rating, was able to go to the American people and advocate the Truman Doctrine, the Marshall Plan that the United States was going to be an active part of shaping the world after World War II.

I am proud that it was Jack Kennedy who said this Nation was going to place a man on the Moon and return him to Earth within the decade of the 1960's.

Those are the traditions of this party, a party that was willing to accept the excitement of a challenge, which, I believe, is the fundamental tradition of the Democratic Party.

I also believe we are a party which is not a congressional party. We are a national party. We are a party which asks the question: What is in the best interest of America?

I believe the best interest of America will be served by authorizing the President to negotiate on a fast-track basis, because I believe we will get the best deal for American businesses and for American workers and American interests, if it is known that that agreement will then be submitted for an up-or-down vote by this Senate.

I do not believe we are deluding or being unfaithful to our responsibilities. I think we are being faithful to a higher responsibility, which is: What is the interest of the United States of America?

This is the same procedure we used in negotiating the bilateral agreement with Israel for a free-trade agreement, the bilateral agreement with Canada for a free-trade agreement, and now for a trilateral agreement among the United States, Canada, and Mexico. I believe it made sense in those past instances, and it will make sense now.

Mr. President, in closing, part of that excitment of the future is that we are about to make a dramatic change in this country, I predict, over the next few years. For 500 years, since Christopher Columbus, we have tended to look across the Atlantic to Europe and, frankly, so have the nations of South America looked across the Atlantic to Europe. I suggest that in the 21st century we are both going to take a 90-degree turn. We are going to be looking increasingly south, and our neighbors in Latin America are going to be looking increasingly north.

One hundred years ago, Theodore Roosevelt said the 20th century would be America's century. Without the need to explain what he meant, everybody knew what he meant. He meant it would be the century of the United States of America. What he meant was that in the 20th century, the United States of America would put together the industrial power of the eastern seaboard with the great resources of our industrial largely vacant west. And that is what the history of the 20th century has been, Mr. President.

The 21st century will again be America's century; but in this case, it will be all of the new world discovered 500 years ago by Christopher Columbus.

We will have the same opportunity as we did 100 years ago to link the developed technology of the north with the enormous human and natural resouces of the south. That is the challenge that lies before us. And that is not meant to denigrate the importance of the United States and Canada joining Mexico.

This is the beginning of an important, fundamental step in our Nation's history, in which we begin to look at the opportunities that exist within this hemisphere, opportunities I think have boundless potential for the good of our people and all of the people who share in the heritage of Christopher Columbus.

So for that excitement of opportunity, Mr. President, I will vote to give the President the opportunity to negotiate an important chapter toward turning that vision into reality.

I yield the floor.

EXHIBIT 1

[From the Palm Beach Post, Mar. 31, 1991]

U.S."SELLING DEATH" FOR FOOD IMPORTS

(By Bill Collier)

SAN JOSE, COSTA RICA.—Cascading out of verdant mountains, rivers of this Central American nation course through hills of coffee beans, fields of onions and carrots, plantations of sugar cane and bananas, orchards of oranges and limes and cattle in pastures.

This isthmus between the Caribbean Sea and Pacific Ocean yields a cornucopia of fruits and vegetables, shipping tons north for consumption in the United States.

It is typical of America's foreign gardens: rich and productive, yet sometimes deadly.

The signs are abundant: massive fish kills in the rivers, dead dairy cows outside villages, field workers rendered sterile, teenagers poisoned to death and residents with stomach cancer, respiratory problems or skin rashes.

The root of the trouble in this section of America's garden is widespread misuse of toxic and harmful pesticides—some imported from the United States, where they are illegal to use.

U.S. companies make numerous pesticides that cannot be applied on U.S. farms because of health concerns. The chemicals are exported to Third World countries, where they help grow food—possibly carrying toxic residues—for American tables.

Environmentalists call this the "Circle of Poison."

"These companies are exporting pesticides too dangerous to be used here and contaminating people, the environment and wildlife overseas, as well as the food U.S. consumers are eating," says Sandra Marquardt of the environmental group Greenpeace.

It is not a hidden problem. Government officials from Washington to Rome are trying through federal law and international treaty to come to grips with it, but powerful domestic and international economic forces stand in the way.

Last week, the struggle came to Palm Beach County. Sixty Costa Rican farmworkers filed individual suits in Palm Beach County Circuit Court, claiming they were exposed to dangerous pesticides and left sterile. One of the four major firms they sued is the parent company of Dole Fresh Fruit Co. in Boca Raton.

But the debate seems far removed from Third World fields where the human toll climbs.

"These companies are selling death," said Edwin Solano, a physician in the hospital at Guapiles, an agricultural center of 40,000 in Costa Rica.

In the late 1970s, U.S. companies continued to export the pesticide dibromochloropropane, or DBCP, even after its use was halted in the United States for causing sterility among men in the California plant that made it.

Hundreds—possibly thousands—of banana plantation workers became sterile in Costa Rica and other countries.

The next generation of potentially problematic U.S. pesticides to be peddled around the globe also is finding its way into the Circle of Poison. They include haloxyfop, a herbicide available throughout Costa Rica although the U.S. Environmental Protection Agency has refused to register its since 1985.

Considered by the EPA to be a likely human carcinogen, haloxyfop is made by Dow Elanco, a division of Houston-based Dow Chemical Co., which also made DBCP.

U.S. consumers also could be at risk, environmentalists say. They cite government reports that show that only 1 percent of 1 million annual shipments of imported food are sampled for pesticides—and then only for about half of the pesticides known to be in use in the exporting countries.

In developing nations such as Costa Rica, the pesticide threat is not a vague fear of future cancer. It is real, immediate.

Solano's Guapiles hospital—which serves 150,000—sees 30 to 60 pesticide poisonings a month and 10 pesticide suicides a year.

In Costa Rica—a country smaller than West Virginia—at least 1,500 agricultural workers seek medical treatment every year for pesticide poisioning.

Pesticides killed 484 Costa Ricans in the past decade at an increasing annual rate that reached 83 in 1989. Officials say those numbers underestimate the problem.

IMITATING U.S. PRACTICES

The World Health Organization estimates 1 million unintentional pesticide poisonings—including 20,000 deaths—on the planet every year. The organization also reports that 2 million people try to kill themselves every year by swallowing pesticides—and that 200,000 succeed.

Third World countries have imitated U.S. agricultural practices that have increased crop yeilds, including heavy reliance on chemical fertilizers and pesticides. In so doing, environmentalists say, these nations have joined U.S. farmers on the "pesticide treadmill."

Besides damaging the environment, heavy pesticide use kills insect predators and builds up resistance in targeted species. This requires ever-increasing amounts of pesticides and a constant influx of new chemical formulas, some of which have been inadequately tested for their health consequences, environmentalists say.

"TICKING TIME BOMBS"

The United States has the world's most sophisticated system of pesticide regulations and the largest bureaucracy to enforce them. But in Third World countries, such efforts are nascent at best.

Some, such as Costa Rica, have adequate pesticide registration regulations. However, they lack the personnel to enforce them.

In Costa Rica, with 100,000 agricultural workers, "there are only 10 people working on this full time," said Catharina Wesseling, a medical doctor with the pesticide program at the National University in San Jose, the country's capital. "In all of Central America, there are no more than 40."

Moreover, exposure levels in Third World agriculture far exceed standard assumptions in pesticide health risk studies, said Doug Murray, a visiting scholar at Stanford University.

Such studies do not take into account other factors that increase risk—such as inadequate diet and exposure to multiple pesticides, he said. "This suggests there may be health problems beyond anything we've seen. I think in time we'll find a lot of ticking time bombs."

Roadside billboards—which in the United States might advertise beer or cigarettes—in Costa Rica extol the merits of pesticides such as Galant, Dow's haloxyfop.

In every village, highly toxic insecticides and herbicides crowd the shelves of agricultural chemical stores. Many feature baskets of pesticide goodies to be given away to the winners of regular drawings.

In Costa Rica, said Wesseling, "They will sell them to anyone."

Everywhere in the fields, workers spray pesticides from backpack carriers called bombas, often without protective boots gloves or clothing. They sometimes even prepare the mixtures by stirring them with their bare hands.

Though it is illegal, adolescents under 18 often work the bombas.

Most of the country's annual pesticide poisonings—72 percent—occur on the banana plantations, Wesseling said, even though one study showed that only 35 percent of the pesticides applied in Costa Rica are used on bananas.

A primary reason is that workers on the 70,000 acres of banana plantations regularly handle some of the most toxic pesticides on the market—such as aldicarb and terbufos. Like DBCP, which they replaced, they are used to kill nematodes, microscopic worms that eat the roots of banana plants.

Aldicarb once sent 80 banana workers to the hospital in a single week in 1987. Terbufos killed two boys, age 15 and 16, who were applying it in 1988.

In Costa Rica—among pesticide experts, farmworkers and consumers—concern also is rising over the long-term consequences of pesticide exposure.

In one village where pesticides are used on ornamental flowers grown for export to the United States, Wesseling said, the chemicals were blamed for the hospitalization of a dairy farmer and his helper and the deaths of some cows. Leukemia rates in the neighborhoods around the flower farm are triple the national average, but the cause still is being studied, Wesseling said.

Costa Rican farmworkers and their supervisors say they take precautions with crops to be sold in the United States, because they do not want to risk having a shipment turned away by import inspectors.

Worse off, they say, are Costa Rican consumers who eat produce grown for home consumption that is subjected to less rigorous testing.

The San Jose newspaper La Nacion recently reported that it had tested vegetables from the city's markets and found pesticide residues up to five times the legal limits on celery, potatoes and lettuce—limits less stringent than those in the United States.

EMPHASIZING EDUCATION

Wesseling said the national pesticide program operates like an extension service, emphasizing education on pesticide problems, safe pesticide use and alternatives to pesticides.

There have been some signs of progress. A billboard in front of the Red Cross center in the agricultural village of Tierra Blanca carries this warning in Spanish: "Before using a pesticide, read the label!".

Such warnings are having some effect.

"Since Dr. Wesseling began her project five or six years ago, the number of cases of pesticide poisoning have diminished noticeably," said Jorge Meza Madriz, the only doctor in Tierra Blanca.

Wesseling is not so optimistic.

"In general, I think nothing has changed," she said. "If you look at small farmers, particularly, you will find almost no improvement. Safe pesticide use is not possible in this country."

[From the Palm Beach Post, Apr. 1, 1991]

THOUSANDS COPE WITH STERILITY

(By Bill Collier)

RIO FRIO, COSTA RICA.—Visitors to this banana plantation company town could travel the dirt main street, with its smattering of simple shops and modest homes and never learn the community's dark secret.

Hints come in the form of anguished whispers between husband and wife, crude taunts men reserve for one another and wistful glances at children from couples who never can have their own.

In Rio Frio, which exists to produce bananas for Standard Fruit Co. to sell under the Dole label, the secret has become a malignancy that, for its victims, strips away the very purpose of life—leaving divorce, alcoholism and suicide.

The truth, residents say, is that at least 825 men who have called Rio Frio home, who toiled under the endless canopy of banana plant leaves, are sterile. They believe—as do their doctors and lawyers—that they are victims of the pesticide 1,2-dibromo-3-chloropropane, or DBCP.

DBCP came from the United States, where it was banned because it causes sterility and cancer. Used in Costa Rica to grow food in part for U.S. consumption, DBCP illustrates what environmentalists call the "Circle of Poison:" pesticides that are prohibited on U.S. crops but are shipped for sale abroad—and sometimes return on imported produce.

While the circuit poses risks to U.S. consumers, the greater danger is to Third World farmworkers. According to environmentalists, DBCP left as many as 2,000 men sterile at Standard Fruit's banana plantations at Rio Frio and Valle de Estrella in Costa Rica.

Hundreds of Costa Rican workers have sued DBCP manufacturers—Dow Chemical and Shell Oil companies and Occidental Chemical Corp.—as well as Standard Fruit and its parent firm, Castle & Cooke Inc. Most of the suits were filed in Houston, where Dow and Shell maintain corporate offices.

Another sixty suits were filed Friday in Palm Beach County Circuit Court. Boca Raton-based Dole Fresh Fruit Co. is another Castle & Cooke subsidiary. The suits bring home huge potential liabilities.

But the issues are justice and worker safety, not money, said Marlo Zumbado, a former banana plantation worker and now Rio Frio's barber, who became sterile.

"I'm not doing it because I want to be offerred a million dollars," said Zumbado. "If I had a choice between having a million dollars and being able to have a son of my own, I would choose to have a son."

The DBCP story shows how decisions by the U.S. government and pesticide corporations have endangered people in other countries as well as the American public, according to environmental groups.

The U.S. government initially approved DBCP for use on crops in spite of scientific evidence that it caused sterility and cancer in animals and without any warning to people who would have to make it and use it. Even after DBCP had sterilized employees in a California pesticide plant—prompting state and federal suspension of its use—U.S. firms continued to sell the pesticide in foreign countries.

The Costa Rican plaintiffs are not the first DBCP victims, nor the last. The pesticide has left victims from Canada and Israel to Panama and Honduras. Cancer studies of those exposed to the chemical are just beginning.

DBCP was developed independently by Dow and Shell in the early 1950s. The companies found it extremely effective in killing nematodes, microscopic worms that attack the roots of banana plants and other crops.

STUDY REVEALED DAMAGES

In 1958, scientists for Dow and Shell separately reported that in tests on laboratory animals, DBCP shriveled the testicles, reduced sperm counts to zero and caused precancerous lesions at virtually every exposure level.

Nevertheless, DBCP ws registered for use on food crops by the Environmental Protection Agency's predecessor in the business of regulating pesticides, the U.S. Department of Agriculture.

In 1970–74, work by Soviet scientists, the National Cancer Institute and another Dow-Shell team corroborated the 1958 studies.

Yet none of this information was translated into meaningful warnings on the product labels approved by the federal government. The labels on Dow's DBCP, marketed as Fumazone, and Shell's product, Nemagon, bore little more than the standard admonitions against swallowing the chemical, inhaling its vapors or getting it on the skin.

While thousands of workers came into contact with DBCP—either in the plants where it was manufactured or in the fields where it was mixed and applied—apparently none had any inkling of its hazards.

"Nobody told us that it was a poison," said Carlos Luis Munoz Ramirez, 42, who was one of the first to become ill. "But obviously it was. If you put even a little on a toad, it would kill it."

Roberto Chavez, a toxicologist who has done extensive research on DBCP, said field hands were exposed to the chemical as a vapor.

"The workers inject it in the ground, and the steam brings it out under the canopy of leaves," Chavez said. "We have many workers who never touched the product who were affected. One was a boy who simply carried lunch to his family members in the fields."

Meanwhile, in 1977, meeting at softball games and other company outings, the families of workers in Occidental's unit making DBCP discovered many of them had something in common: They were not having any children.

A "UNIFORM PATTERN"

Medical studies of the Occidental workers—and the employees of 17 other DBCP manufacturing plants—found a "uniform pattern," their attorney, Duane Miller, recalled. "Workers with more than 90 days' exposure had markedly impaired sperm counts, and as many as 70 percent of them were sterile."

The state of California then banned DBCP, and in August 1977, the EPA suspended its use on many food crops. Dow and Shell stopped manufacturing it and sent letters warning customers, including Standard Fruit, that the pesticide could cause sterility.

The next year, the EPA further restricted the use of DBCP. Then, in 1979, the agency suspended all its uses except one—on pineapples in Hawaii. That was allowed until 1985.

Standard Fruit continued to use DBCP on its Costa Rica plantations, even though many workers had complained of sterility in 1977.

Jack DeMent, a Boca Raton resident, is a defendant in the 60 lawsuits filed Friday. DeMent, Dole's senior researcher, was in charge of selecting the pesticides that Standard Fruit used on its banana plantations, said Charles Siegel, a Texas attorney for the 60 workers.

Standard did not halt DBCP use in Costa Rica until late 1978 or early 1979, under pressure from the Costa Rican government.

But Standard still had large stocks of DBCP in Costa Rica. So they were shipped to Honduras, where DBCP use continued. Finally, in November 1979, Standard's parent firm, Castle & Cooke, announced it would no longer use DBCP anywhere in the world—except on its Hawaiian pineapple plantations.

In the Hispanic cultures of Central America—where a man's virility often is measured by his ability to father children—the devastation wrought by DBCP-induced sterility was more than physical. It was also psychological.

PSYCHOLOGICAL INJURIES

"It was like the worst thing that could happen to a human being," said Waldeman

Loaiza Calvo, 47, a victim who has worked for Standard Fruit at Rio Frio for 30 years.

Bitterly disappointed that their union would produce no children, many wives left their husbands. Others stayed on, but the knowledge tore at the fabric of their marriages.

Some men also became impotent. Other became alcoholics, and a few attempted suicide.

In California, 57 Occidental workers brought lawsuits over their sterility. Fifty of the cases were settled, but seven went to trial with Miller as their attorney. The amounts paid the California workers ranged from $50,000 to $2.3 million, Miller said.

But in Costa Rica, where workers turned for help to the national insurance program, the disabled men were given payments ranging from $500 to $4,000, averaging about $1,000 each.

At the urging of Chavez's sister, a San Jose lawyer, the banana workers contacted Baron and Budd—a Dallas law firm specializing in litigation over injuries resulting from toxic chemicals. Baron and Budd filed the first lawsuits in the United States seven years ago.

The law firm also is in contact with victims in Honduras, where Mario Quintanilla, an official with the banana workers' union, said he knows of at least 200 men made sterile by DBCP.

Attorneys for Dow, Shell, Occidential and Standard Fruit say they expect to prevail when the complex lawsuits come to trial in Houston.

Dow and Shell lawyer denied they withheld any of the scientific information—saying the early health studies were turned over to the USDA when they sought to register DBCP. They said the label warnings were approved by the USDA and later the EPA.

Shell officials said they will prove their products never were used by Standard's Costa Rican plantation workers. "I don't think they have the foggiest idea what they were working with," Shell attorney Burt Ballanfant said.

LEGAL SKIRMISHING

Occidental, named as a defendant only in the most recent suit filed by the Costa Ricans, will plead the same defense, said the firms's attorney, Stephen Lewis.

Standard Fruit officials say they followed all safety instructions provided by DBCP manufacturers.

While preparatory skirmishes for their courtroom drama are played out in U.S. courts, life goes forward unchanged on Rio Frio's plantations.

One victim, Jorge Vega, 40, said he has thought of leaving Rio Frio in search of a better life but found it difficult to walk away and leave the benefits he has built up in 18 year's employment with Standard. He and his wife have turned to their religion for comfort.

"Some of us have become closer to God through all of this." Vega said.

Chavez said he is concerned that the pesticide—which can persist in the environment for up to 100 years—still may pose hazards for workers at Rio Frio more than a decade after Standard stopped using it.

[From the Palm Beach Post, Apr. 2, 1991]

1 PERCENT OF 1 MILLION FOOD SHIPMENTS INTO UNITED STATES TESTED FOR PESTICIDES

(By Bill Collier)

Among their myriad exports to developing nations, U.S. companies annually include 100 million to 150 million pounds of pesticides that cannot legally be used in the United States.

These pesticides—banned or never registered by U.S. regulators because of health or environmental concerns—are applied on food crops in countries less able than the United States to ensure safe use.

Many of those crops are shipped to American consumers—possibly tainted with residues of pesticides from which U.S. regulators seek to protect the public.

Environmentalists call this the "Circle of Poison."

In an ideal world, U.S. regulators would detect illegal pesticide residues at the ports of entry and reject the food shipment. But government studies show we live in a world that is far from ideal.

The U.S. General Accounting Office reports that the Food and Drug Administration annually samples just 1 percent of about 1 million imported food shipments—and tests for fewer than half the pesticides on the world market.

Among the pesticides ignored by the FDA, which tests produce, and the U.S. Department of Agriculture, which tests imported meat and poultry, are those that are not registered for use in the United States.

For example, DowElanco, a division of Houston-based Dow Chemical Co., markets the herbicide haloxyfop in more than 40 countries, although the Environmental Protection Agency has refused to give it a U.S. registration since 1985. The EPA considers haloxyfop a "likely" human carcinogen.

Yet the FDA and USDA do not test for haloxyfop residues in food entering the United States.

"We're not even aware of what that substance is. Is it a pesticide?" asked Jim Greene of USDA's Food Safety and Inspection Service. "If that's being used in other countries, we're just not aware of it."

Environmental and consumer groups say the export of banned or unregistered pesticides poses a health risk for farmworkers and consumers in the Third World, as well as U.S. consumers.

"If the EPA says a chemical is too unsafe for U.S. farm use, then it's too unsafe for use on foreign-grown foods that will be imported," said U.S. Sen. Patrick Leahy, D-Vt.

Last year, Leahy won Senate passage of a bill to end the export of banned and unregistered pesticides. But he withdrew the measure after failing to reach agreement with House members over a weaker House-passed version.

Determined to prevail this time, Leahy has reintroduced essentially the same bill. Environmental and consumer groups are poised for the battle.

Representatives of chemical manufacturers and the produce industry said they would again oppose the Leahy bill. They said the fact that a pesticide is not registered in the United States does not mean it is unsafe.

"If there's a bad chemical out there, the growers want it off the market," said Kathy Means of the Produce Marketing Association.

But many of the unregistered pesticides, Means said, were developed for pests, crops and climates that do not exist in the United States, "so that nobody would spend the money to try to register them here."

A REAL SCIENCE DISPUTE

"John McCarthy of the National Agricultural Chemicals Association said the "overwhelming majority" of unregistered pesticides exported by the United States have been registered in European countries that also have sophisticated regulatory processes—but assess human risk differently.

"There's a real science dispute out there about the way we regulate things that cause tumors in animals," McCarthy said. "It's a legitimate scientific dispute, rather than a moral argument."

John McClung of the United Fresh Fruit and Vegetable Association said Leahy's proposal would cost the United States jobs, anger its trading partners and do nothing to prevent Third World use of the targeted pesticides.

Officials with the FDA and USDA, meanwhile, defend the safety of the U.S. food supply.

The USDA's Greene and John Jones, FDA's pesticide program manager, said tests by their agencies show that pesticide contamination of U.S. food imports is not a serious problem.

Only 3.5 percent of 11,100 pesticide residue samples of imported food taken by the FDA in 1989 exceeded U.S. limits or contained illegal residues, Jones said.

Illegal residues could be those of pesticides banned in the United States. Or they could be legal pesticides found to exceed maximum levels set by the EPA or discovered on crops for which EPA has not approved their use.

Greene said USDA rejected 14.5 million pounds out of 2.5 billion pounds of beef and poultry inspected in 1989—less than 1 percent.

A HILL OF BEANS

Moreover, said Greene, "of the total product refused entry, pesticide residues accounted for only 2,460 pounds. That doesn't amount to a hill of beans."

Jones and Greene said biological contaminants, such as bacteria are a far greater concern.

"People are dropping in the streets if they get a bad batch of cheese," Jones said. "A need exists to monitor immediate health risks at a higher level of priority."

Both agencies say they sample for chlordane and heptachloride, two pesticides banned in the United States but manufactured for shipment to foreign countries, where they are commonly applied to food crops. Chlordane and heptachlor have been found in breast milk, cow's milk, the flesh of arctic marine mammals and a variety of food products around the world.

The General Accounting Office estimated that U.S. companies account for about a quarter of the annual worldwide agricultural chemical sales of $17 billion.

The United States exports 400 million to 600 million pounds a year of pesticides, about a quarter of which are unregistered, according to the GAO.

[From the Palm Beach Post, Apr. 2, 1991]

TWO INSPECTORS TEST PRODUCE FROM 800 TRUCKS A DAY

(By Bill Collier)

Nogalez, Ariz.—The U.S. Food and Drug Administration's approach to looking for pesticides on imported produce in Arizona is like looking for what is in a speeding freight train by standing behind a bush next to the tracks.

Each day, 700 or 800 trucks roll across the U.S. border at Nogales, hauling nearly 2 billion pounds a year of Mexican fruits and vegetables.

Yet there are only two FDA inspectors—and one is seasonal. They take five to 25 samples a day. And Saturdays—when the border also is open—they take samples only about twice a year.

In South Florida, produce from Honduras, Guatemala, El Salvador, Costa Rica and other countries in the Caribbean and Central America arrives by the shipload at the Port of Miami, Port Everglades and the Port of Palm Beach, said Abbie Land of the U.S. Department of Agriculture's Market News Service in Miami.

The Miami FDA office, which is responsible for all of South Florida, has seven positions for inspectors, said Estela Brown, consumer affairs officer for the FDA in Miami. Three of those jobs are vacant.

"The appalling truth is that our import inspection program does almost nothing to protect us from illegal pesticide residues," said Bill McNichol of the National Coalition Against the Misuse of Pesticides.

Nogales is the biggest U.S. point of entry for Mexican produce and the best case for those who argue that the federal government is not doing enough to protect consumers.

"We don't have somebody stopping every truck, and we don't have somebody there all the time. We can't be everywhere all the time," said John Jones, the FDA's program manager of pesticides.

"We have limited resources. We are stretched too thin," he said.

Nogales is one of four border checkpoints in the FDA's Los Angeles district, which also must inspect imported produce at numerous international airports and harbors. To do that job, there are just 24 inspectors, said district director George Gerstenberg.

Another handicap is the single lab to test for pesticide residues. Although it is FDA's biggest, it can handle just 5,000 samples a year.

But Gerstenberg said both limitations soon will be eased. The agency's new budget has authorized additional inspectors and lab analysts that will "almost double our staffing and investigations."

The influx of money, as well as some program changes, resulted from a 1966 General Accounting Office study that was highly critical of FDA's import inspection program.

The study found that FDA tested only about 1 percent of 1 million annual shipment of imported produce and looked for only about half the pesticides known to be used in the exporting countries.

The GAO also criticized the FDA's sampling techniques—focusing heavily on tomatoes, for example, while conducting no tests of the cucumber shipments from 17 countries for seven years.

Even when illegal pesticide residues were found, the GAO said, the FDA failed half the time to impound the tainted produce, which was eaten by U.S. consumers.

In the wake of the reports, Congress passed the Pesticide Monitoring Improvements Act. It directs the agency to implement a research program to develop ways to test for more pesticides, to improve its ability to target its sampling and to increase its knowledge of what pesticides are being used in countries exporting food to the United States.

"We have made significant improvements in the program, but we are still not perfect," Jones said.

He said he will soon be reporting to congressional committees on the agency's progress in implementing the act.

[From the Palm Beach Post, Mar. 31, 1991]

A FRACTION OF PRODUCE COMING INTO FLORIDA INSPECTED

(By Lisa Shuchman)

Florida is both a major producer and importer of fruits and vegetables. But domestic and imported produce are subject to different rules when it comes to pesticides.

Florida fruit and vegetable growers are engaged in a never-ending battle with a climate that breeds humidity and bugs. For that reason, more pesticides are used in this state than in any other, experts say.

But Florida's pesticide law and the Federal Insecticide, Fungicide and Rodenticide Act require state growers to follow stringent regulations when using chemicals that may be used more freely abroad.

Federal and state laws have three objectives:

To protect farmworkers.

To protect the environment, including the water supply.

To guarantee that domestic produce is free of chemical residues that might cause cancer.

Every pesticide product used in Florida has a large label specifying which crops the pesticides can be used on, how much can be used, whether it can be sprayed from the air and how people should protect themselves while applying it.

"That label is the law,' said Scott Charbo, a western Palm Beach County agricultural extension agent who specializes in pesticide use.

A grower who uses a pesticide on a crop for which it is not specified is subject to stiff penalties and fines.

In addition to label restrictions, some chemicals considered especially toxic are classified as "restricted use" pesticides. Only state-licensed pesticide applicators can use those chemicals.

The state also regularly tests produce to ensure that it does not exceed established tolerance levels for pesticide residues, said Mike O'Hara, spokesman for the Florida Fruit and Vegetable Association. Crops found with residues above acceptable levels cannot enter the marketplace.

State inspections at Publix Super Market warehouses include both domestic and imported produce, said company spokeswoman Jennifer Bush. Publix supports such inspections because it feels food safety is extremely important, she said.

During the current legislative session, state lawmakers in Tallahassee may take even stronger steps in regulating pesticides. Legislators may alter the rule regulating the mixing and loading of pesticides to require that the task take place at a specified distance from lakes and streams.

State rules don't apply to imported produce, however. And there is a lot of it.

Produce from Honduras, Guatemala, El Salvador, Costa Rica and other countries in the Caribbean and Central America arrives in South Florida by the shipload at the Port of Miami, Port Everglades and the Port of Palm Beach, said Abbie Land of the U.S. Department of Agriculture's Market News Service in Miami.

More produce, primarily from Mexico, is trucked across the border into Texas and Arizona and distributed from there.

Those fruits and vegetables are grown without the pesticide controls that apply to Florida farmers.

USDA inspectors in Florida check incoming plants, fruits and vegetables for diseases and insects, and Food and Drug Administration inspectors examine produce for pesticide residues.

But both agencies inspect only a fraction of the fruits and vegetables coming into Florida.

In fact, a 1989 report by the House Subcommittee on Oversight and Investigations said FDA inspectors physically tested only about 2 percent of imported food.

"It's impossible to sample 100 percent of everything that comes in," said Estela Brown, consumer affairs officer for the FDA in Miami. "But we believe our selective system of sampling protects the American public."

The Miami FDA office, which is responsible for all of South Florida, has seven positions for inspectors, Brown said. Three of those jobs are vacant.

[From the Palm Beach Post, Apr. 1, 1991]

PESTICIDES A PREFERRED SUICIDE TOOL—PARAQUAT OFTEN USED, COSTA RICA DOCTOR SAYS

(By Bill Collier)

GUAPILES, COSTA RICA.—Some pesticides are so poisonous and so prevalent in Costa Rica that they have become the preferred method of suicide.

Edwin Solano, a physician in the small hospital in this agricultural town of 40,000 residents, said the facility receives an average of 10 suicide victims annually.

By far, Solano said, their favored instrument of death is Gramoxone, the trade name for the herbicide paraquat made by ICI Americas Inc. and ICI Pan Americana of Guatemala—divisions of the England-based Imperial Chemical Industries.

As in the United States and elsewhere, Gramoxone and other paraquat products are legal but lethal.

Gramoxone is Costa Rica's No. 2 pesticide import, used on rice, coffee, bananas, onions, carrots, potatoes and other crops. Because it is so widely applied by farm-workers, it is available in many rural homes.

Solano acknowledged that those who wish to kill themselves could simply choose another pesticide or poison. But almost anything else, he said, would be preferable to Gramoxone—which he described as a terribly efficient killer.

"It blisters the tongue and burns through the esophagus and stomach and can kill even before it's into the blood stream," Solano said.

Once in the blood, he said, it can kill in a variety of ways—but most often by paralyzing the lungs.

"If a young man rejected by his girlfriend, for example, drinks some other pesticide in a moment of grief, we still have a chance to save him. With Gramoxone, there is almost no chance," Solano said.

"I would like to say to the head of ICI—you wouldn't want to see one of your children or grandchildren poisoned with Gramoxone."

Moreover, because the Gramoxone in use in Costa Rica is brown—and often stored by rural residents in soft-drink cola bottles—it sometimes is ingested accidentally, Solano said.

He and others in Costa Rica have appealed, without success, to ICI to change its product or pull it off the market.

But company officials said they have heard the pleas of people such as Solano and have responded.

"We have taken several steps to help safeguard the product from misuse," said Mike Tysowsky of ICI Americas.

ICI has changed the color of Gramoxone to blue-green, given it a "foul odor like fermenting goat milk" and added an emetic to induce vomiting in anyone who drinks it, Tysowsky said.

Tysowsky said the product changes were made five years ago, but that existing stocks of Gramoxone were not recalled.

14 YEARS AFTER BAN, DBCP IN FLA., CALIF. GROUND WATER

(By Bill Collier)

The pesticide linked to worker sterility in chemical plants and Costa Rica's banana plantations still poses environmental consequences today—nearly 14 years after it was first banned.

Officials in Fresno, Calif., have learned that many wells—the sole source of drinking water for 350,000 people—are contaminated with 1,2-dibromo-3-chloropropane, or DBCP.

Fresno is not alone. More than 20 other California municipalities are dealing with the same problem to varying degrees—including Sanger, a city of 17,000 where every well exceeds federal and state limits for DBCP content.

Traces of the chemical also have been found in Florida groundwater.

"It's the most widespread and serious groundwater contaminant in California," said Martin McIntyre, Fresno's water quality supervisor.

The presence of DBCP in California's groundwater has been known for a decade, but water suppliers were not forced to act on the problem until 1989 when the state and the U.S. Environmental Protection Agency reduced the maximum allowable DBCP content in drinking water to 0.2 parts per billion.

Twenty of Fresno's 235 wells exceeded that level and were shut down. Another 50 or 60 wells are contaminated to a lesser degree.

The city has begun installing charcoal filtration systems on its worst wells, McIntyre said. The cost—up to $1 million a well—doubles the cost of water produced.

Sanger, 10 miles east of Fresno, has had to inform residents their water will continue to exceed state and federal DBCP limits until treatment systems can be installed, City Manager Sue Tsuda said.

The cost—estimated from $3.5 million to $7.5 million—plus the long-term expense of paying for the contaminated charcoal to be hauled off to toxic waste dumps in other states is "a tremendous liability for a community our size," Tsuda said.

DBCP was widely used on grapes and fruit orchards around Fresno and Sanger.

After it was linked to sterility in pesticide-plant workers, DBCP was banned by the state and the EPA in 1977. The chemical—which produced cancer in laboratory animals—has also been found in groundwater in Arizona, North Carolina, Colorado and parts of central and northwestern Florida.

[From the Palm Beach Post, Apr. 1, 1991]

PESTICIDES: CIRCLE OF POISON—TEXAS LAWMAKERS COULD QUASH PESTICIDE SUITS

(By Bill Collier)

After seven years of litigation in three states, including Florida, hundreds of Costa Rican farmworkers hope to have their day in court soon on allegations that a now-banned pesticide made them sterile.

A state district judge in Houston has set a trial for late this year. But before they can plead their case to a jury, the Costa Ricans and their Dallas lawyers must leap hurdles being thrown up in federal court and the Texas Legislature by defendants and their allies.

To date, 390 current and former workers on Standard Fruit Co.'s Costa Rican banana plantations have sued, contending they were exposed during the 1970s to the pesticide 1,2-dibromo-3-chloropropane, or DBCP, and were left sterile.

Another sixty workers filed individual suits Friday in Palm Beach County Circuit Court.

The Texas lawsuits, each with a different group of plaintiffs, were filed by the Dallas law firm Baron and Budd, which specializes in litigation over injuries caused by toxic materials.

AN 'INCONVENIENT FORUM'

Named as defendants in all the Texas and Palm Beach County suits were Standard Fruit and its parent company, Castle and Cooke Inc., and DBCP manufacturers Dow Chemical and Shell Oil companies. The last suit also named Occidental Chemical Corp., another DBCP manufacturer.

To prevent the suits from coming to trial in Texas, the defendants trotted out a tried and true weapon: the legal theory of forum non conveniens. This would permit a judge to rule it would be inconvenient or unfair to one or both parties for the court to hear the case.

The inconvenient forum doctrine has been widely used by U.S. corporations to win dismissal of lawsuits filed by foreigners. The corporations contend that when witnesses and evidence are overseas, the case should be tried there.

Defense lawyers argue that the DBCP case should be tried in Costa Rica, not the United States. But plaintiffs' attorneys say the low damages that would likely be awarded in the Costa Rican courts would not make the suit worthwhile.

In Florida and California, where Baron and Budd first filed the DBCP cases, the inconvenient forum doctrine prevailed, and the suits were dismissed.

A state district judge in Houston agreed, also dismissing the Texas cases. But the state's 1st Court of Appeal in Houston reversed the trial court, holding that a 1913 state law abolished the doctrine in Texas.

On March 28, 1990, the Texas Supreme Court agreed, in a 5-4 ruling that delighted the plaintiffs but dismayed business leaders.

In January, the U.S. Supreme Court, without comment, let the Texas court ruling stand.

If an effort in the Texas Legislature is successful, however, forum non conveniens still may prevail in the state trial court.

LEGISLATION INTRODUCED

Two Texas legislators, Rep. Parker McCollough and Sen. John Montford, have introduced legislation to modify the 1913 law and allow state judges to invoke the inconvenient forum doctrine if they see fit—even in pending cases, such as the Costa Ricans'.

"Forum non conveniens is recognized in every other state and the federal courts," McCollough said. Its absence in Texas, he said, "has the potential to have a devastating effect on our judicial system and our ability to come out of this economic slump."

But Tommy Jacks, an Austin lawyer and president of the Texas Trial Lawyers Association, said his group would oppose the McCollough-Montford bill.

"The idea that a manufacturer like Shell or Dow finds it more convenient to litigate in Costa Rica than in Harris County, Texas—blocks from Shell's world headquarters and not far from one of Dow's biggest installations—is preposterous," Jacks said.

Meanwhile, the defendants still are trying to remove the cases to federal court, where they hope they will be dismissed.

Federal judges in Houston have rebuffed the defendants' efforts thus far to transfer the suit to their jurisdiction. But now the defendants have asked the 5th U.S. Circuit Court of Appeal to order the federal jurists to accept the cases. That ruling is pending.

The issue turns on whether Shell is a legitimate local defendant. If it is, the case can't be transferred to federal court, Siegel said.

[From the Palm Beach Post, Mar. 31, 1991]

PESTICIDES TAKING TOLL ON WORKERS, ANIMALS IN MEXICO

(By Nancy Nusser)

CULIACAN, Mexico—As if part of an apocalyptic scene from the Bible, the carcasses lay bloated and stinking along sun-drenched plains that stretched empty and desolate for miles.

The bodies were of 34 horses, cows and donkeys and numerous ducks, fallen as if stricken by a plague.

But the blight is hardly mysterious, because the animals were lying in a garbage dump filled with thousands of empty and half-empty bottles of potentially lethal pesticides. Most likely, the toxins seeped into the nearby canal, from which the animals drink, local growers and pesticide experts say.

"There are dumps all over Mexico, and you don't find dead animals in them," said Lilia Albert, a chemist who has studied insecticides for 20 years. "It had to be pesticides."

CANALS USED FOR BATHING

Mexican farm workers also use the narrow canals for bathing water. And so the grisly scene on Route 38—pesticide bottles scattered among hide-covered skeletons—is a grim warning for people working in the Culiacan Valley, a prime source of winter produce for the United States.

One-third to one-half of the tomatoes, cucumbers, bell peppers, summer squash, zucchini, eggplants and chili peppers eaten in the United States during the winter months come from the Culiacan Valley.

Trying to meet U.S. pesticide regulations, Mexican growers began several years ago using organophosphate insecticides, some of them imported from the United States. The chemicals decompose quickly so the produce can pass U.S. border inspections.

But before breaking down, the organophosphates are highly toxic. So while American consumers are safer, Mexican farmworkers face greater risks.

"The effect of the U.S. policy (regulating pesticides on imported produce) has been to expose workers to acute poisons," Albert said.

Angus Wright, a professor of environmental studies at California State University, Sacramento, said: "We're talking about really high toxicity here. That's why those animals died."

A FEW DROPS CAN KILL

One organophosphate—parathion—is so poisonous that a few drops on someone's skin could kill in a matter of hours, Wright said.

In Mexico, he said, parathion is usually diluted to between 5 percent and 15 percent of full strength. Even that solution is extremely toxic, Wright said.

During each agricultural season for the past three years, the government clinic outside Culiacan has handled 20 to 70 cases of "pesticide intoxication," said Jose Rodolfo Milan Guerrero, the facility's director.

He said one patient died.

The Culiacan Valley is in the state of Sinaloa in northern Mexico. Felipe Gurrola, a Culiacan lawyer and sociologist who works with farm workers, estimated that 150 people die annually from pesticide poisoning in Sinaloa.

A recent article in the Mexican newspaper El Financiero reported that 500 people died nationwide from pesticides in the past harvest.

Milan Guerrero said the problem is not the pesticides but the lack of protection for the people who apply them.

The toxic organophosphates used in Mexico also are applied in the United States—but under strict controls.

WORKERS COVERED WITH SPRAY

But in Mexico, pesticides are sprayed on farmworkers as they stand in leafy tomato and cucumber fields below fumigation planes.

On a recent spraying, Jesus Mercado, 22, stood in a chemical haze while directing a small plane over tomato fields at the San Jorge farm in the Culiacan Valley.

Mercado wore no protective clothing except for a homemade, ineffective gas mask: a bandanna wrapped around his nose and mouth. Nearby, an elderly man coughed and held a cloth to his face every time the plane passed.

"They won't give me any protection," said Mercado, who makes $5 a day as a bandalillero, a flagman for the cropduster.

Luis Cardenas Galves, the owner of the San Jorge farm, said the plane spraying Mercado and dozens of other people was spewing fertilizer, not pesticides.

He said the workers refuse to use protective masks when they are given out.

Other San Jorge workers were hand-spraying fields with paraquat, a highly toxic herbicide. They were not wearing protective clothing. Sometimes, their toenails fall off after their bare feet have been splashed with pesticides, one worker said.

A farm owner, Alonso Campos Encines, said most Culiacan growers could not care less about environmental protection because they are too worried about staying afloat economically.

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

Mr. DANFORTH. I yield 10 minutes to the Senator from Washington.

Mr. HOLLINGS. Mr. President, it was our turn again.

Mr. DANFORTH. No. On the Republican side we have not had a turn in over an hour.

Mr. HOLLINGS. It is pro and con for the bill, the position we have; it is not Republican and Democrat.

Mr. DANFORTH. Is that right?

Mr. HOLLINGS. That is right.

The ACTING PRESIDENT pro tempore. There was an informal agreement, but the Senator from Missouri was recognized.

Mr. DANFORTH. Mr. President, I yield the floor.

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, the issue is not GATT. If it were GATT, I would vote for fast track right away. The issue is the trade agreement with Mexico. I am one who believes we ought to be paying more attention to Mexico.

Mr. President, I am one who believes we ought to be paying a lot more attention to Mexico. Two years ago, I offered an amendment on this floor to set up a Commission for the United States and Mexico to work together. And that passed. That Commission was appointed by the President and legislative leaders.

The reasons we have to pay attention to Mexico are many. One of them is the reality of the huge population growth that is going to take place to the south of us. Mexico today has a population of 88 million, a high population growth factor.

If Mexico reaches the point of zero population growth by the year 2000, Mexico will taper off with a population of 175 million. If Mexico does not reach zero population growth by the year 2020, Mexico will taper off with a population of 270 million. You do not need to have great imagination to understand we have to work with Mexico to build the economy of that country. And we ought to be doing it.

The second reason I oppose this motion, with some reluctance, is that I have great respect for President Salinas. I think President Salinas is the best President Mexico has had in a long, long time. But there are problems, and we ought to recognize that there are problems.

We are given assurance by the administration they are going to be sensitive to working men and women. That is extremely important when you realize that no two countries anywhere in the world abutting each other have as great a dispartity in the quality of life and standard of living as the United States and Mexico.

So having an administration that is going to be sensitive to working men and women and protect them is important. But I have not seen that in the record. In the last 10 years, the Reagan-Bush-Quayle administration has dropped the tax on the wealthiest of Americans from 70 percent to 28 percent, while 66 percent of middle-income Americans see a growth in their tax rate. Family medical leave, vetoed by this administration; the Civil Rights Act, and the Civil Rights Act that was vetoed last year primarily benefits working women, vetoed by this administration.

When they say we are going to be sensitive to the problems of working men and women in this country, is there anything in the record to suggest that is going to be the case? I do not find it. I think we have to be concerned.

Let me give you another example. We just passed out of the Judiciary Committee today, I am pleased to say, by an 11-to-3 vote, a constitutional amendment calling for a balanced budget. We should have had leadership on this from the administration a long time.

One of the realities—and I got these figures from CBO—CBO says the deficit is responsible for 32 to 37 percent of the trade deficit; the Congressional Research Service says 40 to 55 percent. Whatever it is, one-third to one-half.

Hundreds of thousands of American jobs have been lost because we have just been twiddling our thumbs instead of paying attention to the deficit. We have just ignored it. Now the argument is made here we can reject whatever comes forward. But then we face this: This will be a slap in the face to President Salinas. The argument will be made, we cannot do it; we should not do that, and I do not want to do that.

Second, let us just say they come back with an agreement which no Member of the U.S. Senate is going to have the time to read. Even my distinguished friend from South Carolina is not going to have the time to read it. It is going to be a multihundred-page document. Let us say it is 60 percent good and 40 percent bad. We are not going to have a chance to change a word in that document.

And finally, Mr. President, let us take a look at what has happened within our country. The State of Illinois, perhaps the State of Minnesota—I am not sure—the State of Pennsylvania I know, we have lost jobs—and I say this with due respect to my friend from South Carolina—we have lost jobs to South Carolina, to Mississippi, to Arkansas, because they have more money; we have lost jobs.

We have lost jobs because of unemployment compensation laws, because of workmen's compensation laws, because of right-to-work laws, just in the differences that exist within our 50 States.

Now you take a country where the minimum wage, depending on where you live in Mexico, is 57 to 65 cents an hour, and largely unenforced; where industrial safety laws either are nonexistent or largely unenforced; where environmental laws are the same, and you pit one country against another. And if you do not do it with caution, you are going to create major, major problems in this country.

I want to have more trade with Mexico. I want to help Mexico. My record is very, very clear on that. But we have to proceed with caution, and this is a procedural vote. It is not the plan, and the question is, Do we proceed with caution, or do we give a blank check to the administration and say: Oh, go ahead and write it, and then we will decide what we are going to do. I think clearly we ought to proceed with some caution.

We have a responsibility to the people of our country, and I think we have a responsibility to the people of Mexico to make sure we do not create a situation that is very unhealthy.

I am going to be voting with the Senator from South Carolina. I recognize that the administration and all the business interests that have been pushing this thing, I think, have the votes. And maybe I am going to vote for that

final passage they give to us. But I would feel a lot more comfortable if we had a voice and a chance to modify it.

I am not going to vote for a blank check for this administration. I would not vote for a blank check for a Democratic administration. I want to make sure we have a chance to protect America's working men and women.

Mr. President, if I have any time remaining, I yield the remainder of my time.

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

Mr. DANFORTH. Mr. President, I yield 10 minutes to the Senator from Washington.

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

Mr. GORTON. Mr. President, the phrase "fast track" refers to a procedure, not a trade treaty. Fast track allows the President of the United States to negotiate trade treaties with almost the same authority held by our leader in a parliamentary democracy, or for that matter, the leader of almost any other free or even unfree nation in the world, such as Mexico itself.

Even with fast track, the President probably has authority more limited than leaders in parliamentary democracies, because by custom, because governments will fall, a parliamentary body will not reject a treaty signed by its own leader. This Congress can and may very well reject a fast-track treaty negotiated with Mexico or with some other nation.

International treaties, Mr. President, simply cannot be negotiated by any foreign nation with 535 Members of Congress. Let us reverse that proposition. Would we, or the President of the United States, seriously consider negotiating a disarmament treaty with 2,500 members of the Supreme Soviet?

Not for a moment, Mr. President. The only way in which treaties of this sort can effectively be negotiated is between heads of government or their designated representatives.

Fast track, as I have already stated, Mr. President, is a procedure. Nevertheless, it is the only procedure likely ever to bring a trade treaty before the Congress of the United States because it is the only way in which our foreign negotiating partners can possibly consider entering an agreement with the United States. Fast track is not such a treaty with the General Agreement on Tariffs and Trade, with Mexico, or with anyone else.

I believe that fact is recognized by the proponents of this resolution of disapproval. Most of their opposition is not so much to fast track as it is to what they can conceive will be an ultimate free-trade agreement with the Republic of Mexico specifically. But scratch the surface only lightly and we find that much of that opposition is opposition to international trade, particularly free international trade in general, the age-old fear that Americans lose rather than gain by a free and generous system of international trade. Yet 200 years and more of our history shows that the greater our international trade, the greater our prosperity, the larger the number of jobs in the United States, and the more buoyant our growth.

Poor nations are often the most protectionist. The Republic of Mexico itself has struggled for 100 years to protect it industries and its economy. It finally has a President that recognizes that that is one of the principal causes of misery and poverty in that Republic. If we follow the prescriptions of the opponents to this fast-track authority, poverty will be the result.

Mr. President, if the administration makes a bad deal with the Republic of Mexico, with the General Agreement on Tariffs and Trade, or with any other individual nation, we can, and I strongly suspect will, reject it. In fact, the chances are fairly strong given the nature of this debate, that we may reject a good trade treaty with Mexico. But at least we ought to have the opportunity to deal with a specific one.

But the idea that the United States can increase jobs and increase its own prosperity by raising American consumer prices and by restricting American consumer choice was a fiction when it was debated in the Senate of the United States by Webster, Clay, and Calhoun, and it is a fiction today. Those who believe in America and its economic strength will reject this resolution of disapproval. We will build a stronger America by a greater span of free trade. We will build a stronger Mexico at the same time, a Mexico with the ability to purchase American products in ever increasing amounts because it will be exporting its goods and its products rather than its citizens. The resolution of disapproval should itself be disapproved.

Mr. President, fast track is a phrase that stands for a set of procedural rules under which Congress will vote on negotiated trade agreements within a fixed period of time, up or down, and without amendment. With fast track, the President and his representatives possess the necessary authority to negotiate trade agreements with our major trading powers.

Bilateral and multilateral trade negotiations are possible only if our trading partners can be reasonably confident that agreements made with the U.S. Trade Representative will not be picked apart line by line by the U.S. Congress. That will be the case only if fast-track approval procedures are extended.

Repudiation of fast-track authority, on the other hand, would deprive our trade representatives of their negotiating strength. Serious negotiations are possible only when all parties can be reasonably sure that any agreement reached likely will be approved in its entirety. After all, what good is a negotiated agreement that has little or no element of finality?

Contrary to protestations made by certain special interest groups, an appropriate role of Congress is fully preserved under the fast-track procedures. Individual Members and the Congress itself have been less than shy about voicing their concerns to the U.S. Trade Representative about key elements of pending trade negotiations. This Senator, for one, has found Ambassador Hills to be forthright and responsive to concerns raised.

Moreover, Congress retains the power to examine thoroughly each and every trade agreement, to vote for those that are in the best interests of the United States, and against those that are not. The time to do that, however, is after agreements are signed, not before. Without fast-track authority, there may be few, if any, useful trade agreements for Congress even to consider.

As a nation with one of the freest trading systems in the world, we particularly benefit from free international trade and by removing restrictions among our trading partners. Given reasonable opportunities and a level playing field, I am convinced that American manufacturers can compete effectively against anyone in the world.

The citizens of Washington State are well aware of this simple fact. They live it everyday. Twenty percent of Washington's gross State product is generated from exports. That exceeds California and even Japan. One out of every five jobs is related to exports. My constituents welcome the challenges that come with opening foreign markets.

Trade agreements in recent decades which have liberalized foreign trade all have taken place under fast-track authority. The Tokyo round of GATT negotiations, a free-trade agreement with Israel, and a highly successful free-trade agreement with Canada are the most striking examples of that success. I am optimistic that present negotiations at the Uruguay round of GATT negotiations and with Mexico may yield similar success, but only if fast-track authority is extended.

Growth in the American economy has been fueled by international trade and by its expansion, especially expansion of exports over the last decade. Similarly, growth in the 1990's—not only for Washington State but for the Nation as a whole—will result largely from increases in international trade.

We are fooling ourselves if we think that this Nation will be better off by turning our backs on the multilateral trading system. We would do no service to this Nation by looking backward to

the imagined safety and security of a closed and captive marketplace.

Mr. President, fast track is little more than a code phrase; the immediate issue is trade. In the end, however, fast track is about something more than exports, even something more than jobs. It is about America's belief in itself, confidence in our ability to prosper in the world economy.

I believe in this Nation and in the American worker. Therefore, I choose to vote to extend fast-track authority. It is a vote of confidence.

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Nebraska [Mr. EXON].

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

Mr. EXON. I thank the Chair and I thank my friend and colleague from South Carolina.

Mr. President, I support the Hollings resolution to disapprove the automatic extension of the so-called fast-track authority to negotiate trade agreements. I have two fundamental concerns, among others, which have not been adequately addressed in the week since the President requested an extension of his negotiating authority.

First, I am profoundly concerned about the Bush administration's negotiating strategy and objectives concerning agriculture; and, second, a situation which the Congress faced when we successfully accepted the United States-Canadian Trade Agreement is not the case when we look at the other part of the dual fast-track authority which endorses fast-track for a Mexican Trade Agreement.

I say this about the Mexican Trade Agreement primarily because of the gap in living standards between the United States and Mexico and the fact that it is so immense and so dramatic that it is inevitable that many in our country will see their standard of living reduced as a result of the unified marketplace, at least as envisioned by the administration. Some are wont to brand any of us who oppose giving the President broad authority to negotiate, along with relinquishing all of our customary rights to offer changes by amendment or otherwise, as protectionists. If I must wear such ill-fitting clothes to do what I think is fair and best for this Nation, so be it.

While I fully reserve judgment on any final agreements which may be negotiated by the President, after careful consideration and consultation with Nebraska business, labor and agricultural representatives, I cannot support an automatic extension of fast-track authority. That does not mean that I close the door to supporting either a good GATT agreement or a good Mexican free-trade agreement. Similarly, if the Hollings resolution is successful, there may be conditions under which I could support a statutory, rather than an automatic request for fast-track authority. With statutory authority, the Congress could enact other trade measures, as it did in 1988 when it granted the President his present authority. Such measures could assure that congressional concerns are heard or the Congress could attach appropriate conditions to the authority.

While some may object to congressional micromanagement of trade negotiations, direct congressional involvement in trade negotiations is appropriate and responsible. Article 1 of the U.S. Constitution clearly gives the Congress the power to "regulate commerce with foreign nations * * *." The fast-track procedure tends to weaken the traditional and constitutional lines which separate the powers of the legislative and executive branches. Under fast-track authority, the Congress amends its rules of procedure to permit the President the opportunity to negotiate a trade agreement and submit it to the Congress for an up or down vote without amendment and without and under a limited time for debate.

Fast-track is a relatively new procedure. And let us understand that no trade agreement was considered under the fast-track procedure prior to 1974. Under the present procedural situation, the President by virtue of his timely request will automatically retain his fast-track authority granted in 1988 to negotiate trade agreements unless either House of Congress votes to disapprove the extension.

In short, if the Congress does nothing or disapproval resolutions fail in both Houses, the President retains his fast-track authority.

I would prefer that fast-track authority would be separated into two debates, one on the GATT negotiation and one on the Mexican Free-Trade Agreement because each proposal poses different problems.

In the GATT negotiation, my fundamental concern is agriculture. The stated policy of the Bush administration is to attempt to negotiate away production-based farm subsidies. If successful, under such an agreement many critical farm programs in the United States would come to an end as we know them. Indeed I have in my possession a letter from the office of our Trade Representative that their goal is to reduce grain subsidies by 75 percent. I am convinced the Europeans will never ever agree to a similar real matching reduction of at least 90 percent on their part. Early in her term as U.S. Trade Representative, I wrote to Ambassador Hills and warned her not to attempt to do in Geneva what the Bush administration could not do in Congress. I expressed my view that the focus of U.S. agricultural trade negotiations should be to reduce barriers to American agriculture exports rather than to try to shape American domestic farm policy in our international trade negotiation. There are few friends of American agriculture in this administration.

Unfortunately, the Bush administration chose not to take that advice. In fact, over the last several years, American farm programs have been dramatically slashed. With this form of unilateral agricultural disarmament, it is no wonder that the European Community balked at reductions in their farm programs. If the United States had applied a similar negotiating strategy in the military arena, we would all be speaking Russian today.

In agriculture, no agreement is better than a bad agreement.

I am concerned that the Bush administration will settle for less than full agricultural trade disarmament from the Europeans.

The advocates of cheap farm prices in the Reagan and Bush administrations never seemed to understand that as long as prices are below the price of production, all the exports in the world will not make farming profitable. We are on a course of producing our way into poverty and a lower standard of living in the 21st century.

Therefore, given that the strategy is to dismantle the very price support and income support programs which are so important to Nebraska's family farmers, I cannot in good conscience, endorse the administration's approach in the GATT negotiations.

With regards to the Mexican Free-Trade Agreement, my concerns are more generic. I have not been convinced that a unified market with Mexico can come without an unfairly high price for the United States. It is certain I would like to be a part of a plan to improve the standard of living for our Mexican neighbors. But I am not prepared to relinquish my obligations as a U.S. Senator representing Nebraska and also all U.S. citizens to an administration that views U.S. interests far differently from mine.

It is inevitable that important segments of the American economy will see declines in their standard of living. Mexican wages are 85 percent less than American wages. The Bush administration has freely admitted that American jobs will be lost. The promise of retraining assistance for displaced American workers underlines that fact. The problem, of course, is that the promise of training assistance comes from the same crowd which for the last 10 years has been trying to eliminate existing trade adjustment assistance legislation.

I was pleased of course, that President Bush has come up and submitted to us the action plan to put environmental issues on the negotiating table. These good intentions are meritorious but do not provide the same degree of assurance that the Congress could provide with closer oversight of the negotiation or with the extension of a con-

ditional fast-track negotiating authority.

I agree that there are several good features to the GATT negotiation and several good potential outcomes which could emerge from a United States-Mexican Free-Trade Agreement. Unfortunately, the potential good of these two agreements do not outweigh the known negatives for agriculture.

My vote on this legislation is also registered to send a message to the Bush administration that there is a growing uneasiness in rural America about this administration's trade agenda and to encourage the administration to do a better job of consulting with the Congress.

Last summer, I was part of a group of rural Senators who asked Ambassador Carla Hills, the U.S. Trade Representative to hold hearings about the impact of a GATT agreement on agriculture. Our request was denied and it was explained that such hearings, even though authorized under the 1974 Trade Act would not be a wise use of the Trade Representative's time. That response from last summer does not give me much faith in present assurances from the administration that they will seriously consult Congress.

To conclude, Mr. President, I have given the President's request the most serious consideration and have listened closely to Nebraskans on both sides of this issue. My vote to derail the fast track does not preclude me from making an independent judgement on the agreements should this effort be defeated. Should the Hollings resolution be successful, it also does not preclude me from supporting a legislative grant of fast-track authority with appropriate conditions and amendments attached thereto.

Mr. DECONCINI. Mr. President, for the past 45 years, the United States has been a leader in persuading countries around the world to open their economies to foreign trade and investment. We have been committed to free market economics because this system leads to the most prosperous international economy. For over a year, member after member of this body has stood in praise of the transformation of Eastern European countries from tightly controlled economies to market oriented nations. Meanwhile, our neighbor to the south has been undertaking equally remarkable economic reforms for several years without much notice or fanfare. Yet the changes to the Mexican economy are no less miraculous than those in Eastern Europe. These changes have created a more prosperous Mexico and offered significant economic gains for the United States. Extension of fast-track authority is essential to demonstrate to Mexico our support for these reforms and to enhance trade with our third largest trading partner.

The changes undertaken by Mexico represent a 180 degree turn in Mexico's economic policy. Until recently, the Mexican economy has been closed off to United States producers and investors by trade barriers, Government-owned and often inefficient monopolies, and severe foreign investment restrictions. Since 1986 when it joined the General Agreement on Tariffs and Trade [GATT], tariffs, which were 100% on many products, have tumbled to an average 10%. Permits which once were applied to 80% of all its import items, are now applied to only 3%. In 1982, the Mexican Government owned 1,155 companies. As of last year, the Government had sold or approved the sale of 801 Government-owned companies.

The Mexican reforms have set that country on a road to greater prosperity. Equally important to this debate are the benefits these changes have brought to the United States. A market of at least 80 million people has been made significantly more accessible to American producers than it was only 5 years ago. United States workers and companies have profited and the United States trade deficit with Mexico has been significantly reduced to a level which is now ⅔ less than that of 1986.

Our country's exports to Mexico have risen from $12 billion to $28 billion in 4 years. These figures translate into jobs for our workers. Each $1 billion in exports results in 22,000 jobs for American workers. The United States is Mexico's most important trading partner. Seventy percent of all the products that Mexico imports, it buys from the United States.

In spite of all these reforms, Mexico's barriers to trade are still greater than ours. An FTA will ensure that we are allowed the same access to their market which we allow them. In 1990, U.S. exports constituted 88% of the increase of our GNP. In this time when exports are proving to be a powerful force in the U.S. economy, we must pursue, not abandon, trade opportunities.

Fast track leaves Congress as the ultimate body able to approve or reject a final agreement. I believe it would be a grave error not to give the President the chance to try to reach an agreement. The right to vote for or against the final agreement still rests with Congress. One important point to remember about the FTA is that it is not going to be implemented overnight. In fact, the administration has said it is willing to consider phase-in periods longer than those applied to the United States-Canada agreement which averaged 10 years. Ambassador Carla Hills has proved in the GATT round that she would rather have no trade agreement than an unfavorable one. I am convinced she will use this criterion in negotiating a FTA as well.

Disapproving fast-track extension would torpedo the prospects of a North American Free-Trade Agreement [NAFTA] as well as bringing the Uruguay round of GATT to a halt. Reducing trade barriers through GATT could add billions to the U.S. economy.

Mr. President, in spite of all the economic benefits I see from an FTA, I could not support it without a strong commitment from the Mexican Government in fighting the drug war. Under the administration of President Salinas, anti-drug trafficking cooperation between the United States and Mexico has improved. Just recently, on May 2, the United States and Mexico culminated 3 years of negotiations with the ratification of a mutual legal assistance cooperation treaty, a treaty which will provide assistance in the investigation and prosecution of crimes on both sides of the border.

Earlier this year, the Mexican Government announced that United States customs P3 Aircraft would again be allowed to fly in Mexican airspace while tracking shipments of illegal drugs destined for the United States. Perhaps the best example of improved cooperation between the United States and Mexico on narcotics issues was the work done by the United States customs service and Mexican Federal police following the discovery of an underground tunnel between Douglas, AZ and Agua Prieta, Sonora, Mexico last year. The tunnel, in what has been described as one of the most sophisticated drug smuggling operations, utilized an elaborate hydraulic apparatus hidden beneath the floor of a home in Mexico and a warehouse in Douglas. Drug shipments could be transported through a 300 foot tunnel which linked the home to the warehouse. United States and Mexican law enforcement officials joined forces in a simultaneous raid that shut down the tunnel smuggling operation. Information gathered by both United States and Mexican law enforcement officials investigating the tunnel operation led to the seizure of 2,300 pounds of cocaine and 14 tons of marijuana discovered a week later in a warehouse belonging to the owner of the home in Agua Prieta.

In the past, I have often been critical of Mexico's lack of commitment to controlling the production and trafficking of illegal drugs.

I voted against certification of Mexican cooperation on narcotics in both 1987 and 1988. Over half the cocaine that enters the United States does so through Mexico, and the fact that Mexico still produces approximately one-third of the heroin, and 70 percent of the marijuana imported into the United States indicates that there is a great deal more that needs to be done. Continued cooperation between the Mexican northern border response force and the United States tactical analysis team in tracking air drug shipments, including the use of nine UH-1H helicopters provided to Mexico by the

United States last year, strict enforcement of anticorruption measures which were proposed by President Salinas, and continued improvement of the working relationship between law enforcement agencies in the United States and Mexico are areas which should be monitored closely.

I could not have supported a free-trade agreement with Mexico had this progress not been made. Mexico still has a long way to go to eliminate the threat illegal narcotics pose to both our countries. I am hopeful and optimistic, however, that the Mexican Government will continue its commitment to work with the United States to reduce drug production.

Throughout the discussions over the past several months on the potential FTA and the fast-track debate, I have reiterated that the environmental implications of a free-trade agreement be addressed concurrently with the trade negotiations. Industrial behavior in Mexico not only affects Mexican communities, but cities on the United States side of the border as well.

Because of the geographical and ecological characteristics of the border region, communities along both sides share common water and air supplies. Contamination occurring in northern Mexico finds its way to the United States.

In Nogales, AZ, a groundwater plume of industrial pollutants threatens the aquifer shared by both cities. Raw sewage flows into the United States from Nogales, Sonora through the Nogales wash because existing sewage lines are inadequate. In the Naco, Sonora area south of Bisbee, AZ, two lime plants exceed requirements for particulate pollution. No steps have been taken by Mexican officials to address these plants. Particulate pollution created by open burning and industrial activity exceeds EPA safety standards in the Dougals/Agua Prieta region as well.

These problems demonstrate the lack of effective coordination to regulate industrial activity. Poor coordination has been exacerbated by inadequate monitoring capabilities, and the inability of local border communities to pool their resources to provide an effective front line for monitoring and regulating of industrial activity. The FTA negotiations provide a unique opportunity to address border environmental problems. Not proceeding with FTA negotiations is certainly not going to lead to any improvement in the border environment. Expanded trade and environmental protection are not incompatible. Addressing both issues concurrently can ensure sustainable growth for both of our nations.

Mr. President, I also want to address the importance of the GATT negotiations and the FTA to enhancing global protection of intellectual property rights. U.S. industry and individual Americans lead the world in technological inventiveness and innovation. Our patent, copyright and trademark laws have helped inspire Americans to produce safer chemicals, develop more effective pharmaceuticals, create quality literature, music and art and design unique merchandise. However, weaknesses in these protections elsewhere in the world have led to the illegal copying of these inventions. This denies Americans the earnings they should be due for their creations and the incentive to introduce products of the American imagination onto the world market. Both the GATT negotiations and the North American Free-Trade Agreement [NAFTA] negotiations give us an opportunity to provide Americans the intellectual protection abroad with the same protections our country provides at home.

In closing, I want to share with my colleagues a recent incident which demonstrates the willingness of the Salinas administration to cooperate on issues which affect both our countries. In response to the problem their country faces of unauthorized importation of American cars, the Mexican Treasury Department imposed a $100 nonrefundable fee on all autos traveling into Mexico beyond the border. This issue was of great concern to me given the large numbers of Arizonans who travel south of the border. After I contacted the Office of the United States Trade Representative [USTR], the Mexican adminstration responded immediately when the USTR's office raised alarms about this matter. President Salinas quickly decided to suspend the fee in order to review the issue and devise a more rational policy. This action bodes well for FTA negotiations.

Mr. President, there have been few economic success stories as great as Mexico's in recent history. Presidents de la Madrid and Salinas have turned around an economy which was plagued by inefficiency and debt to one now experiencing real growth. The market reforms have been of great benefit not only to Mexico but to the United States as we increasingly rely on exports for economic growth. As we praise countries around the world for the economic reforms they have implemented, we should recognize the changes occurring in our own hemisphere. We should ensure that these reforms, which create opportunities for our workers and industries, do not unravel in the future by extending fast-track authority and allowing the administration to negotiate with Mexico.

Mr. HARKIN. Mr. President, I do not see any other Democrats now seeking recognition to speak in opposition to the resolution. Accordingly, I suggest the Senator from Missouri seek recognition.

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

Mr. DANFORTH. I yield 15 minutes to the Senator from Arizona.

Mr. McCAIN. Mr. President, I rise in support of granting fast-track authority to the President. I do so because I believe that on this question we should take counsel of our aspirations and not our fears. Opponents should look beyond some of the patent nonsense offered by special interest groups that currently misinforms our debate on fast-track authority. They should look instead to the abundant evidence that proves indisputably that our economic growth, our prosperity, depends upon the expansion and not the limitation of free trade.

In 1990, exports accounted for 88 percent of our GNP growth. The United States exported $394 billion in merchandise in 1990. Reliable estimates indicate every $1 billion in exports creates 20,000 jobs. In other words, nearly 8 million American jobs are export dependent. That is a compelling rebuttal to the argument that a North American Free-Trade Agreement [NAFTA] would result in a net decrease in jobs.

Simply put, free trade means greater growth, greater growth means more jobs, more jobs mean greater individual prosperity for more Americans. As obvious as these assertions appear, they are ignored in the paranoia that the opponents of free trade have brought to the debate over fast track. Scare tactics and absurd constitutional arguments represent the attempts of protectionists to obscure the vast potential benefits of a North American Free-Trade Agreement and a successfully concluded Uruguay round of the GATT. They are also intended to obscure the complete collapse of free trade negotiations with Mexico and the Uruguay round negotiations that a denial of fast-track authority would certainly cause.

In response to these arguments, Mr. President, we should take care to carefully consider the great benefits that would accrue to the United States should we successfully conclude both the NAFTA and the Uruguay round.

The conclusion of a North American Free-Trade Agreement would place the United States in the center of a market of 360 million consumers, with a collective output of $6 trillion, a market much larger and much richer than the European Community. The tremendous increase in United States exports to Mexico, more than doubling over the last 4 years, vividly demonstrates the enormous potential for growth offered by the NAFTA. The Commerce Department estimates that 538,000 American jobs are related to our exports to Mexico. Half of those jobs are a direct consequence of the trade liberalization that Mexico has already undertaken with the United States. Obviously, further liberalization of our trading relationship with Mexico would generate even greater job creation.

The one-third cut in global tariff and nontariff trade barriers envisioned for the Uruguay round would generate in the next decade a $1.1 trillion increase in our GNP. On average, that amounts to a $16,700 real income gain for an American family of four. This prospect of prosperity is compelling motivation for us to refrain from undermining the President's negotiating ability.

Much of the opposition to fast track centers around the mistaken belief that fast-track authority represents an unconstitutional limitation of Congress' power to regulate commerce with foreign nations. Yet, we all know that Congress created the fast-track procedure so that the President could negotiate complex trade agreements without 535 congressional trade representatives amending the agreement beyond all recognition and scaring off all potential partners to the negotiations. Congress maintains its constitutional authority by reserving the right to approve or disapprove of the final agreement.

Additionally, the 1988 Trade Act includes a provision known as reverse fast track. This provision enables Congress to rescind fast-track authority by passing a joint resolution of disapproval within any 60-day period. The rescission can occur at any time before, during, or after the agreement is negotiated. Thus, constitutional objections to fast track are baseless.

More disturbing are charges that industrial development proceeds recklessly in Mexico without any regard to the environment. With raw sewage flowing across the border into Nogales and Naco, AZ, my constituents are all too aware of the risks of environmental degradation associated with industrial development in Mexico. Certainly, the Government must take the opportunity provided by free trade negotiations to help ensure that growth will be handled in a responsible manner on both sides of the border. Public health, as well as air, land, and water resources are as important to Arizonans and all Americans as is our material prosperity.

However, it is grossly unfair to believe that environmental quality is any less precious to the people of Mexico. Nor should we assume that blocking a free trade agreement would curtail environmental abuses in Mexico. On the contrary, the less prosperous Mexico is, the less able it will be to combat these abuses. Mexicans, no less than Americans, care about the health of their children and the quality of their air, land, and water.

The worst abuses in Mexico took place before the inauguration of the Salinas administration. In 1988, Mexico adopted legislation to protect its environment that is modeled in large part after United States law and experience. Since 1989, the Salinas government has begun to seriously enforce the provisions of the law by initiating a widespread crackdown on polluters, of which the recent closing of an oil refinery is only the most dramatic example. Under Salinas, Mexico's environmental ministry, SEDUE, has ordered 980 temporary and 82 permanent shutdowns of industrial facilities for environmental violations.

The Bush and Salinas administrations agree that they must develop plans to prevent trade and development from damaging the environment. The EPA and SEDUE have been instructed to work closely together to develop a comprehensive plan for dealing with border environmental problems. Parallel negotiations between Mexican and American environmental experts is the proper way to make progress on this issue. Both the Mexican and United States Governments have given the highest priority to environmental questions as an area of bilateral cooperation. Extending fast track will enhance that cooperation. Denying fast track will undermine it.

Congress, too, has an important role to play in ensuring that progress on bilateral questions occurs coincident with progress toward a free trade agreement. I have introduced S. 503, the United States Border Environmental Protection Act, which would create with Mexico a joint fund to prevent and respond to environmental emergencies along the border. S. 503 is a response to President Salinas' assurance to me that Mexico would contribute to this fund. It is an example of how Congress can effectively address outstanding bilateral concerns with Mexico without ruining the administration's ability to negotiate a free trade agreement. I urge my colleagues to support this bill, and to consider other ways to make progress on this and other issues that will compliment and not undermine trade liberalization.

Mr. President, not all American industries are certain winners in a free trade agreement. But I am hopeful that conditions that put these industries at an unfair trading disadvantage can be worked out during the negotiations. Citrus producers and vegetable growers in Arizona have very legitimate concerns about free trade with Mexico.

It is incumbent upon the administration to address those concerns throughout the negotiations. It is incumbent upon the Senate to be sure that when the agreement is concluded it is, indeed, accurately described as a free-trade agreement, before we ratify it.

In closing, Mr. President, let me talk briefly about why I believe a North American Free-Trade Agreement is so historically significant. The political transformations that have occurred throughout the world are nowhere more remarkable than in our own hemisphere. With few exceptions, the nations of the Americas are now democracies. Latin America is no longer the land of the caudillo or the Marxist tyrant. The pace of democratization in Latin America is breathtaking, and has occasioned nearly as much enthusiasm in the United States as it has in Latin America.

But it is important to recognize the fragility of democratic institutions in Latin America. And of all the threats to democratic governments—military intrusions into politics, political violence, drug cartels, and Communist insurgencies—the most dangerous are economic crises.

As former Secretary of State William Rogers wisely recognized:

> The world of the future will not flourish behind walls—no matter who builds them and no matter what their purpose. A world divided economically must inevitably be a world divided politically.

It is wise to begin our pursuit of a hemisphere without political or economic walls with a North American Free-Trade Agreement. That agreement could serve as the cornerstone of a hemispheric free-trade regime that could compete globally with regional trading blocs in Europe and Asia.

I am confident that Congress and the administration can meet the challenge of pursuing this worthy cause.

Tengo confianza de que los pueblos de las Américas reconocerán esta gran oportunidad y buscarán abrir sus mercados desde el Yukon, Alaska, hasta La Tierra del Fuego. Estoy seguro de que aprovecharemos esta oportunidad para cumplir la promesa del Nuevo Mundo—la promesa de un hemisferio de sociedades libres y prósperas, en paz, sirviendo como un modelo para todo el mundo.

Otorgar al Presidente la autoridad fast track, nos llevará un paso más cerca a la relación de este sueño. Pido a mis colegas que voten en contra de la resolución setenta y ocho.

I yield the floor, and I yield back the remainder of may time.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I yield 10 minutes to the distinguished Senator from Pennsylvania.

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

Mr. WOFFORD. Mr. President, I thank my good friend from South Carolina for this time and for his resolution. If the administration, which is asking for extension of the fast-track procedures, had put assistance for dislocated workers on a fast track, if it has moved fast in this recession to get our economy moving again, if it had moved fast to extend unemployment compensation benefits for the increasing number of jobless Americans who cannot find jobs before their benefits run out, if this administration had done anything fast or effective to stop the decade-long decline in real incomes

of most Americans, if it had shown any commitment to move fast to help the workers who will lose their jobs under the proposed Mexican trade agreement, if it had given us any reason to believe that there would be a fast track for American workers, then we could have looked on a fast track for trade negotiations with Mexico with less skepticism, less concern, and less alarm.

But look at the record. The record of economic inaction gives us no reason to give a blank check to an administration which has regularly sold American workers short. The record gives no reason to trust that this administration will negotiate strongly to insist that environmental regulations and labor standards are on a level playing field in both countries. The record gives no reason to believe that American workers will be well served if this body gives up its constitutional authority to consider all the terms of a trade agreement with Mexico.

Mr. President, I speak tonight as the Member with the least seniority in this body, but I come here with an authority that lets me speak with special strength, to speak truth to the power of this administration. I speak with the authority of one who knows about Washington County, PA, Wyoming County, Warren County, Westmoreland County, Lackawanna County, and Lancaster County.

For the past 5 years, I have worked in those counties and in 61 others, places where the issues of world trade and international competitiveness are not the stuff of theoretical debates, places where trade means jobs, jobs mean dignity, security and oppportunity.

Do not just listen to me. Listen to the voice of a real expert on trade, a man named Melvin Aticella. Melvin is an auto worker—rather, he was an auto worker. He worked in an auto plant in New Stanton, PA. Like hundreds of other men and women, Melvin got up in daybreak every morning and went to work building high-quality cars. The plant he worked at was one of the most productive in the world. It had low absenteeism, high morale, world-class quality. Yet, the multinational corporation that ran Melvin's auto plant shut it down one day, not because Melvin did not work hard enough, not because he and his coworkers were not productive or competitive or efficient. No, the corporation shut down that Pennsylvania plant and shipped out those high-paying Pennsylvania jobs because of so-called world market conditions.

Those conditions included the low-pay wages in Mexico; environmental laws in Mexico and other countries that are on the books but not on the streets; worker rights protections that are on paper but not on the shop floor. Those jobs were lost because of a national Government in Washington that allows companies which ship our jobs overseas to ship their products back here, products that would have been made in America if we had a level playing field in the first place.

Mr. President, I have seen glass factories in India where children suffer inhuman conditions and subhuman wages. I have seen sweatshops in Asia where young women hunch over screaming machines and steamy heat. I have seen cane fields in Latin America where cruelty is common but decent wages are not.

Since living and working in India, Ethiopia and visiting Peace Corps projects in many countries of Asia, Africa, and Latin America, I have been deeply concerned about the plight of Third World countries.

But I understand the choice America must make. We must choose between lowering our standard of living to match the rest of the world or raising our productivity, training our workers, educating our children, jump-starting our economy and bringing the whole world to what John Kennedy called the "rising tide that lifts all boats." That is the trade policy that makes sense. But instead of acting to produce a rising tide that would lift all boats in Asia, Africa, Latin America, and America, this administration is giving our boats away and abandoning our own people to sink or swim.

Mr. President, I have been in this body only 13 days, but I have been in Pennsylvania a long time, long enough to hear the concerns and demands of workers like Melvin Aticella, long enough to know the problems of workers making men's slacks in Scranton, people making Calvin Klein jeans in Millersburg.

Remember this: When apparel plants close or move to Mexico, the jobs may disappear, but the people do not. They remain in their communities, often isolated, usually unemployed.

Yes, I have talked to Pennsylvania workers long enough to have the common sense to stand here and say no when an uncaring administration wants to put Pennsylvania jobs on a fast track to Mexico or a slow boat to China. For Melvin Aticella and the working men and women like him, I will vote no on any proposal that would sell out our workers.

So I will vote yes to the resolution by the Senator from South Carolina rejecting extension of the fast track.

Mr. DANFORTH. Mr. President, I yield such time as he may need to the Senator from New Mexico.

Mr. DOMENICI. I thank my friend from Missouri.

Mr. President, our country is at a crossroads. We can take the passive path of risk avoidance. In doing so we choose to let events overwhelm us. Or, we can choose an active path, one that leads toward an objective, and gives us an opportunity to influence events in a way that benefits our people.

In the case of international economics—jobs, energy, finance, and the environment—our economic strategy for the 21st century will depend largely upon how we choose to approach trade negotiations. We can engage, be competitive, and earn great benefits. Or we can retreat from our neighbors and the world, stay out of the formal trade negotiating process, live with a stagnant economy, and hope for the best.

I have looked at the opposing arguments, and reviewed the proposed compromises. I have concluded that they would lead us down the passive path. This world, one that startles us daily with unforeseeable developments, demands leadership, not passivity. Our President offers this leadership. Our Senate Finance Committee examined this issue in great detail, and agreed, on a bipartisan basis, by a 17 to 3 vote, that the President's approach is the right one.

Only through congressional concurrence with the President's fast-track authority will there be an opportunity to complete the Uruguay Round of the General Agreement on Tariffs and Trade [GATT] and the North American Free-Trade Agreement [NAFTA]. This is why I choose to join in support of the fast-track authority to complete negotiations on making the global and continental trading rules relevant and useful to America.

Despite the importance of discussions in the Uruguay round, it appears that inordinate conflict has arisen over the free-trade agreement with our neighbor, Mexico. As one of the United States Senators representing a State sharing a contiguous border with Mexico, as well as one sharing the unique distinction of similar name identification—New Mexico—I would like to suggest that we really have little to fear.

I certainly recognize that there are legitimate concerns that must, and have, been raised regarding an agreement between our two countries. There are many of us who insist that any agreement include safeguards, assurances, and guarantees against any potential negative effects that may arise. Fortunately, the administration recognizes the importance of addressing and resolving these concerns.

It is disconcerting, to say the least, to hear arguments as to the capability or intent of our neighbors on our southern border to meet and fulfill the terms of an equitable agreement. There is little acknowledgement that Mexico has undertaken a tremendous economic restructuring. It is unparalleled in our hemisphere. Only the successful postwar efforts by Germany and Japan, and the former Japanese colonies of Korea and Taiwan, can be compared with Mexico. We should admire and applaud the people of Mexico for what they have accomplished over the last 4 or 5 years. There is no reason to act superior or omniscient about our relation-

ship with Mexico—we may even learn something.

Mexicans, too, want a decent future for themselves and their children. Mexicans realize, as we do, that a strong, sustainable economy is vital to everyone. They want a clean and healthy environment—they don't want open sewers and pollution any more than we.

Why do some think an agreement with Mexico is dangerous, threatening, or undesirable? Bluntly, I believe such an attitude is patronizing. We should, in fact, look to Mexico as a country with millions of skilled, educated, and forward-looking peoples. We owe it to ourselves and the citizens of Mexico to dispel old myths, and instead get on with the business of cooperation, coordination, and economic and social growth for both countries.

This agreement will challenge all of us, on both sides of the border, to address and implement the kinds of changes we both seek so sincerely.

I would now like to turn to several issues that I believe support extension of the fast-track negotiating authority.

First, we have read extensively that this agreement may exacerbate our environmental quality. No one disputes that environmental degradation is serious; we've had our own problems in this area. However, I fail to understand how we can possibly address every single issue relating to the environmental components of the free-trade agreement before we even start the discussions. Frankly, it seems just a little backwards to me.

Accelerated population and industrial growth can create environmental problems. However, there is no reason to assume that such potential adverse impacts will not be analyzed, addressed, and resolved by the two countries sharing a common border.

The administration has advised us that parallel and comprehensive initiatives will be undertaken to address these environmental protection issues. Administrator of the Environmental Protection Agency [EPA] William Reilly has written me that the FTA has enabled our two countries to "strengthen greatly joint programs of environmental protection" and that it has offered an "unprecedented opportunity to improve the living conditions of 85 million Mexicans." I, for one, am very appreciative of this sensitivity to the needs of both Americans and Mexicans. It reaffirms that this is a joint effort on the part of two governments to protect and enhance the lives of their citizens.

Moreover, I am most pleased that the administration has detailed its ambitious recommendations for an integrated border development plan [IBEP]. This plan, initiated by Presidents Bush and Salinas during their Monterrey summit in November 1990, proposes an aggressive agenda for focussing on these issues. I have been advised that I will receive a copy of the draft IBEP that will be presented to the United States-Mexico National Environmental Coordinators at their annual meeting in June of this year. I, along with others, will have an opportunity to comment and help frame this agreement, so that our EPA Administrator and the Undersecretary of the Mexican Secretariat of Urban Development and Ecology [SEDUE] can continue their discussions and negotiations throughout the year.

Additionally, New Mexico State University in Las Cruces, NM, is a member of the Southwest Center for Environmental Research and Policy. This consortium of four United States universities and the Monterrey Institute of Technology in Mexico has been identified as an important resource for addressing these environmental concerns. The consortium will contribute significantly through its projects, studies, research, and specific policy recommendations. It will be able to participate and play an important advisory role in these negotiations, and I am confident that its technical input will be of invaluable assistance over the months ahead.

I was advised by the Region 6 EPA Administrator that the IBEP "is an exciting, positive step toward bilateral environmental improvement." The New Mexico State University Border Institute, and others in our State, are actively pursuing research efforts and providing recommendations for these environmental discussions. I am most pleased that the administration recognizes the advantages of working with and soliciting the advice of our U.S.-based academic institutions. This is an important resource that should be, and is being, optimized.

I would also like to note another important research initiative by a New Mexico institution with the country of Mexico. The United States Department of Energy and the Mexican Petroleum Institute are conducting a multimillion dollar computer model study to understand the pattern of air pollution in Mexico City. This effort is being designed and developed by the Los Alamos National Laboratory in Los Alamos, NM. This illustrates the resolve and commitment of the Mexican Government to tackle the most serious environmental problem facing that nation—that is—the extremely serious air pollution that plagues its capital city. I applaud the Mexicans' willingness to work with our country's top scientists to help solve this dangerous and life-threatening problem.

As detailed in the administration's submission of recommendations for a long-term integrated border environmental plan, it intends to establish a systemwide exchange of relevant scientific/technical data and information as well as facilitate the transfer of technology for the environment. I can think of no better physical or intellectual environment for these efforts than in our universities and scientific laboratories in New Mexico. We have extraordinary talent and commitment to these objectives; we have in-depth experience in exchange efforts with our neighbors to the south; and we have the scientific skills and academic credentials to meet the necessary standards of excellence.

I have mentioned these New Mexico efforts because I firmly believe we need to take the opportunity, whenever possible, to explain to the American public that the United States and the country of Mexico have much to gain by proceeding with the fast-track procedure. In the case of the free-trade agreement with Mexico, it benefits both countries. It maximizes the dialog between our two peoples to help both, and it invigorates the exchange of information and friendship that has been absent far too long. And, finally, it supports the administration's reassurances that deep concerns will not be overlooked or ignored, but instead collaboratively resolved over the weeks and months ahead.

I believe it is also very important to point out that while we anticipate the integrated border environmental plan to be in place by late 1991, the actual implementation will take place over an approximately 10-year period of time. For those who are concerned that complicated and comprehensive environmental issues will be left unattended because of fast track, nothing could be further from the truth. These issues will be laboriously negotiated, step-by-step, line-by-line. However, there will be ample time to implement the necessary transactions or changes over the next decade. We can be assured there will be strong procedures and safeguards for monitoring, designing, and implementing environmental actions or activities.

A second issue of importance to me is the commitment of maintaining our border facilities along our United States and Mexico boundaries.

Increases in economic activity between the United States and Mexico require significant investments in our border infrastructure. In 1989, I, along with my distinguished colleague from Arizona, Senator DECONCINI, ensured that sufficient funds were included in the Treasury, Postal Service and General Government Appropriations Act for capital improvements of our border facilities. Over the past 4 years, a total of $356.96 million has been provided to repair, renovate, expand and construct U.S. inspection facilities along our border. The work funded and presently underway through the Southwest Border Capital Improvements Program will increase our capacity to meet initial increases in economic activity under a

North American Free-Trade Agreement.

Additionally, I am pleased to note that the Customs Service is developing a directive to establish a national policy for handling hazardous materials at our ports of entry. The Customs National Logistics Center will also provide a study for developing design and construction standards for hazardous materials inspection and containment facilities. These standards will be incorporated into the "U.S. Border Station Design Guide."

These efforts coincide very well with the administration's integrated border environmental plan. This further emphasizes that negotiating a free-trade agreement with such multifaceted components demands adequate time under the fast-track authority. However, it also reaffirms that the administration, in coordination with various U.S. agencies and departments, can and will address the complex issues associated with this agreement.

Mr. President, many legitimate concerns have been raised with regard to extension of the fast-track authority. Congress and the American public have every right to expect thorough, careful and rigorous negotiations. I can see absolutely nothing that will preclude our Government officials from conducting such negotiations under the fast-track authority. In fact, to my way of thinking, fast track is the only means by which our U.S. negotiators and their counterparts can discuss the multiplicity of issues.

It goes without saying that we can guide, direct, and advise our negotiating teams. We should not, however, assume that 500-plus Members of Congress can impose specific language—crossing every single "t" and dotting every single "i"—before the negotiators even sit down at the table.

We have more than made our concerns and views known. Let's let the administration proceed with its work. We can all avail ourselves to the administration's open invitation for counsel during the process. And, we will have another opportunity to decide how well the negotiators have addressed our concerns and challenges when they present the final documents for approval.

I recognize that there are many issues to be resolved—from possible American job losses, to fair agricultural policies for our American farmers, to workers' health and safety standards.

However, I for one, have enormous confidence in our process of advice and consent. I congratulate the administration on its collaborative spirit—its willingness to seek our support and assistance. We should get on with the business of negotiating these important instruments. We can negotiate fair and solid agreements with all of our trading partners, but only if we give our negotiators the wherewithal to proceed. I believe they need and deserve our support.

In conclusion, I believe President Bush said it best: "* * * refusing to extend the fast track would end negotiations before they have even begun and relinquish a critical opportunity for future economc growth." I cannot agree more.

Mr. President, it is now past midnight and it is optional as to whether one wants to speak more on this matter at this hour.

I just want the friends that I have in Mexico and those here in the Embassy to know that I thought this was one of the most important discussions that we will have a chance to engage in as Senators, and so I chose even at this hour, knowing full well that the debate has already ended—most Senators, if not all, have made up their minds—to speak for a few more minutes.

We have heard a lot of talk tonight about what is good for American workers. I submit that what is best for American workers is a thriving Mexico, a Mexico that is prospering, a Mexico, the standard of living of which is rising each year, moving dramatically toward that of their neighbors in the United States and Canada.

Or another way to put it is the best way to make sure that we have less trade, thus less jobs, is to do what we can to keep Mexico poor. I defy anyone in this Senate, speaking in behalf of the working men and women of the United States, to deny that.

The best way to keep American workers limited, in terms of where they are going, where their companies are going, where the profits are going to come from, is to keep our neighbors poor. For just as sure as we do that, the jobs in America will shrink, shrivel, and disappear.

How can we stand here tonight and suggest we are helping American workers by keeping Mexico poor? Right on our border sits the greatest market for American goods, services, and products anywhere in the world. Why is it not a bigger market? It is a pretty good one, growing dramatically, maybe our third largest trading partner.

Why is it not larger? Because Mexico is poor. Why is Mexico poor? Is something wrong with the Mexican people? Of course not. Is something wrong with their environment? Of course not.

Huge pieces of Mexico's geography are just like California, next door to us just like New Mexico, right across the border just like Texas. They are poor because they have not had leadership that wanted Mexico to grow and prosper in a world market. They decided for decades to isolate themselves. In fact, their political leaders talked as our political leaders have been talking in this Chamber for three decades or four: Do not export any Mexican jobs. Make government deals to keep everything here in Mexico—frightened to death of having any business relationships with America. What happened to them? Poverty was abundant. Growth was minimal. Inflation was rampant. And then even what good they had, the capital that their sweat produced left the country.

Now what has happened? In a short period of time they have two leaders that decided that must change. Now they have one, President Salinas, and I say to the occupant of the chair, President Salinas, when he leaves office, God willing that he is in good health, he will be an international leader of renown. He will travel the world showing Third World countries how to grow and prosper. They are already inviting him. He does not have enough time to answer their requests. All of Central America has invited him there. "How are we going to grow and change like you have changed Mexico?"

In fact, the other day, the Senator from New Mexico met five Third World leaders not even of Hispanic origin; from Europe. Guess who they wanted to talk to them about their future and their transition from sloppy, slow-moving, socialist, Communist regimes to capitalist entrepreneural economies? Their idol and their teacher was the President of Mexico.

How fortunate we are. And we stand here on the floor of the Senate and talk as if it is a very dangerous situation, dangerous for our workers, for our future. How fortunate we are that Mexico decided to change. They sit there and say "We want to be like you." And we sit here tonight, some of us, and say "We are frightened of you. You are going to take our jobs away."

Well, if there are any Americans worried about that, other than a few, perhaps organized labor union leaders, let me say to Americans, we are 25 percent of the world's economic wealth, the U.S.A., 25 percent as you measure GNP's. That is America, 7 percent of the world's population, 25 percent of its wealth.

What is Mexico? We think it is 1 percent. Is not it amazing? We are frightened to let our negotiators negotiate open markets with a country that is 1 percent and we are 25 percent. We are 25-percent stronger, more powerful, and we do not think we can compete in Mexico's economy and come out?

Some are saying we will come out short. I am saying we are going to come out long.

What if we came out neutral and Mexico improved dramatically in the process? At least our children would find a Mexico coming close to what this President, President Salinas, wants of Mexico, and that is a Mexico not seeking help from America, but a Mexico helping itself, a Mexico that does not want to send her people to America but wants to sell her goods to America to the world and accept goods

and services from the world for her people.

For Americans who think that we go so fast, do not forget trade agreements provide very lengthy transition periods for those who are worried about what will happen next week or next month. Some of the Canadian free trade arrangements are 10 years in duration. It takes 10 years for the whole phasein. Those are going to be negotiated.

That is the essence of an agreement of this type, that you sit down and talk about what is reasonable, what is ordinary; but what you do is you minimize the barriers, the extraordinary and imposed costs the Government puts on goods and services moving between countries, tariffs, and barriers.

Let me suggest another anomaly. For some to argue this is going to be bad for us, when we are already exporting more to them than we are importing from them, and we are doing that, American business is doing that with American workers, we are doing that with barriers running against our goods. For the most part the trade barriers and tariffs are imposed on American goods going to Mexico. Those are going to come down because they have confidence in themselves.

So it seems to me at this particular moment in this hemisphere's history, when for about 7 or 8 years we look off to the world and we are constantly worried about Europe, and Europe unifying, and Japan competing and we are frightened of it—here we have an opportunity to let our best trade negotiators sit down and talk with Mexico, our neighbor, and see if we cannot put together our own trading community.

If it works between Canada and America and Mexico, we will dwarf any other market in the world. Why would we not want to do that? I cannot understand why we would not want to do that.

I close by saying for those who say to Mexico, "We are worried about your environment,"—well, I wanted to use the word that is "arrogance," but I will not. I will just say I cannot believe we are prepared to say "Mexico, you and your people cannot be trusted with your environment, so stay poor because if you grow and prosper, you are going to pollute the air and the water. And you do not know how to protect yourselves. So we just do not think you ought to be permitted to raise your standard of living even though you are right next door to us. You have many of your relatives here, especially in the border States. We just do not think you will take care of yourselves."

I do not believe that is a very good case. I do not believe that will work. I believe we can work with Mexico on environmental issues, but I believe we cannot say to our neighbor we are not going to help you in a free-trade arrangement to prosper, even if it means we sell you more of our goods and services, because we do not think you are going to take care of your health and safety. I do believe that is very, very close to arrogance. I am not quite sure that is the right word, but it surely comes close.

So from the Senator from New Mexico's standpoint, it should be obvious, I think, America's future is tied with Mexico, and I believe it is tied with much more hope for our people and for their people if we tear down the trade barriers in due time under an orderly arrangement; and we trust our competitive spirit and entrepreneurial skills; and we say to them, "We hope you get more of those. Use your people in good jobs, ever increasing your standard of living, and we will both come out better and our people will come out better."

I think that is what modern times are all about. To do otherwise seems to this Senator to be living in another time, perhaps even in another part of the world. I just do not believe it is going to work.

I hope tomorrow we will give our President authority to enter into this agreement, work at it. Maybe what he ends up with we will not like. But for now we ought to give our President a vote of confidence and, strange as it may sound, we ought to give the President and current regime in Mexico our vote of confidence, and say we think you are on the right track and we are going to vote the fast track in.

I yield the floor.

Mr. DANFORTH addressed the Chair.

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

Mr. DANFORTH. Mr. President, I do not think there are any other speakers who want to be heard tonight on this subject. I know the hour is very late. The subject is also very important. It is one I have been dealing with on the Finance Committee ever since 1979, the question of trade. Therefore I would like to indulge the Senator from Montana, the distinguished Presiding Officer, and the Senator from New Mexico, if he cares to stay around, for a short time even though the hour is late because I really cannot be silent throughout the debate on such an important subject as trade.

Mr. President, I am a believer in change. The present world trading system needs change.

That is the long and the short of the argument. It is not good enough the way it is. It is not good enough to serve the interests of the American people. The world trading system is not good enough today to serve our people, and the hemispheric trading system is not good enough to serve the American people.

The trading system must be changed, not for the benefit of somebody who lives somewhere else, although a growing world trading system does benefit a lot of people worldwide. But we are not Senators for Mexico, Canada, Europe, Japan, or anywhere else; we are Senators in the U.S. Senate. We serve our constituents in our States, and the world trading system is not good enough for our people. They are being hurt by the present rules and by the way the rules are being enforced, or not enforced.

Improving the rules of world trade, and better enforcement of those rules, are goals to serve the needs of our people in our States and our country. That is why we enter into trade negotiations. In these negotiations, we do not know how they are going to turn out. What we do know is that the status quo is not very good; it is not good enough, and it has to be changed.

Americans who want to sell abroad are not able to sell abroad. Complaints are legion of Americans who try to sell in Japan or Korea; American soybean producers who want to sell in Europe; beef producers who want to sell in Europe. And they are not able to do it. Farmers want to sell in Mexico and are not able to do it, because the rules are not fair.

And everybody says: Make the rules fair, and we can compete. Give us a level playing field, and then we can compete. But the rules are not fair. So what trade negotiations are about are efforts to make the rules better to serve our people.

We happen to have a wonderful and very tough trade negotiator in Carla Hills. What we are saying is just give her a chance to improve the rules for our workers, for our people, so that we can get a better shake, because we are not getting it now.

It is very interesting that the reason we are not able and did not really voluntarily on our part consummate a deal on the Uruguay round last year before fast-track authority ran out was that Carla Hills was so tough in negotiating the agricultural agreement with the Europeans. She would not take a bad deal, so the time ran out. And now she has to come to us, because she was so tough in those negotiations.

How ironic it would be for us to say: Well, Madam Ambassador, good job; but you out-tricked yourself. Therefore, we are going to let fast track expire.

What this debate is about is whether we are going to try to improve the rules of international trade and the enforcement of those rules for the benefit of our own people. Right now, the rules are not working well enough.

Just two examples: One, agriculture, particularly with respect to the Europeans. The European Community spends more on export subsidies alone than we spend on our entire farm program. That, Mr. President, is wrong. It is wrong, and it hurts American farmers. And it should be changed for the benefit of American farmers.

With respect to Mexico, a wonderful market for American agriculture; but 40 percent of American agricultural exports to Mexico today are exports under export licenses to Mexico. We have to get a license to sell. That should be changed. It is not fair.

And because it is not fair, this fast-track extension is supported by the American Farm Bureau, American Soybean Association, Wheat Growers, Cattlemen, Corn Growers, Pork Producers, and on and on and on. They know that the future of American agriculture is opening world markets. They know that world markets are unfairly closed to them, and they want them opened up.

A second example: A lot of people have said today that if we agree to fast track, somehow the result of all of this will be that American jobs and American plants will be exported to Mexico. Auto plants, automobile manufacturers. We have a very large automobile manufacturing State, so it is said that auto plants will move to Mexico.

Mr. President, they already have. Ford, GM, and Chrysler plants are in Mexico today. Why is it that they are in Mexico today? It is because the rules established by the Government of Mexico today are unfair to American auto companies and auto workers.

Our tariff on imports from Mexico, automobile imports from Mexico, is 2.5 percent. The Mexican tariff against exports from the United States to Mexico is 15 percent. Our tariffs are six times more than their tariffs on automobiles. Why is that fair to American auto workers? Why should we say that the status quo helps American auto workers?

Mexico places a 15-percent domestic content requirement on automobiles that are sold there. We do not have such a requirement. Why is that fair? Why should Mexico be able to have a 36-percent domestic content requirement on automobiles sold in that country? For every dollar of autos imported by an auto maker into Mexico, the auto maker must earn $2.50 in auto exports from Mexico. Why is that kind of a rule fair to us? It is not.

So the point of negotiations is to try to change these rules. And the opponents of fast track, as I understand their position, are saying: Let us not even try to do that. Let us not even make the effort.

Any negotiated agreement has to come back to the Congress, but they say do not even go through the motion.

Mr. DOMENICI. Do they not say leave it like it is?

Mr. DANFORTH. Leave it like it is.

Mr. President, Carla Hills testified before the Finance Committee, and it is the overwhelming opinion of people who know anything about international trade that without fast track there is no possibility of a trade agreement. It is just not going to happen. People will say let us have a trade agreement, but without fast track, Carla Hills says she has been told by her negotiating partners, forget it, we are not even going to talk to you.

We said back in 1974 when fast track was first passed the reason they passed this anomaly to the American legislative process, the reason to do it was that it was a necessity, that we could not have trade agreements without it. And since 1974, we have negotiated both bilateral agreements and the Tokyo round under the fast-track process. We would not have had any of them without fast track. Let us at least try.

Finally, Mr. President, just one final point. I really do believe that the fundamental issue before us is not some arcane procedure known as fast track; I really think that the underlying issue in this debate truly is free trade versus protectionism. And I understand the position of the protectionists. They are frightened. They are frightened of change, they are frightened of competiton. They are concerned that maybe we cannot keep up, maybe we cannot compete, maybe we cannot prosper if we do business in international markets.

I think that that is an understandable position. I think it is also a pitiful position. I think it is a position that connotes, in my mind, an image of an outing of kids where all the kids are charging ahead up some hill and hundreds of yards back there is this pudgy, weak kid, and he is stumbling along and he is wheezing and he is whining, and he says, "I cannot keep up. Wait for me."

That is not my image of this country, to say to the world, wait for me, I cannot keep up. The world is not going to wait. The European Community is not going to wait for us. The emerging countries, the Pacific rim, they are not going to wait for us. Even Latin America is not going to wait for us. There is not any safe world in Fortress America anymore.

If our image of our country is the weak, pudgy, whining kid struggling hundreds of yards behind his fellows to try to catch up, whining and saying, "Wait for me," if that is our image of America, the world is not going to wait. It is going to keep charging ahead, and we are going to fall behind more and more and more. There is no substitute for being in shape. There is no substitute for being tough and strong and competitive. Protectionism is not a substitute for that. Whining is not a substitute for that. There is no substitute.

And there is no alternative, in the opinion of this Senator, than to at least try to negotiate fair agreements, to allow Americans to do what we have always done best and that is to compete.

Mr. President, I know of no other speakers on this side.

Mr. BOND. Mr. President, I rise today opposing Senate Resolution 78, which would bar the extension of fast-track procedures to future trade agreements. Without question, the failure to extend fast track will cause a failure in the trade negotiations.

Fast track is a creation of Congress. No country is willing to take a chance on 535 Members of Congress to negotiate a trade package. Congress understood that trade agreements were particularly vulnerable to multiple amendments which could unravel entire agreements when Congress created the current version of fast track in 1974.

The Uruguay round and the North American Free-Trade Agreement present a historic opportunity to achieve meaningful reform of world agricultural trading practices. American farmers and other agricultural interests have long supported international efforts to achieve more open markets and fairer trading rules for agriculture through multilateral trade negotiations.

Agricultural exports remain one of the few bright spots of U.S. trade. The food and fiber sector now accounts for roughly 20 percent of all jobs in the United States, and 17 percent of total gross national product. For every $1 billion increase in U.S. exports, over 20,000 new export-related jobs are created. In 1990, U.S. agricultural trade had a surplus of more than $17 billion—$40 billion in exports and $22.5 billion in imports—and supported 1,055,000 jobs, of which 426,000 were on farm and 629,000 were nonfarm.

My State is an aggressive exporter. We're proud to compete and win in the world's markets. Exports mean jobs for Missouri and a good trade agreement will lead to more exports and more jobs. In agriculture, for example, Missouri exported over $1.2 billion of agricultural products in 1989—62 percent of our soybeans, 78 percent of our wheat, and 49 percent of our corn and feed grains. Agriculture is an export industry and in most years the United States ranks No. 1 in the world.

As the most productive nation in the world, the United States should position itself to take advantage of new opportunities. The Mexico Free-Trade Agreement and the GATT Uruguay round are just two of the opportunities that will benefit American agriculture.

Despite the slow pace of the Uruguay round negotiations, the benefits of a substantial agreement suggest it is worth a short delay. With a GATT Agreement, U.S. farm export sales by the mid-1990's would likely be $6 to $8 billion higher—about 16 percent to 22 percent higher than now. That should create roughly 120,000 to 180,000 new jobs.

A North American Free-Trade Agreement would be one of the largest economic areas in the world. Mexico was the fifth largest single market for United States agricultural exports in fiscal year 1990. During this period, a total of $2.7 billion in agricultural products were exported to Mexico.

Mexico's population is increasing rapidly and they continue to struggle with a growing poverty level. Mexico, Canada, and the United States have the same Achilles heel. Simply, North America imports too much, and exports too little.

Without trade agreements, American agriculture will be faced with the very real threat of escalating and damaging trade conflicts in agriculture. Without multilateral trade reform, governments will seek to protect their economies. Trade barriers against imports are often introduced in the earlier stages of economic development and increase later on. This will lead to a new cycle of trade tensions and rising protectionism, as governments attempt to counter the impact of lower prices on farm incomes.

A vote for fast track is a vote for jobs and opportunity. No fast-track authority means no trade agreement and that means missed opportunity and lost jobs.

A vote on the fast-track authority is not a vote for a GATT Agreement, or for a North American Free-Trade Agreement. A vote for fast track is simply a vote to enable the talks to proceed. Congress will have the last say when either agreement is brought back to Congress for approval. Whether a trade agreement is in the overall interest of the United States can only be determined by looking at the whole package. It is essential we give these talks a chance. I urge my colleagues to vote "no."

Mr. SANFORD. Mr. President, I rise in support of Senate Resolution 78 offered by my colleague from South Carolina. This resolution calls for the disapproval of the request for extension of fast-track procedures under the Omnibus Trade and Competitiveness Act of 1988. The administration has requested this extension to complete the Uruguay round of multilateral negotiations, to initiate negotiation of a North America Free-Trade Agreement with Mexico and Canada, and to pursue trade objectives under the Enterprise for the Americas Initiative. With the extension of fast-track procedures, legislation implementing any trade agreements reached would be accorded consideration by the Congress without amendment by an up-or-down vote.

The request for extension of fast track has sparked extensive debate. This issue is clearly more than just a struggle over procedures. It is a struggle over the vision of what the United States trade policy should be.

This is indeed a telling time for United States trade policy. Many of us in the Congress have grown increasingly tired of watching agreement after agreement being negotiated in the name of free trade only to see the tremendous devastation such agreements have wrought upon key sectors of our economy and our work force. We have come to expect reliance on an approach which exposes manufacturing to low-wage competition in return for increased access to service markets of developing economies. This has been tolerated as an approach to trade in the vain hope that somehow the increase in services will compensate for the losses from manufacturing. For many, this amounts to an enormous sacrifice—a sacrifice we are all too ready to let someone else bear: the workers of America.

It is time to take a realistic look at whether the mythical goal of free trade is worth the toll it has taken. To meet the needs for our economic future, we must expand the breadth and depth of the debate beyond the procedural confines of fast track and we must do so now.

TEXTILE AND APPAREL INDUSTRY

With apologies to William Earnest Henley, the lines from his poem Invictus might well describe the state of the textile industry today.

In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeonings of chance
My head is bloodied, but unbowed.

The industry has withstood just about all the "bludgeonings of chance" it can. My home State is the largest fiber, textile and apparel State in the country with over 350,000 workers. We are proud of our record, proud of this industry, and determined to ensure that any trade policy that is adopted recognizes and treats fairly this essential segment of the economy.

The textile industry has always played an important role in the basic manufacturing of the United States. With 2.2 million workers and an annual payroll of $25 billion, the U.S. textile and apparel industry constitutes a major share of our manufacturing base and serves as the largest manufacturing employer of women and minorities.

This once vital industry has experienced great loss and even greater suffering. With the end of the 1980's, orders for domestic textiles are at their lowest level in several years, employment is down and plants have closed. In the last decade alone, North Carolina has experienced the closing of 391 plants with a loss of employment of over 47,000 workers.

In letters from Burlington, Mount Olive, Wake Forest, Cordova, and Raeford, textile workers have written to express their fears and their concerns. Their jobs are on the line. The stability of their lives rests on the decisions we make here today. These trade agreements are feared by the workers because they represent increasing pressure to accept lower wages, benefits and work standards in order for their companies to stay competitive and for them to stay employed.

The loss of jobs in the textile industry many argue is attributable to increasing production efficiencies and advances in technology, but that would not be entirely the truth. The textile industry has already made these adjustments by developing machines for repetitive jobs once done by humans. Unlike the textitle industry, however, the apparel industry cannot find a way to make all of its products by machines; it must rely on people to do the job. These workers have seen imports of textiles and apparel products triple in the last decade. The consequence of this has seen effect in North Carolina, as I have mentioned, as well as nationwide with a loss of 400,000 jobs. This relentless tide of imports has without a doubt seriously injured a once vital sector of our economy.

Huge portions of both the apparel and footwear markets in the United States have now been captured by imports. In 1980, imports accounted for 28 percent of the market. They now account for 50 percent of the market. That number represents an alarming statistic. Equally disturbing is the fact that the United States now imports 2.3 billion more in apparel than we export. Imports continue to surge while the domestic market remains stable at a 1-percent growth level. As a result, U.S. profits are down 71 percent. We cannot let this invasion of foreign textiles continue. At the rate we are going it will not take long for the textile and apparel industry to virtually disappear from the American industrial scene as both a major manufacturer and an employer. In a 1988 study, Alan Wolff, a former deputy U.S. Trade Representative, stated, "[t]the disappearance of significant portions of the industry would not only affect firms and workers in the textile complex, but its adverse effects would ripple throughout the U.S. manufacturing, agriculture and services industries." Mr. President, this industry is in the "fell clutch of circumstance" and, unfortunately, it is one of our own making.

LABOR CONCERNS

The textile industry is often considered the classic entry industry for development. But, what does that mean for the American textile worker? While jobs are being lost to imports, we are told that they will be replaced with higher skilled jobs. Really? Will that assurance make it easier to explain to a displaced textile worker and to his community? This is not just a textile industry problem, Mr. President, although I am highlighting it. The problem is more universal than that. For many of these displaced workers—mi-

nority, rural or disadvantaged workers—more often than not there are few work alternatives. Most of the jobs lost in the United States in the last decade occurred among non-college workers. Hardest hit are the least mobile and poorest workers. Labor Department surveys have shown that U.S. workers dislocated by foreign imports, if they've managed to find other jobs, have found less skilled jobs at lower pay thereby reducing their standard of living even farther.

In this regard, the administration has recently delivered an action plan to the Congress which attempts to address many of the very critical and legitimate concerns the Mexico Free-Trade Agreement, like GATT, has raised. These issues include not only worker displacement, but also the differentials in labor standards and wages between our two countries, the effects of varying standards of environmental control have upon competition, and differences in health and safety requirements. Unfortunately, the action plan obfuscates more than it offers solutions. If it is a step toward integration of trade issues into a broader framework, then it is a small one. I do not disparage the fact that the administration has at least taken this step. Nevertheless, consider for just a moment that we would not even be discussing these other issues were it not for the fact that many in Congress have forced it to be so.

Congress has the right and the responsibility to demand even more and it should. For one thing, we should demand a more measured and realistic assessment of the benefits to be derived from the Mexico Free-Trade Agreement. The various studies that have been undertaken, thus far, contradict one another and fail to help us clearly understand just what is to be achieved.

In one report, the International Trade Commission [ITC] predicted that unskilled workers in the United States would suffer a slight decline in real income but skilled workers would benefit. In a later study, the ITC reported that "all classes of workers would find their real income increase as a result of the FTA." The Clopper Almon—INFORM-CIMAT—study of September 1990 for the Department of Labor predicts a net job gain of only 64,200 over a 10 year period! The Peat-Marwick study for the U.S. Council of the Mexico-U.S. Business Committee of February 1991 assumes full employment and then predicts no changes in U.S. employment levels at all. By contrast, the Economic Policy Institute suggests that there will be a loss of 550,000 high-wage American jobs and the Economic Strategy Institute argues that potential job losses may exceed 900,000.

Against this welter of information and disagreement, the administration has offered to work with the Congress to ensure effective, adequately funded worker adjustment and training programs. However, it is notable that funding requests for adjustment programs have been consistently beneath authorized levels since enactment, and the administration has repeatedly called for the abolition of the separate trade adjustment program. This year's budget proposal for that program was zero. The offer to now redress worker adjustment and retraining with, perhaps, an entirely new program cannot help but strain credulity.

The Congress has the right and the responsibility to demand even more and it should.

ENVIRONMENTAL CONCERNS

Environmentally, the situation could not be much worse. Again, the administration has taken a step, but it is a small one indeed and one that is relegated to a separate and parallel track. We have asked the administration to conduct an environmental analysis or assessment following the guidelines of the National Environmental Policy Act. We have also asked that the "harmonization" of environmental and health standards between Mexico and the United States not be used to diminish United States environmental law, or to challenge that law in the context of nontariff barriers. The response has not been reassuring.

Environmental protections and economic integration, as never before, must be linked in the consideration of trade agreements. A trade agreement with a developing country like Mexico requires new approaches to address new and serious problems. Today, the border region between Northern Mexico and the Southwestern United States is experiencing the environmental stress of increased industrialization—much of which is associated with the maquiladoras. The maquiladora represent a unique experiment in bilateral industrialization that is touted by some as a success. For many, however, the program rerpresents much that is irresponsible, intolerable and inhumane. The environmental destruction wreaked by the maquiladoras in the free trade zone along the border is the best argument for closer examination and inclusion of environmental issues in the trade agreement with Mexico.

Enjoying the advantages of low wages, minimal if nonexistent work protections and standards, and looser enforcement of environmental standards, many U.S. companies have moved operations to this border region. Nearly 2,000 maquiladora plants now exist and employ close to 500,000 people. The loss of U.S. jobs, the exploitation of Mexican workers and the environmental havoc are documented. Air pollution form the maquiladora drifts as far as the Grand Canyon, and Mexico's New River is considered one of the most polluted rivers in North America. We cannot begin to measure the toll that has been taken in human misery and suffering from the living and working conditions that exist. The American Medical Association [AMA] has called the region a "virtual cesspool and breeding ground for infectious disease." The AMA further stated that "[u]ncontrolled air and water pollution is rapidly deteriorating and seriously affecting the health and future economic vitality on both sides of the border."

What is the allure of the maquiladora program? Why do companies relocate operations to Mexico? Besides lower wages and less enforcement of labor health and safety standards, consider what the environmental advantages are for such companies. The Mexican environmental program is managed by the Secretaria de Desarrollo Urbano y Ecologia, SEDUE, which is also charged with authority over parks and housing. SEDUE has few financial, personnel and technical resources—its entire annual budget in years past was about $10 million and only raised this year in anticipation of the trade agreement. SEDUE has a technical staff of about 140 people to oversee the environmental laws throughout the entire country, not just the border area. According to Sergio Reyes Lujan, Subsecretary for SEDUE, his greatest challenges are "the lack of people and training and more sophisticated technology." As a result, Mexico has relied on a program of voluntary industrial compliance with environmental regulations.

Inadequate environmental protection produces obvious problems, not the least of which is an artificially lower cost of doing business to the products produced or processed in the maquiladoras and throughout Mexico.

The administration has responded to the environmental concerns raised by Congress and others by promising to address them on a parallel track leading to a possible, but by no means guaranteed, parallel agreement. Environmental concerns are not part of the dispute resolution process and I am not assured that any environmental agreement will have any actual bearing on the implementation or operation of the Mexican trade agreement.

SUPPORT FOR SENATE RESOLUTION 78 AND 109

It is with these concerns in mind that I now approach the request for fast-track approval. I support Senate Resolution 78 because I am convinced that fast track is an inappropriate mechanism to support an issue of such magnitude. It is up to Congress to put United States-Mexico economic integration into a broader framework, to drive the negotiations toward the objectives we seek. It is up to Congress to put U.S. and world trade negotiations into a structure that provides for mutual prosperity. We cannot support losing jobs at home in order to create them abroad. We cannot support cleaning up our air or our rivers and streams

at home in order to pollute them elsewhere. We cannot support worker safety and health protections at home only to exploit those in less advantaged countries. Let us not rush head-long into action, any action, before we have had the opportunity to ensure that what we do works to the benefit of the country and not to its ultimate detriment—that what we do helps our workers and our manufacturing and does not hurt them, that the road to recovery is paved with good intentions but realizes actual benefits. Let us structure the negotiations now before we proceed, not wait to see what might turn up later. And, finally, let us not relegate ourselves to a take or leave it status.

On this issue, I am aware that there are many who find the assurance from the administration adequate and many who will want to see the negotiations move forward under fast track. I can read the handwriting on the wall. Although I would wish it to be otherwise, I recognize that resolution 78 is not destined to prevail. With that in mind, I am also supporting Senate Resolution 109 offered by my colleague from Michigan, Senator RIEGLE. This resolution will modify fast-track authority for the free-trade agreement with Mexico to allow Senate floor amendments in five specific areas when the proposed implementing language for the treaty is presented to us. The five areas are: monitoring and enforcement of fair labor standards, monitoring and enforcement of environmental standards, rule of origin, dispute resolution, and adjustment assistance for United States workers, firms and communities. By contrast to the Hollings resolution, the Riegle resolution modifies fast track for nontariff related matters under the Mexico agreement but does not eliminate fast track for the remainder of the agreement or for the GATT negotiations. I believe this is the very least we can do to ensure that the Congress remains engaged in genuine and concrete consultation with the administration during the negotiations that will be undertaken with Mexico.

CONCLUSION

In conclusion, Mr. President, I would remind my colleagues that the United States of America has throughout its history made contribution after contribution to the wealth and well-being of other nations. As we move into the next century, we must be mindful of changing circumstances and our position among the nations of the world. The post-war sway once held by this country is no longer the case, and, a different order is emerging. We must recognize these changing times, these changing circumstances and the changing needs that they engender. How do we do this? One way, Mr. President, is to continue the discussion we are now embarked upon. At the beginning of this debate, when the request for extension of fast track approval was first presented, much rhetoric was expended on the necessity to limit our attention to a so-called simple procedural decision. Since that initial request, however, we have at least gotten the administration's attention on a broader range of issues. We have actually succeeded in bringing to the forefront issues of the very highest concern and we should proceed to discuss them. Because it is not likely that we will do so, unless either of the resolutions passes, I want to make it clear what a vote to extend fast track will mean. I want the administration to understand that a final agreement negotiated under this authority will be carefully scrutinized, assessed and reviewed. If any agreement reached through trade negotiations does not or cannot withstand the intensity of this examination, it will fail and I do not want to hear it said then, as an argument to support such an agreement, that we are under the gun to give our approval because so much has been invested in time and effort, because it would embarrass this government or another government. No, that will not be enough to gain passage of an agreement. If the promises made regarding these agreements are not reflected as promises kept then there will be no end to the debate and discussion that will ensue.

Finally, let me close by reading you the words of one of my constituents from Spray Cotton Mills in Eden, NC who wrote to me urging my disapproval of the fast-track extension. The letter closed with these words, "I have never been impressed by the negotiating ability of our government when it deals with other nations and I believe that they would do a better job if they were faced with the fact that their proposals would be reviewed and amended, if necessary, by Congress. Our government people never seem to learn that one does not get what one deserves, one only gets what one negotiates."

Mr. WALLOP. Mr. President, I join today's debate to express my support for the fast-track trade negotiation authorization. This authorization has been a useful procedure for eliminating trade barriers, and expanding American economic opportunities in the international marketplace. As we are currently reminded by the Uruguay round talks, negotiating a multilateral trade agreement is more aggravating and frustrating than trying to negotiate the Capital Beltway, but very rewarding when the final destination has been reached.

But, I also want to raise some concerns that linger from our last experience with a fast-track agreement. I am very excited about the prospect for a North American Free-Trade Agreement. We are on the verge of creating the largest free market in the world. Yet, I retain a healthy skepticism about the signing away of a congressional voice in the formulation of that agreement.

For the past 17 years, Congress and the President have cooperated under fast-track procedures to promote worldwide free trade. This has expanded opportunities for American companies to invest abroad, created jobs for Americans in export industries, and provided American consumers with competitive prices for goods and services at home.

Fast track is a marvelous mechanism for facilitating action rather than engaging in the normal debate and amendment process. We basically suspend our rules of procedure—out of necessity for maintaining an international trade agreement which would have to be renegotiated if any change were added by Congress. This procedure distorts the legislative process by empowering the executive branch to determine the content of legislation. The net effect of the fast-track authority has been good, but it does require a rather strong act of faith by the Congress. We have to accept that the negotiators chosen by the administration will be tough and effective advocates of America's interests.

America can be a strong competitor in the world marketplace—we have desirable products and services. But, we can only be competitive if this international marketplace is free of price distorting subsidies and artificial quotas. I can cite examples from my own State of Wyoming where we have a product that can compete in any market—if the barriers to entering the market are removed. For instance, in Sweetwater County there exists over 90 percent of this country's deposits of trona ore. In fact, we have the largest deposits in the world. My colleagues may wonder what is trona—next time you take some Rolaids after one of our late night sessions, you will be chewing trona. Trona ore is a mineral which is converted into soda ash, the primary ingredient used in making soda bicarbonate, glass, detergents, and other chemicals. Residents in Sweetwater County understand the very direct relationship that exists between free trade and jobs in Wyoming. Lower tariffs for soda ash around the world mean more exports from Wyoming, and more exports mean more work for Wyoming producers—in other words, jobs. The same is true for other Wyoming producers such as lean beef and low-sulfur coal. We continually encounter closed markets, and the tradeoff for granting fast track is that our trade representatives will have to open other markets as well as allowing more products into our market.

The fast-track authority enabled us to create the largest free trade zone in the world when we signed the United States-Canada Free-Trade Agreement. Under this new authority, we will have

an opportunity to further expand into a North American free trade zone through our negotiations with Mexico. A prosperous Mexico is clearly in our interest. And a free-trade agreement between our two countries will put the United States in the middle of a market of over 360 million consumers, with a current combined output of $6 trillion—20 percent larger than the European Community. A free-trade agreement would create new markets for American goods and services; it would enhance the security and stability of our continent; and it would encourage cooperation in such matters as narcotics traffic and illegal immigration. Economic development would allow the Mexican Government to devote more resources to such problems as environmental protection and child labor. Failure of the Mexican trade talks, through the denial of fast-track authority, likely would sour United States-Mexican relations for years to come. This would be a lost opportunity considering how long it took Mexico to overcome her isolationist past.

Trade—and not foreign aid—is the engine of development. In fact trade is the only successful model of development in several thousand years of history. Free trade means that we are letting the market, as opposed to governments, decide how we will prosper. I am sure that today we will hear many of our colleagues speak of fair trade. Do not be fooled. Fair trade only means that the government can pick and choose which industries will be protected and which won't. This "managed free trade" is as much of an oxymoron as the terms like "regulated market" coming out of the Soviet Union.

We must remember, too, that much of our production is already integrated with Mexico. And this production—electronic components to automotive assembly—is only being made more expensive by the taxes and tariffs being imposed on the end products. Lowering or eliminating those tariffs reduces production costs, lowers prices, and makes American products more competitive.

So while I am at no loss to express my strong belief in the importance of free trade, I do have some concerns over the fast-track procedure. My concerns stem from my own recollections of the Canada Free-Trade Agreement and I believe that they are concerns that, if addressed properly, will make the final agreement that much better. In 1988, the administration adopted an informal consultation process with the Congress as a substitute for the normal legislative process which would be employed in drafting legislation. This consultation process, which was really ad hoc in nature, had definite drawbacks as a substitute for legislating by the Congress.

The Special Trade Representative did make a point of keeping us informed of the negotiations. However, the FTA was hammered out during intense negotiating sessions conducted at the 11th hour. There was little opportunity for congressional input or objections to the decisions reached. While I have no objection to reaching a preliminary agreement without congressional involvement, the fact that the resulting implementing legislation could not be changed created a dilemma.

I'd like to give one brief example in the hope that, by acknowledging past difficulties, the Trade Representative will understand the imperative of keeping Congress', and, thus, the American people's, interests in mind—and not be willing to make unnecessary or unwanted concessions solely for the purpose of getting an agreement, fast. In the Canada FTA, a number of Senators from Western States were concerned about subsidies the Canadian Government provided to its energy industry. Once the agreement was reached, in a very late night session, we found out that the subsidy issue had been taken off the table. That decision, not made in consultation with the Congress, created problems for Western Senators. Several Senators, including myself, sought to rectify this matter by negotiating with the administration on language to the implementing language regarding the appropriate treatment of vital sectors of our energy market, such as the uranium industry as a quid pro quo for doing nothing on subsidies. But our negotiations were one-sided since it was the administration which had the final say—we really had no leverage.

I see two corrective measures. The first is to have the administration issue a clear policy statement on how the consultation process will work. The second is for our negotiators to become more aggressive in negotiating provisions in which America's interests are at stake.

We are making progress in our trade negotiations. I was very excited that on April 1 of this year, Japan eliminated its quotas on United States, and thus, Wyoming, beef imports. This did not open the market completely, immediately since under a recently negotiated beef-citrus accord with the Japanese, quotas will be replaced with a 70 percent import tariff. We have an agreement to reduce these tariffs over time, so Japanese shoppers will eventually be able to buy Wyoming beef, not at $20 a pound, but at $2 a pound.

Another Wyoming product facing import tariffs is soda ash exported to Brazil. With our extensive reserves in Wyoming, high quality soda ash can be produced far more efficiently here than in countries that utilize synthetic processes. In Brazil the highly inefficient state-owned producer of soda ash was the only firm licensed to import soda ash. Because they could import American soda ash more cheaply than they could produce it, our imports essentially subsidized an outmoded, overemployed manufacturing plant. In December, the Government of Brazil decided to eliminate the licensing restriction so that other firms could import soda ash. But close on the heels of that decision, the Government imposed a 25-percent tariff. This is wholly inconsistent with President Collor's trade liberalization initiatives. More importantly, though, it represents another situation in which our market access negotiators need to take a strong stand on an issue where America stands to gain $10 million in new exports.

The final situation that comes to mind, one which all of us have heard more than enough about, is that of Japanese rice. We are all familiar with stories of Japanese protection of their coveted rice farmers. Some weeks ago, I read a story in the Washington Post, which would have been comical had it not symbolized a very real, often discouraging situation. Let me read the opening paragraph:

> The cold war and the Persian Gulf war may be over, but the great rice war is heating up. This week, the United States and Japan have been nose to nose over the display of a few bags of American rice at an international food fair [in Tokyo]. The Japanese Agriculture Ministry contends that the exhibit violates Japan's strict ban on foreign rice . . . [on Saturday], shortly before noon, United States officials removed the rice from display because, according to rice industry representatives, the Japanese authorities had threatened to "prosecute and arrest" the people associated with the exhibit.

If Americans cannot display a few bags of rice for educational purposes—the alleged reasoning behind a food fair—it would seem to this Senator that prospects for freer trade globally are grim.

In sum, Mr. President, I would hope to impress upon our special trade representatives that by voting in favor of fast-track authority, I am putting my trust and the trust of the people I represent—the miners, the cattlemen, and all the associated individuals—in the ability of our team to be effective negotiators for America's interests. A trade agreement is not a piece of paper, but a document with the ability to level the playing field, to allow the mechanisms of a truly free market to call the day. I hope that when the Congress grants the administration the authority to negotiate on a fast track, it will, in turn, use this authority to create effective mechanisms for expanding truly free markets throughout North America and the world. I urge that defeat of the dispproval resolution, and allow the continuation of the fast-track authority.

Mr. MOYNIHAN. Mr. President, for some months now, I have made the point to the administration that Mex-

ico does not have an independent judiciary. This is not a marginal or esoteric concern. We are for the first time being asked to consider a free-trade agreement with a country that is not free. And the administration wants to negotiate with the broadest possible delegation of Congress' constitutional authority, under article I, section 8.

In our considerations, we ought not overlook the stability that the PRI may have brought Mexico after the civil turmoil that preceded it in the second decade of the 20th century, or the positive intentions of President Salinas.

Neither, however, should we pretend that civil or political rights are fully respected in Mexico. They are not. In its 1990-91 edition of "Freedom in the World," Freedom House reports that fully two-thirds the nations of the Caribbean and Latin America are now free. Encouraging, indeed. Only one-third, including Mexico, remain just partly free. One, Cuba, is not free.

The problems in Mexico then can not simply be explained as a condition of developing countries or the condition of Latin America. More, if this was simply an issue of U.S. trade benefits to help development in Latin America, different considerations would apply. I have always supported our GSP and CBI programs. Indeed, I am the only Democrat who is an original cosponsor of the President's Andean trade initiative.

But a free-trade agreement is a different and more intimate level of reciprocal responsibilities than GSP or CBI. How then are we to consider in our calculations the June 1990 Americas Watch report titled "Human Rights in Mexico: A Policy of Impunity." What is involved here is not something trivial. Mexico is reported to be a country in which torture is endemic.

What permits such conditions in Mexico is the lack of an independent judiciary. Other causes also, to be sure. But we ought listen when Freedom House tells us of Mexico:

> Although it is nominally independent * * * the judicial system is weak and riddled with corruption. In many rural areas, respect for laws by official agencies is nonexistent.

Due process under law is not assured in Mexico. To think this is not relevant to a free-trade agreement, in my mind, denies an elemental problem. So far, the administration seems to have chosen denial.

That being the case, and I am disappointed that it is so, I will oppose fast track today. I only wish the administration had listened to our concerns earlier and had found a way to respond.

My decision is difficult because I continue to support fast track for the Uruguay round. My commitment to the multilateral trade system is much based upon my view of Smoot-Hawley as a disaster which could be counted as one of the events that led us to the Second World War. Cordell Hull began to reverse the error with the Reciprocal Trade Agreement Act of 1934. A little over a decade later these efforts gave us the General Agreement on Tariffs and Trade.

Thirty years ago, as an Assistant Secretary of Labor in the Kennedy administration, I was given the task, with Hickman Price and Mike Blumenthal, of negotiating the Long Term Cotton Textile Agreement. This was a necessary precondition for going ahead with the Trade Expansion Act of 1962. Which in turn permitted us to go forward with the Kennedy round.

This is all to say that on such matters, I need not prove my bona fides. As a Member of the Senate, I have supported every trade initiative. Be it the 1979 Trade Agreements Act to implement the Tokyo round, the Israel Free-Trade Agreement, negotiating authority for the Canada Free-Trade Agreement, the Canada Free-Trade Agreement itself, and the fast-track negotiating authority that permitted the Uruguay round to move forward. Indeed, I can say that during the Carter, Reagan, and Bush administrations I have been considered a reliable vote. Until today, I was always counted in the "aye" column by administrations when looking for support on trade measures.

And I still support continued fast-track authority for the Uruguay round. I just cannot do so for Mexico. Not given the profoundly important issues upon which the administration has given us no commitments, no assurances, not even a reply.

Let us not forget that fast track is new and extraordinary. Not something the administration has any claim to expect. Fast track was first written into the Trade Act of 1974. The purpose was to provide greater assurance that the Tokyo round agreements would be implemented by the Congress. Some minor portions of the Kennedy round agreements had not been. We wanted to avoid any repeat of this.

And we succeeded. The fast track was used for the consideration of the Tokyo round results in 1970. The first and only such experience. In 1984, we expanded fast-track negotiating authority to include bilateral agreements. With Israel in mind. And that was done. A hugely important event, and one which we surely undertook to increase our ties with the only democracy in the Middle East; a democracy boycotted by its neighbors and natural trading partners.

Then we moved on to Canada. Need I remind the Senate that the Canada Free-Trade Agreement survived on the fast track in the Finance Committee by a 10-to-10 vote on a motion to disapprove. A tie vote meant the motion failed, and this level of resistance was recorded against our largest trading partner and a democratic nation.

How can it be any surprise then that the Senate might turn down fast track for Mexico? Five years ago, we very nearly did so for Canada.

More, with what assurance does the administration ask us to so broadly delegate our constitutional responsibilities for trade. Of a sudden, we are told the President wants a free-trade agreement with Mexico, that he wants it in a year, and we ought just abide. Might I offer the thought that even if we do permit fast track, how can we know what will occur in Mexico where there is no fast track. Let us not forget that Canada very nearly failed to pass the free-trade agreement. It was blocked in Parliament. A national election had to be called. To be sure Canadian elections are on a fast track compared to ours, but since Canada is a democracy the agreement itself was very nearly rejected. Is the administration's view that Mexico is not such a democracy and we then have no cause for concern?

If this negotiation goes forward, on the fast track or otherwise, a number of matters will have to be addressed if the agreement is to pass the Senate.

We simply cannot pretend that Mexico is a democracy with an independent judiciary. We cannot pretend Mexico is a free country. This, as I have tried to explain, raises a threshold question; whether to have a free-trade agreement with Mexico.

If we go beyond that question, as the administration has, it still presents us with an elemental problem. We must write into any agreement due process protection; we cannot rely upon the Mexican courts or the Mexican Government. Consequently, our dispute settlement arrangements will necessarily break new ground. We cannot simply reproduce the arrangements we have with Canada. What does the administration have in mind? They have not told us.

And these considerations apply whether we are discussing traditional areas of trade agreements, say antidumping and countervailing duty measures, or new areas such as environmental regulation.

It is modestly encouraging that the administration has finally recognized the relationship between trade and environmental regulation. But the recognition has been belated and unenthusiastic. Indeed, some of us first raised the point 3 years ago with then-USTR Clayton Yeutter. We said we needed to get environmental issues onto the GATT agenda. The response was befuddlement. Our trade bureaucracy had no idea what we were talking about, and did not much seem to care. So we got the International Trade Commission and the General Accounting Office about the task of studying the matter. We introduced bills, and I began to call for a GATT for the envi-

ronment. When the administration first came to let us know of the possibility of an agreement with Mexico we raised it then. Still no reaction. Only when the environmental community finally awoke and a larger number of members began to notice, did the administration respond. They gave us a work program. No specifics, no commitments and no enforcement. They still seem to hope the issue will be worked out in another place, at another time. Anywhere but the trade agreement itself. But if the environmental commitments are not enforceable through trade measures, we will have not achieved our purpose. Reciprocal rights of inspection must be in the agreement. United States inspectors sent to Mexico, and Mexican ones sent here. If violations of environmental laws are found, they will have to be remedied. Mexican factories that do not remedy violations of environmental law must be denied access to the United States market. And the reciprocal should also be true. We must press for such an arrangement.

Let us also consider trade adjustment for U.S. workers. Trade adjustment was a solemn commitment of previous administrations to American labor. It has been utterly broken. For the past decade, the administration has been acting not only as if no such commitment was made, but with determined and doctrinal opposition to even the idea of trade adjustment.

Worse still, the administration has passively watched the near collapse of our unemployment compensation system. It is now the case that of the G-7 nations, we have the least amount of unemployed eligible for benefits, a bare 40 percent. This is only half the rate of most other nations. What benefits are provided are for the shortest duration, 26 weeks. Again half as long as those countries. And the amount of the benefits is a third of previous earnings, again only half the average benefit in other countries.

We are not maintaining an adequate unemployment compensation program, the most elemental of all trade adjustment programs. Of what value then are administration pretensions that something will be done for workers that lose their jobs in Mexico? And many will.

On worker rights we need more from the administration than a compilation of how good Mexico's laws are. The laws on worker rights in China, I would guess, compare as well. It is the enforcement that matters. Our trade laws already are used to enforce ILO standards of worker rights. CBI, GSP and section 301 all require the enforcement of worker rights.

Again, we will need reciprocal rights of inspection. Mexican factories will have to be open to U.S. inspectors. Mexican inspectors must be given access to our factories. Enforcement must be written into the agreement. If a factory is in violation of worker rights laws, then imports must be subject to sanction.

These are minimal concerns to be addressed in any free-trade agreement with Mexico. If they are not, this Senator will once again have to oppose it.

Mr. LIEBERMAN. Mr. President, I rise today to declare my support for the extension of fast track. After 45 years of effort, the United States has won the cold war. But new superpowers are emerging now—economic superpowers—and we are at risk of losing trade wars in the competitive global marketplace because of our failure to pursue effective export strategies.

We are surprisingly happy when our monthly trade deficit falls below $10 billion. This negative approach to trade and our economy must end. We must build a dynamic trade policy that will increase trade and create jobs at home.

Part of out trade policy must be an aggressive approach in making new agreements—bilateral and multilateral—with our trading partners. We can't sit back, hiding our heads in the sand, saying that we don't like foreign competition or that we are afraid to negotiate a trade agreement because we may get hurt in the process.

We have to be on the attack. We have to let our trading partners know that we will not sign any new agreement that is not a net gain for the United States. The fast-track procedure strengthens the hand of our negotiators who can say that they have the backing of Congress for any deal as long as it is in our national interest, but if that deal does not benefit the United States, then Congress will not support it. Those are very clear marching orders.

A vote for fast track is not a vote for a free ride for the administration. Fast track merely means that the administration has congressional authorization to negotiate an agreement, which Congress will then approve or disapprove.

I intend to scrutinize all agreements the U.S. Trade Representative [USTR] negotiates and send to the Hill. Congress must be consulted regularly about the proposed North American Free-Trade Agreement [NAFTA], the Uruguay round, or any other trade agreement the administration negotiates.

Congress has the final say over trade agreements, and we have to make our views known. We also have to make sure that we not only have a seat at the negotiating table but that we use it. Each committee, each Senator, each Congressmen has not only the right but the obligation to make sure that any trade pact is fair. We have an obligation to make certain that American workers are protected, that the environment is not neglected, that we do not increase our trade deficit as a result of a new agreement. The quid pro quo of fast track is that we will be consulted and that our voices will be heard.

I hope good trade agreements can be reached between the United States and Mexico and in the Uruguay round. Trade is very important to Connecticut. State exports increased by nearly 18 percent last year and have increased by 45 percent since 1987. Of the State's 349,000 manufacturing jobs, 84,000 are directly related to exports, and another 63,000 jobs statewide can be attributed to export-generated activity.

Trade means jobs for Connecticut and America. This is absolutely crucial for us at a time when our economy is suffering from a prolonged recession. I want to do all that I can to create new jobs for the people of my State. I am not content to sit back and simply try to protect an ever diminishing economic pie, telling working men and women that they must fight over the crumbs of a stale economy.

I want to expand the pie, create new wealth and new opportunities. By aggressively seeking new export markets and making new trade agreements, that is exactly what we will do. Trade between Connecticut and Canada increased as a result of the free trade agreement with that nation. Our trade is increasing with the European Community, and I am hopeful that a successful conclusion of the Uruguay round will further expand trade with the EC.

Our national economy is being driven by exports—growth that translates into jobs for the American people. With active Government support for trade and trade financing, we can expect far greater prosperity here at home. I view the fast-track procedure as a necessary part of that effort.

We cannot be afraid to negotiate. As President Kennedy said at the height of the cold war, in reference to the deadly arms competition between the United States and the Soviet Union, "Let us never negotiate out of fear. But let us never fear to negotiate."

As we confront an economic competition that threatens not our lives but our livelihood, let us not fear to negotiate trade pacts. President Kennedy also said that America must "trade or fade." So let us support a continuation of the fast-track procedure, and at the same time make certain that our trade pacts are balanced and fair, secure in the knowledge that America's economic prowess is unmatched, and that trade with the nations of the world is good for the people of our Nation.

Mr. McCONNELL. I rise today to speak on fast-track negotiating authority. President Bush needs this authority to complete the Uruguay round of GATT negotiations and to begin negotiating a free trade pact with Mexico. These two agreements are vital to the economic interests of the United

States and, in the opinion of this Senator, an extension of fast-track authority is warranted.

ECONOMIC JUSTIFICATION

The economic arguments for extending fast track are overwhelming. The GATT and Mexico negotiations will reduce trade barriers and expand United States exports, something upon which our economy is increasingly dependent. Exports have essentially kept the current recession from turning into a full-fledged economic rout. Every $1 billion increase in U.S. exports creates 20,000 new export-related jobs. A vote for fast track, Mr. President, is a vote for economic recovery and expansion.

It is also a vote for American agriculture. Agriculture is probably our most export-oriented industry and has much to gain from fairer world trade. One out of every three acres of crops harvested in the United States end up in the export market. The sale of farm products overseas puts close to $40 billion into farmer's pockets every year.

Nonetheless, barriers to U.S. farm products exist in virtually every foreign country. Additionally, many foreign countries stimulate high, inefficient production of farm commodities with billions of dollars annually and then spend several billion more dollars to subsidize the dumping of this excess production on the world market, depressing prices and hurting our farmers.

This is not fair to our farmers and it is exactly why we need to reform current international trading practices. U.S. farmers can compete given the opportunity, but we can not compete in closed markets. The Uruguay round of trade talks offers the best opportunity to push for a set of global, enforceable rules for fairer trade. Without fast track, however, there is little chance for trade reform.

At the local level, Mr. President, my State of Kentucky stands to gain much from freer trade—particularly trade with Mexico. In the last 3 years, Kentucky exports to Mexico grew by $62 million. That's an increase of 143 percent. Mexico is not the State's eighth largest export market. Under a free trade agreement, Kentucky can do even better. Currently, Mexican tariffs average 10 percent, compared to 4 percent in the United States. Mexico also uses nontariff barriers like import licenses on tobacco to limit imports. A free-trade agreement will eliminate these remaining barriers and increase our ability to sell even more Kentucky products in Mexico.

MORE THAN JUST TRADE

This is a trade vote, Mr. President, but the debate is about more than just trade. It is about the economic structure of the new world order and the role the United States will play in shaping that structure.

Earlier this year, the United States confirmed beyond a doubt its position as the world's leading military power. As the catalyst and leader of the allied effort to reject Saddam Hussein from Kuwait, we established a key principle of the new world order: The sanctity of borders will be respected and naked aggression will not be tolerated.

During the debate on granting President Bush the authority to carry out that task, it became clear that some people did not believe that America could succeed—that American technology and manpower were somehow not up to the task. They were wrong, Mr. President, and, fortunately, a majority of Congress knew it.

Now we have an opportunity to exercise our economic leadership to establish another key principle of the new world order: Open and fair trade will promote domestic and global economic growth.

The GATT negotiations are limping along and could collapse at any moment. That would mean, in all probability, a breakdown of the global trading system as we now know it and economic decline for all countries involved. At this critical juncture, it is important that the United States exercise strong economic leadership. The choice today is clear: We can lead the world toward a future of free trade and economic prosperity, or we can revert to the discredited policies of the past: Isolationism and protectionism.

RECOGNITION OF CONCERNS

I recognize the concerns some have with the concept of free trade with Mexico: Job loss, environmental regulations, labor rights, new competition for certain United States industries. These are all important concerns and I share my colleagues interest in ensuring they are addressed. In Kentucky, there are tens of thousands of textile workers eyeing these developments with caution.

However, my colleagues should be reminded that a vote against the Hollings resolution is not a vote for the final agreement. We will have ample opportunity to review any and all trade pacts negotiated under fast track. If we are not satisfied, we can reject any deal. I've made clear my concerns to President Bush and I fully intend to vote against an agreement that does not address those concerns fully.

But let's not refuse to even sit down at the bargaining table. The potential opportunities a reduction in foreign trade barriers can bring are too great. To cut off the President's ability to negotiate—and that's exactly what a vote for the Hollings resolution would do—simply makes no sense.

History tells us that our quality of life rises with open trade and declines with protectionism. Let's take a positive step today to reduce foreign trade barriers and increase our quality of life.

Mr. COCHRAN. Mr. President, I oppose the resolution disapproving extension of fast-track negotiating authority. Our exporters will benefit from more trade opportunities, and this will help everybody in America. I am very optimistic about the long-term benefits for our country that will result from wider and freer world trade. I'm convinced it will mean that we will export more goods and commodities and reduce our trade deficit.

History has shown that we can be competitive with other nations if we have a level playing field. We cannot have that level playing field, however, unless we are willing to negotiate with other countries to achieve fair rules of international trade, together with procedures to ensure those rules are vigorously enforced.

I am fully aware of the concerns that several agricultural groups have about the extension of fast-track authority. In particular, the U.S. cotton industry is concerned that any extension will have an adverse impact in the areas of increased raw cotton, textiles, and apparel imports. There is concern that the loss of quotas governing imports of raw cotton could result in uncontrolled surges of imports that might destabilize domestic markets, disrupt and escalate cotton program costs and reduce farm income. Also, given the fact that over 50 percent of U.S. cotton production is sold to domestic textile mills, there is concern that any significant increase in textile imports could further displace U.S. cotton.

While I share many of these concerns, I feel disapproval of the negotiating authority is not the best way to address the concerns. A better course of action for Congress is to extend fast-track authority and then monitor the administration's negotiations closely, reserving judgment until final agreements are reached, whether in a North American Free-Trade Agreement, the Uruguay round of the General Agreement on Tariffs and Trade [GATT], or the trade component of the Enterprise for the Americas Initiative. It should be clear to all that Congress will look carefully at any agreements reached.

If there ever was a time for the United States to negotiate new rules to expand international trade, this is it. We are the largest trading nation in the world, and our ability to raise our living standards depends in large part upon our success in expanding world trade opportunities.

Our exports of goods and services have grown nearly tenfold since 1970, from $69 billion to $670 billion.

Exports have grown from 6.8 percent of our gross national product [GNP] in 1970 to 12.3 percent in 1990.

In the past 4 years, our export volume has grown 55 percent—twice the growth rate of our import volume.

Exports accounted for 88 percent of U.S. GNP growth in 1990.

It has been estimated that our GNP will grow an additional $1.1 trillion in

the next 10 years if the Uruguay round is successfully concluded.

The States we represent have made trade an important part of their economic development strategies. Since 1980, combined State government expenditures to promote international trade have nearly tripled—from approximately $26 to $73 million.

My own State of Mississippi saw exports increase from $1.3 billion in 1987 to $1.8 billion in 1989, an increase of $500 million in just 2 years. Mississippi's exports to Mexico alone grew by 86 percent for the same period, from $52.5 million to $97.5 million.

Mr. President, we have all been inspired in recent years by the growth of democracy in the world. I believe wider international commerce contributed to that growth. Freer exchange of goods has usually been accompanied by freer exchange of ideas.

I hope we will give President Bush the necessary tools to continue this process for the benefit of our Nation and the world.

Mr. COATS. Mr. President, as we are discussing the future of America's trade relations with our global economic partners in the debate on the fast-track legislation, I would like to bring to your attention a very relevant and thought-provoking piece on the importance of bettering the economic conditions of our neighbors in the Third World.

Graciela D. Testa, an economist with the International Freedom Foundation, has taken us to the heart of the arguments in favor of promoting, as opposed to discouraging, economic growth in the world's developing nations. Healthier economies in what we now define as the "Third World" not only create new markets for American goods and services, they also provide a better standard of living for their peoples, better wages for employees, and an improved capacity to address growing environmental problems that are characteristic in developing countries.

As such, Mr. President, I ask unanimous consent that Ms. Testa's comments be printed in the RECORD.

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

FREE TRADE: DO AS I SAY, NOT AS I DO

(By Graciela D. Testa)

Both the House Ways & Means Committee and the Senate Finance Committee have endorsed by wide margins the extension of the current fast-track approval process for the President to negotiate a trade agreement with Mexico and continue pursuing negotiations in the Uruguay Round. The matter now goes to the full House and Senate where, unless either house decides to withdraw approval of the fast-track process by June 1st, it will be automatically extended by two more years. Despite the wide margins in favor of continuation of fast track in the Committee votes, it is not at all clear what the result will be. Pressure from interest groups against fast track is fierce. The AFL-CIO called defeat of fast track negotiating authority its top priority this year. Business interests, environmentalists and consumer groups also have indicated opposition.

Their concerns regarding Mexico's labor and environmental practices and the impact on U.S. businesses and jobs already have been amply discussed. There exists a wealth of empirical evidence documenting the gains from trade even for nations that choose to unilaterally relax trade restrictions. Indeed, expanded trade results in a rise, not a decline in jobs. It should be noted that existing labor and environmental problems in Mexico started to be vigorously addressed when the Salinas Administration came to power in 1988 (something that opponents of free trade conveniently ignore). Moreover, increased trade will only improve, not worsen labor and environmental conditions in Mexico.

The upcoming vote on fast track authority, however, has much broader implications, of which neither the American public nor Congress seems to be aware. The vote this month will have enormous international implications. It is not just a vote on extending the President's fast track authority to negotiate trade pacts, but a tug-of-war between free trade and protectionism.

If Congress chooses protectionism over liberalization, the progress towards increased freedom and individual choice that the world has made during the past decade will suffer a serious blow. The message that the United States will be sending to developing nations and to the countries of eastern Europe will be that, despite our free market rhetoric, our commitment to economic freedom is not reliable. In essence, we will be saying that by free trade we mean that we want to have access to their markets, but have no intention of giving them equal treatment.

For several years now, the industrialized nations and organizations such as the World Bank and the IMF have urged developing countries to liberalize the trade practices and open up their economies to foreign investors. Many developing and former Soviet Bloc nations have begun to radically transform their economies to permit market relationships to guide economic activity. They have taken these steps because after decades of experimentation with interventionist economic policies, it has become clear that the success stories in today's world are those nations that based their economic arrangements on a free market system. These nations not only grew faster in the last four decades, but in some cases, also surpassed their counterparts in virtually every measure of economic and social well-being.

However, economic liberalization has short-term costs. In our hemisphere, Mexico and Chile are examples of the willingness of societies to accept short-term sacrifice to enhance the prospects of future prosperity for all. Poland, Hungary, Czechoslovakia, and even Bulgaria, struggle to implement market measures that promise them a freer and more affluent future but which cost dearly in the short run. Privatization of state-owned enterprises, removal of price controls, and subsidies and protection for favored groups, all have near term consequences despite their longer term benefits for the nations that implement these measures.

For the countries that are undergoing these daunting transformations, the light at the end of the tunnel is the promise of integration into the world economy with its attendant benefits of foreign trade and investment. Yet the Western nations are systematically closing the door to a more prosperous future for the developing nations that have followed their advice. They offer foreign aid, but not foreign trade. We would do more to benefit the developing nations and the countries of eastern Europe if we removed our barriers to their trade than if we sent them more billions in assistance. Indeed, studies have shown that because of restrictions imposed by industrial countries, the GNP of the developing nations is approximately 3 percent lower each year than would otherwise have been the case. This is twice what the industrialized nations provide those countries in development assistance.

Studies show that despite seven rounds of GATT-sponsored trade liberalization, the industrialized countries pose significant impediments to economic growth and development in the poorer nations. For instance, most-favored-nation (MFN) tariff rates are, on average, higher on goods imported from developing countries. High tariffs are more prevalent on goods exported by developing countries. And, in general, developed countries grant their counterparts, not developing countries, preferences that result in lower tariffs. A World Bank study of average industrial country tariffs on manufactures showed that as of 1983, the United States applied an MFN rate of 3.9 percent on imports from industrial countries, but a 7.9 percent rate on imports from developing countries. The comparable rates for the European Community were 7.7 percent and 13.8 percent, respectively, and for Japan, 4.2 percent and 5.2 percent, respectively.

More insidiously, however, higher tariff rates and nontariff barriers on first-stage manufactured products thwart the development efforts of poorer nations. For instance, developed nations may allow an unprocessed product, such as, pineapples, unclean wool, or hides and skins, to enter duty free or with very low tariffs. But as soon as the developing nation begins to process these products (into pineapple juice, woolen clothing, or shoes), the tariffs rise. These barriers make it ever more difficult for the developing nations to advance from being merely producers of raw materials to producing goods with more value added. In essence, they hinder poor countries' efforts at raising the standard of living of their citizens.

In a 1987 study for the World Bank, Alexander Yeats calculated tariff and nontariff protection of industrial countries vis-a-vis the raw materials and processed products of developing countries. He found, for instance, that fresh fruit from developing countries faces average tariffs in the developed nations of 7.4 percent, but fruit preparations face average tariffs of 17.1 percent. Similarly, raw cotton imports face no tariffs in the industrial countries, but tariffs on fabrics average 5.8 percent. In the EC, the duty on pineapples is 9 percent, but it rises to 20 percent on unsugared pineapple juice, and to 19 percent to 42 percent on sugared juice.

Protectionism is alive and well in the developed nations, and many observers believe that it is, in fact, rising. The current debate in this country gives further credence to this notion. Inasmuch as it threatens to turn the United States further inward, it will give many countries that are making the sacrifice of turning their nations into free market democracies, such as Mexico, a reason to pause in their commitment. It also gives the eastern European nations that are just embarking on this path, reason to doubt the wisdom of their choice.

If the industrialized nations are unable to rise above the pressures of groups with lim-

ited visions of the future, some of the developing countries may well show them the way. While the EC is steadfastly avoiding real trade liberalization in such areas as agriculture, and the United States worries about the dangers posed to it by the "Colossus to the South," some developing countries are going ahead without us. Chile, for instance, has unilaterally relaxed its trade rules. It now has a very open trading system with low tariffs, no nontariff barriers, and no subsidies or licensing requirements, and the Chilean economy has flourished. The country's exports account for one-third of GNP and and investment reached a record 20 percent of GDP last year (significantly foreign investment also reached a record level). Mexico and Chile are expected to sign a free trade agreement sometime this summer. Chile has also moved forward in trade negotiations with Venezuela. And Argentina, Brazil, Paraguay and Uruguay recently formed their own free trade area.

If we turn towards protectionism the losers will be mostly in the United States. According to Michael Finger of the World Bank, "nine-tenths of the impact of a trade restriction is to shift money from one person's pocket to another's—in the country that imposes the restriction. Most of the beggaring done by a trade restriction is at the expense of a fellow-citizen neighbor, not a foreign one." And this indeed is what the current efforts to thwart moves toward liberalization are all about.

(Byline: Graciela D. Testa is director of International Trade and Economic Affairs at the International Freedom Foundation, a Washington-headquartered foreign policy research organization with offices in London, Brussels, Hamburg, and Johannesburg.)

Mr. ADAMS. Mr. President, the vote today on the extension of fast-track trade negotiating authority is one of the most important votes the Senate will cast on trade. For those of us who are free traders, we want to support the President and the chairman of the Senate Finance Committee in the pursuit of a more open global trading system.

But being a free trader does not mean I must accept a process that transforms today's blank piece of paper into an unamendable and unstoppable piece of legislation tomorrow.

Washington State is a world-class trading State that will win big from the Uruguay round but, on balance, gain nothing from a Mexico free-trade deal. The United States stands to win big from the Uruguay round, but may lose big from a free-trade agreement with Mexico.

When we voted to extend fast track for GATT in 1988, it was only with the Uruguay round in mind. We had a record of 2 years of negotiations on which to form a judgment, and today we have an even better idea of the contents of a final GATT agreement. Since we extended fast-track authority in 1988, the President has added bilateral negotiations on a free-trade agreement [FTA] with Mexico to the equation. We have no idea what will be in a free-trade deal with Mexico. However, we do know it will not contain open trade in cultural areas, like films, publications, recordings, and television programs; nor will it contain any free trade in energy, the backbone of Mexico's economy.

Washington exports more than 20 percent of our production, making one of every five jobs dependent on trade. Our global trade has jumped from $12.5 billion in 1978 to more than $64 billion last year, including more than $30 billion in exports worldwide. But we ship less than 0.3 percent of our exports to Mexico.

Puget Sound ports are strategically located. They are the closest U.S. mainland ports to Asia, and the closest west coast ports to Europe. For air transport, Seattle-Tacoma Airport is nearly equidistant between Tokyo and London. Asia and Europe are our natural trading partners.

The Asia-Pacific region accounts for a critical 50 percent of all Washington-produced exports. Europe comes in a close second, taking about one-third of our overseas shipments. According to the Commerce Department, Europe also purchased more labor-intensive items from the State and is the fastest growing market for our products.

My State is home to some of the United States' strongest export products, from Boeing aircraft and Weyerhaeuser wood products to Microsoft computer programs and John Fluke measuring and test equipment. We are also a force in agricultural trade, exporting one-half of our wheat crop, and shipping significant portions of our apples, cattle, potatoes, hops, and other commodities overseas.

Washington's economy may be anchored in trade. But we must accept that we live in a world of mercantile traders, and we must deal with trade problems in a multilateral, not bilateral context. Attempting to resolve trade problems and expand export markets primarily through bilateral negotiations, as the administration is trying to do with Mexico, is foolhardy. That is why the United States pushed for the creation of the General Agreement on Tariffs and Trade, the GATT, in 1947. I am committed to achieving stronger multilateral trade rules through the GATT.

The area of intellectual property underscores this point. The protection of intellectual property is one of our top priorities in the GATT. The U.S. Trade Representative argues that extending GATT rules to cover intellectual property will protect U.S. manufacturers against $60 billion annually in stolen and counterfeited ideas and products. Microsoft based in Redmond, WA, and other Washington software exporters could double their revenues if software piracy were halted. Mexico is one country that has dragged its feet on this issue. Despite many bilateral meetings on this matter and Mexico's promise to act before the vote on fast track, the United States Trade Representative was recently forced to delay a decision on Mexico's request for an additional $2.4 billion in duty-free imports to the United States because Mexico failed to adopt adequate intellectual property protection laws.

The administration has made a tragic choice. It has nearly derailed the GATT Uruguay round by putting Mexico on a fast track.

It is deeply disturbing that the administration has shelved 4 years of very hard work at the Uruguay round negotiations in Geneva. Our efforts since 1986 to secure unprecedented liberalization of global commerce with more than 100 nations have been unceremoniously dumped in favor of a bilateral trade pact with Mexico.

The administration itself has stated: "An open multilateral trading system is the best guarantee that expansion of export opportunities continues into the next century, and the Uruguay round is the most important initiative to expand them * * * U.S. output could increase by more than $1 trillion over the next 10 years." Contrast this to the International Trade Commission's evaluation of a United States-Mexico Free-Trade Agreement:

* * * the U.S. economy will probably gain on net. However, there are likely to be some shifts in production so that certain U.S. industries—such as horticultural products—will be disproportionately affected by an FTA * * * the benefits relative to the size of the U.S. economy are likely to be small in the near to medium term.

The United States can certainly achieve far greater benefits through a Uruguay round agreement than we could ever hope to obtain through a bilateral accord with Mexico. The administration's trade policy is so irretrievably skewed in favor of bilateralism and its trade strategy in the GATT so fatally flawed that I question the wisdom of entrusting the administration with fast-track authority.

My reservations are intensified by the negative impact a trade agreement with Mexico would have on jobs, the environment, and the competitiveness of certain sectors of our economy.

One factor in my decision to oppose fast track for Mexico is the potential impact of such an agreement on the ability of Washington producers to compete against Mexican imports in our home market.

The International Trade Commission report found that American fruit and vegetable growers, among others, would be big losers under a free-trade accord with Mexico. According to a Congressional Research Service summary of the ITC report:

Eliminating tariffs and non-tariff barriers under an FTA could increase U.S. fruit and vegetable imports from Mexico significantly but increase U.S. exports to Mexico only moderately. Mexico can supply the U.S. market with many of the products grown or processed in the United States—especially citrus and winter vegetables—at much lower costs.

These concerns were echoed at a meeting I recently convened of Washington agricultural leaders. For Washington potato growers, in particular, the fears are real. The industry relies on the domestic market for 87 percent of its total fresh potato sales and 80 percent of total processed potato sales. Currently, I am working with my potato growers to oppose a petition by food giant Frito-Lay to obtain duty-free access to the United States market for imports of potato chips produced under low-labor conditions in Mexico.

Washington's asparagus, bean, and other vegetable growers could face a similar situation. Even Washington's wheat farmers, who generally support fast track, are concerned that Canada would benefit disproportionately from a free-trade pact by continuing to sell their subsidized wheat to Mexico.

A free-trade accord with Mexico would also have a tremendous impact on jobs in the United States. Mexico is under tremendous pressure to find employment for the hundreds of thousands of new workers that enter the job market each year. While Mexico's labor standards may be acceptable on paper, their enforcement falls far short. Wages average 57 cents an hour in Mexico, and real wages have fallen 40 percent since 1982. No trade unions function independently of the ruling PRI party. Child labor is common—the legal minimum age for employment is 14—and enforcement of occupational safety and health laws is lax.

According to the Mexican Government's own statistics, 500,000 jobs have been created by the relocation of United States plants to Mexico, and there is evidence hundreds of thousands more American workers have lost their jobs to the maquiladoras. The Commerce Department predicts significant job losses in steel, auto parts, textiles, and shoes. The maquiladora plants, where only 10-20 percent of the workers are organized, account for about 80 percent of Mexico's exports to the United States.

Such labor conditions will likely draw more United States businesses to establish Mexican-based manufacturing. In Washington, Paccar, a maker of heavy-duty trucks, currently protects workers at its profitable division in Mexico while laying off workers at its United States plants. Pillsbury recently rejected the Tri-Cities for a food processing facility in favor of Mexico.

The adjustment assistance plan offered by the administration to help workers that may be displaced by imports under a Mexican FTA is flatly inadequate. Inexcusably, the administration refuses to develop a trade adjustment assistance program for American workers who lose their jobs because of a free-trade agreement. The administration prefers counseling and placement referral services rather than the tangible assistance workers need to help pay for food, rent, and medical bills.

Environmental protection poses another set of problems. For many years environmental groups have sounded alarms about deteriorating conditions along the border as a result of unrestrained manufacturing. Last June, the American Medical Association reported that the border region is "a virtual cesspool and breeding ground for infectious diseases." In the last 25 years, as nearly 2,000 United States companies set up manufacturing facilities along the border, enforcement of Mexico's environmental laws has been lax. The Mexican environmental agency, SEDUE, has an annual budget of only $10 million. Moreover, in its eagerness to attract manufacturing to the border area, the Mexican Government encourages agents to go easy in enforcing environmental protection laws.

Thirty-five GM maquiladora plants, which GM officials admitted have never treated their water, were cited earlier this month by the Mexican authorities for dumping raw sewage and toxic waste in rivers and streams, a GM spokesperson acknowledged that "there were children playing in the water (where raw sewage was being dumped)."

At a minimum, a free-trade agreement with Mexico must include a mechanism to ensure compliance with the National Environmental Policy Act. It must also assure that higher U.S. standards in such areas as pesticide residues on food imports remain in place and are not subject to weakening through a backdoor. An FTA with Mexico must also guarantee that United States environmental protection laws, such as the Marine Mammal Protection Act, are not undermined.

Problems abound in a variety of other areas, such as rules of origin, that which Japanese and other third party companies could exploit to gain free access to the United States market through Mexico. It is also imperative that clear dispute settlement rules are embodied in an agreement. If we have learned anything from our experience with the Canadian Free Trade Agreement, it is that commitments made during negotiations are not necessarily fulfilled in practice.

A number of organizations in Washington State have issued statements opposing fast track for a trade deal with Mexico. Among them, the Washington State Democratic Central Committee adopted a resolution on April 27, 1991, opposing fast-track procedures. The Friends of the Earth Northeast Office, the Washington State Labor Council, El Centro de la Raza, the Washington Association of Churches, the asparagus, bean, and potato growers and others have also gone on record in opposition to fast track for Mexico. I will ask unanimous consent to insert statements from these organizations in the RECORD.

For Washington State, there is simply no comparison between the importance of a Uruguay round and a so-called free-trade agreement with Mexico. Washington State alone exports more to the world than all 50 states combined sell to Mexico. The products Washington exports to Mexico barely register in the trade balance. Only Alaska and Hawaii sell less to Mexico than our State.

For these reasons, I fully support the approach advanced by Senator RIEGLE in Senate Resolution 109. This resolution would grant fast-track extension for the Urguay round talks. It would allow the Senate to consider a Mexican FTA but enable it to offer amendments to any agreement with Mexico in five critical areas. These include monitoring and enforcement of fair labor standards and of environmental standards, establishment of fair rules of origin and of clear dispute settlement mechanisms, and providing adequate adjustment assistance for displaced American workers. The traditional trade portions of the agreement, relating to tariffs and market access, would continue to be considered as an unamendable package.

Unfortunately, we will not have the opportunity at this time to vote on the Riegle resolution.

If the Riegle resolution were in force today, I would support fast track to sustain the Uruguay round negotiations. But that option is not before us.

The choice we face today is whether to ignore the uncertainties and dangers inherent in a take-it-or-leave-it free-trade pact with Mexico. It is not a question of fast track, it's a matter of whether the administration puts the GATT negotiations back on track.

I cannot trust our jobs, our environment, our competitiveness to a package of pledges from this administration. I will not risk the living standards of Americans for promises and a blank sheet of paper. We should reject the all-or-nothing fast track for Mexico and return to finish our work at the negotiating table in Geneva.

I ask that the statements to which I earlier referred be printed in the RECORD.

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

KING COUNTY LABOR COUNCIL
OF WASHINGTON,
Seattle, WA, May 9, 1991.

Senator BROCK ADAMS,
Hart Senate Office Building, Washington, DC.

DEAR BROCK: One of the most important issues facing the United States Congress and the American worker is the United States/Mexico free trade agreement and the so called "fast track" provision adopted as part of the 1988 Omnibus Trade Act.

Labor is deeply concerned that a fast track on such a complex issue could do much harm to workers in this country and result in very

little benefit to workers in Mexico. The only beneficiaries would be those corporations that plan to exploit the low wages (Mexican wages are less than one-tenth of ours), the lack of environmental protections and workplace safety standards and all for the almighty profit.

During the past 10 years, approximately 1800 companies, mostly U.S. corporations such as AT&T, Westinghouse and General Motors have built plants along the Mexican border. These plants called Maquiladoras have a record of providing extremely poor working conditions for their workers. There are very few health and safety regulations, few environmental standards, tend to use a young workforce (predominately women between the ages of 14 and 20 who are unlikely to insist on better working conditions).

Removing the talks from the fast track would not kill the amendment, but would allow Congress to address flaws and make corrective changes that otherwise could cost tens of thousands of American jobs. It's important to note that this is not only a threat to manufacturing jobs, but could also impact U.S. Service Industries and the Building Trades.

Protectionism is not the answer, but neither is international, corporate anarchy. Can we really depend on the kindness or fairness of private capital to resolve the difficult issue of poverty both here and in Mexico? Responsible governmental regulation is essential to fair trade, fair play and a fair deal for all people who work for a living.

On behalf of the 147 affiliates and 84,000 union members that belong to the King County Labor Council to oppose the "fast track." We urge you to support and vote in favor of Senate Resolution 78 and House Resolution 101.

Thank you for your time and consideration on this very important matter.

Sincerely,

RICK D. BENDER,
Executive Secretary.

WASHINGTON STATE DEMOCRATIC CENTRAL COMMITTEE,
Seattle, WA, April 30, 1991.

To: Senator Brock Adams.
From: Karen Marchioro.

Enclosed are copies of three resolutions that were passed during the April 27th meeting of the Washington State Democratic Central Committee. The Committee requested that they be passed along to you for your information and action.

A RESOLUTION ON THE "FAST TRACK"

Whereas the President has requested that Congress allow extension of the fast-track procedure for the approval of trade agreements, specifically for the approval of the General Agreement on Tariffs and Trade (GATT) and the U.S.-Mexico Trade Agreement:

Whereas "fast track" is a procedure that requires Congress to totally accept or totally reject a treaty *without* amendment and with very little debate:

Whereas the trade agreements currently under negotiation contain provisions that would preempt many U.S., state, and local environmental, food safety, and public health laws;

Whereas these proposed agreements would put the decisions as to whether U.S. environmental and food safety standards are justifiable in the hands of regulatory bodies outside the United States, bodies which set much less stringent environmental and food safety standards than we do;

Whereas the quality of our environment and the health and safety of our food supply and our workers are of great and abiding concern to the voters of our district and to all Washington residents;

And whereas we believe the Congress should take back its right and responsibility to fully debate and amend any agreements that so broadly affect the lives of its citizens: Therefore, be it

Resolved, That the Washington State Democrats go on record as opposing the "fast-track" procedures for international trade agreements; And further be it

Resolved, That we oppose any international agreements which would override our national, state, and local environmental and pure food standards; And further be it

Resolved, That this resolution be communicated to our members of Congress with the request that they oppose "fast track" in committee and on the floors of the House and Senate.

[From the Friends of the Earth, May 10, 1991]

BROAD OPPOSITION FORMS TO ADMINISTRATION FAST TRACK

SEATTLE.—A broad spectrum of labor, consumer, church and environmental organizations announced at a press conference this morning in Seattle their opposition to the Bush Administration's efforts to extend fast track authority for trade agreements such as the U.S.-Mexico Free Trade Agreement.

Fast track is the process by which Congress allows the Administration to negotiate trade agreements and bring an agreement back to Congress for ratification with no possibility of amendments. A vote to extend this authority will take place in Congress later this month. This process, according to former U.S. Representative Mike Lowry, is not only undemocratic, it allows the Administration to proceed without accountability or public involvement.

"Until 1974, trade agreements were negotiated with the full cooperation of Congress", added Lawrence Kenney, President of the Washington State Labor Council, AFL-CIO.

Roberto Maestas, Executive Director of El Centro de la Raza in Seattle pointed out the dismal living conditions and worsening health of the border communities centered around the Mexican maquiladora industries along the U.S./Mexico border.

Maestas said. "Our first-hand knowledge of the unmitigated exploitation by the transnationals of Mexican labor along the border, our first-hand knowledge of the total disregard for the environment on that side of the border by these companies even where there are laws to protect it, and the systematic political assassinations of reporters, publishers, teachers, union activists, and members of the opposition Party of the Democratic Revolution are three of the major reasons why we will oppose with all our means this insidious plan to damage the interests of the working people of both countries."

"The Washington Association of Churches strongly opposes the proposed Mexican/American Free Trade Act as it stands today. The 'free' this act contemplates is only for the wealthy few; for the rest of us, especially the Mexican poor, this act means exploitation ", said the Rev. John Boonstra, Executive Minister of the Washington Assoiciation of Churches.

"The Administration is on the wrong track", said Andrea Durbin, Policy Associate with the Northwest office of Friends of the Earth. "Without an environmental impact analysis, as required by the National Environmental Policy Act, plus pollution prevention measures, trade agreements will continue to fuel the loss of habitat, resources, and ecological systems around the world. If the administration wants free trade, then we say, become green free traders. Even though he campaigned as an Environmental President—the League of Conservation Voters gave George Bush a grade of "D" on his environmental record during his first two years as president. Frankly, whether on free trade or on the environment, the President has given us little to believe in."

"The proposed agreement with Mexico is complex and difficult", summed up Kenney. "It will have a tremendous impact on U.S. jobs, workers' wages and the living standards of all Americans. It should not be rushed through Congress without review. We oppose fast-track authority. We believe that trade agreements with all nations, including Mexico, should be subjected to congressional oversight."

Recently, the Pilsbury Co. rejected a Tri-Cities, Washington site for a food-processing plant in favor of a site in Mexico. Paccar, which makes heavy-duty trucks and is located in Belleuve, has long had a Kenworth division in Mexico which is profitable while their other plants in the U.S. have faced layoffs.

FRIENDS OF THE EARTH, ENVIRONMENTAL POLICY INSTITUTE, OCEANIC SOCIETY,
Washington, DC, May 13, 1991.

PROTECT THE ENVIRONMENT—REJECT FAST TRACK—ADMINISTRATION PLAN INADEQUATE

DEAR SENATOR: The Administration's May 1st response to environmental concerns with the proposed North American Free Trade Agreement (NAFTA) is woefully inadequate. Indeed, the response even proposes to weaken existing U.S. environmental law. Rejection of "fast-track" authority is essential for Congress to assure that environmental concerns are addressed adequately in the NAFTA.

To its credit, the Administration finally has acknowledged that the NAFTA raises serious and legitimate environmental issues. Yet, its response merely rehashes existing ineffective border activities and relegates crucial trade-related environmental issues to separate negotiations. The response is silent on a host of other important environmental concerns. The Administration plan, for example:

Undermines our nation's National Environmental Policy Act (NEPA) with its invention of a new, weaker environmental assessment process, despite clear compliance requirements in existing law;

Pledges "separate" negotiations on the environment which will remove crucial issues from the negotiating table such as enforcement of all three countries' environmental laws;

Fails to pledge that Mexico's and Canada's environmental standards will not be weakened, as occurred with pesticides in the Canadian FTA;

Fails to protect Congress' right to use trade restrictions to stimulate worldwide environmental reforms except in cases specifically controlled by existing international treaties; and

Does not address the basic process by which domestic environmental standards could be weakened—namely, by challenging them as non-tariff barriers to trade.

Further, Congress has no guarantee that even the minimal commitments advanced by

the Administration will be included in the NAFTA. In effect, the Administration's plan simply represents the opening positions of the U.S. negotiators. The Administration could present an agreement to Congress and explain that it was unable to achieve its environmental goals in the negotiations. Moreover, environmental protection measures included in an NAFTA could be superseded by harmful provisions negotiated under the General Agreement on Tariffs and Trade (GATT).

The Administration's plan makes no firm new commitments on immediate environmental needs such as border cleanup funding, enforcement personnel, and environmental monitoring. Instead, the plan relies upon the idea that free trade will increase growth and wealth, and Mexico, in turn, will apply this to environmental protection. This inverted development model has brought Eastern Europe to the edge of ecological collapse.

Friends of the Earth does not necessarily oppose a NAFTA. Some trade agreement might help resolve pressing environmental issues and organize the currently chaotic economic integration of North America. But, trade agreements are enormously complex and potential opportunities may be squandered if the agreement is hastily negotiated and then "fast tracked" through Congress.

The Administration's feeble response on environmental issues underscores the urgent need for full Congressional involvement in and oversight of the NAFTA negotiating process.

Numerous trade and other complex international negotiations have been concluded successfully without "fast track." The claim that "fast track" is necessary for the NAFTA negotiations to go foward is simply untrue.

We urge you to take the course that allows you a strong role in this potentially historic agreement. Please reject "fast-track" authority.

Sincerely,

MICHAEL S. CLARK,
President.

WASHINGTON STATE
POTATO COMMISSION,
Moses Lake, WA, May 1, 1991.

To: Ron Walker, Executive Director, NPC.
From: Henry Michael, Administrator, WSPC.
Subject: Mexican Free Trade Agreement.

The WSPC, representing the approximate 450 Washington potato growers and the Washington Potato Industry, supports the Florida Fruit & Vegetable Association position letter dated February 13, 1991 in regard to the Mexican Free Trade Agreement.

Furthermore, the WSPC supports the position letter dated March 28, 1991 to Ambassador Carla Hills and signed by numerous U.S. Senators including Senator Brock Adams and Slade Gorton from Washington State.

THE NATIONAL POTATO COUNCIL WARY OF FREE TRADE AGREEMENT

The United States potato industry relies on the United States domestic market for roughly 87 percent of its total fresh potato trade and 80 percent of its total processed potato sales. Would a proposed United States-Mexico free trade agreement put thousands of U.S. vegetable growers out of business? Or would it create opportunities to sell U.S. produce (potatoes) to Mexico? These are questions that are now being debated as the Bush Administration continues negotiations with the Mexican government over a proposed free trade agreement. For this reason the Council is extremely concerned with the potential for increased imports of Mexican fresh and processed potato items as a result of a free trade agreement between the two countries.

The Council is also concerned that a free trade agreement will entice major U.S. potato processors to move their operations to Mexico to take advantage of low labor and low overhead costs of production. In turn their plants would likely look to source their fresh supply from Mexican-produced potatoes. It is a fact that more and more U.S. vegetable growers will shift a portion of their production south of the border. Statistics also indicate a rapid rise in Mexican vegetable exports to the U.S. Recent figures from the U.S. Department of Commerce, Bureau of Census show that the value of fresh vegetables imported into the U.S. from Mexico increased from $435 Million in 1988 to $586 Million in 1989. This does not include melons or prepared vegetables.

Many are asking the question "will all vegetable production shift to Mexico?" No. Growers who have farms in Mexico indicate the advantages are not always as great as they might seem. The trend currently favors more Mexican vegetables, and a free trade agreement would greatly boost this trend. While we recognize that such an agreement can be of great benefit to some sectors of our national economy, it is important that the negotiators not forget the impact such an agreement will have on specific industries such as potatoes. To date statistics reveal nearly 90 percent of Mexican fresh fruits and vegetables are exported and shipped to U.S. markets under current trade relations.

The negotiations between the U.S. and Mexico must have specific goals. The U.S. should conclude all efforts in the Uruguay Round before formal negotiations begin on any free trade agreement. All tariff and non-tariff barriers must be addressed in the free trade negotiations. Mexico's restrictive licensing practices must be eliminated. Tariff eliminations should occur over the longest possible timeframe for sensitive items such as potatoes. Free access on both sides of the border will mean increased U.S. imports of both fresh and processed potatoes from Mexico.

In 1990 approximately 85,000 hectares (215,000 acres) of potatoes were planted in Mexico. In addition Mexico produced some 200,000 tons of seed potatoes. Today the Mexican growers have purchased seed potatoes from both the U.S. and Canada to not only improve but to expand their production. Industry sources estimate that Mexico has the potential to plant an additional 400,000 acres of fruits and vegetables in the Matzulan areas. We view the idea of a free trade agreement between the U.S. and Mexico with grave concern for the simple reason that every study that has been done on the subject has found that the U.S. fresh fruit and vegetable industry will be the loser in the end.

One other issue that has not been discussed is that of agricultural chemicals. The registration process and maximum residue levels between the U.S. and Mexico must be harmonized with adequate safeguards to insure compliance. Today there is a vast difference between what is being used in Mexico versus what is being used in the U.S. with regard to agricultural chemicals.

In conclusion the Council strongly believes that, as stated before, the U.S. must conclude all efforts in the Uruguay Round of multilateral trade negotiations before pursuing a free trade agreement with Mexico. If the Uruguay Round negotiations fail, then all areas of access concern—tariffs, import licenses, effective phytosanitary enforcement based upon sound scientific standards, subsidies and certification, and inspection requirements—should be addressed in the negotiations.

Any U.S. and Mexico free trade agreement will be a double-edged sword. Potato growers in this nation have cause to be alarmed and concerned about possible implications. They, in the end, could feel the sharp edge.

U.S. SENATE,
Washington, DC, March 28, 1991.

Ambassador CARLA HILLS,
U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR HILLS: We are writing to urge that you deny a request by PepsiCo (Frito Lay) to be allowed to ship potato chips from Mexico duty-free. The current U.S. duty on Mexican imports of potato chips is 10 percent. The U.S. potato chip industry is specifically mentioned as vulnerable to increased exports in the International Trade Commission's recent study on a U.S.-Mexico free trade agreement.

It is our strong feeling that any changes in tariff levels should be delayed until after negotiations are concluded with Mexico regarding a proposed free trade agreement. It would be premature to begin to reduce duties now and set an unfortunate precedent for the future before we even go to the negotiating table.

The request for a waiver to allow duty-free treatment under the U.S. Generalized System of Preferences would be an unfortunate unilateral United States concession which should not be granted at this point in time.

Sincerely,

Senators Kent Conrad, William Cohen, Herb Kohl, Carl Levin, Slade Gorton, Bob Packwood, Quentin Burdick, Brock Adams, Larry Craig.

STATEMENT BY U.S. FRUIT AND VEGETABLE GROWERS

EFFECT ON AMERICAN HORTICULTURAL INDUSTRY

After a series of discussions held in the summer of 1990, a group of diverse fruit and vegetable industry representatives developed a position on the proposed U.S.-Mexico Free Trade Agreement (FTA).

Some representatives noted the proposed FTA may enhance U.S. exports of apples, wines, tree nuts, and possibly some other deciduous fruits. However, a significant number of representatives felt a Mexican FTA is of significant concern to and will have a severe adverse impact on segments of the U.S. fruit and vegetable industry.

Members of the winter fruit and vegetable industry, which is in direct competition with the Mexican winter fruit and vegetable industry, expressed the most serious concerns about the proposed agreement. Other horticultural industries, including the U.S. floral industries, are concerned about the year-round impact of the proposal. Members of the Northwest tree fruit industry, which considers Mexico an export market, expressed the strongest support for the proposal.

Despite minor disagreements over the relative benefits that would accrue to American industry from a Mexican FTA, there was widespread agreement that a number of factors must be addressed in any U.S.-Mexican FTA.

A primary concern is the vast disparity in the laws and regulations affecting preproduction, production, harvesting and post harvest handling of agricultural

produce in the U.S. and Mexico. U.S. producers must comply with laws and regulations which do not exist in Mexico. For example, growth management, environmental, water management, labor, and food safety regulations do not exist to the same extent or are not enforced in Mexico. This disparity between U.S. and Mexico provides Mexican producers with an artifical comparative advantage. This comparative advantage is founded only in the differences in government regulations. Therefore, all laws and regulations affecting agriculture must be harmonized before a fair agreement can be negotiated. The harmonization of all laws and regulations affecting agriculture will allow comparative advantage to be determined by the factors of production and not by the differences in government regulations.

PRE-CONDITIONS FOR NEGOTIATIONS

In an attempt to harmonize laws and regulations affecting agriculture, the following activities should be completed before an FTA is negotiated.

(1) the availability of accurate information on Mexican fruit and vegetable production, costs, prices, and shipments historically has been dismally lacking. Consequently, growers suggest that:

(a) full disclosure concerning acreage, production, quality, prices, and marketing for traded commodities should be required from Mexico.

(b) cooperation should be required in permitting or conducting analysis of particular commodity situations.

(c) identification of all policies should be required affecting traded commodities and their impact on the availability and price of such commodities.

(d) U.S. negotiators must specifically examine the Mexican industry's various direct and indirect subsidies, many of which are hidden.

(2) Chemical registration, the registration process and maximum residue levels between the U.S. and Mexico must be harmonized with adequate safeguards to ensure compliance. Worker safety and exposure regulations must also be harmonized.

(3) Mexico must comply with all its GATT obligations with special emphaisis on dismantling its licensing requirements and other onerous restrictions on imports into Mexico.

(4) Transportation regulations in the two nations must be harmonized.

(5) The free flow of labor between the two nations must be negotiated.

(6) All trade related activities and, in particular, all subsidies must be apparent and recorded. There must be trnsparency.

(7) The criteria for exceptions to the FTA need to be clearly defined.

(8) There must be an agreement about how the FTA and other national regulations that affect trade are to be monitored and enforced.

Once the above objectives have been met, the U.S. should move cautiously so that the Agreement includes all of the above and also addresses:

(1) Rules of origin.

(2) Binational dispute settlement procedures for an antidumping and countervailing duty cases.

(3) Intellectual property protection must be guaranteed for seed, plants, etc.

(4) A snap back provision similar to the one in the U.S.-Canadian Free Trade Agreement must be included.

(5) A phase-in period of at least 10 years.

(6) It is recommended that the U.S. International Trade Commission conduct the necessary probable economic effects study on agricltural imports from Mexico

[From the National Dry Bean Council, International Market Development Programs, Saginaw, MI]

UNITED STATES DRY BEAN INTERESTS CONCERNED OVER FTA SNAGS WITH MEXICO

(By John A. McGill, Jr., Administrator-Treasurer)

LONGMONT, CO.—W. F. Bolster, President of the National Dry Bean Council and Jim Melban, California Dry Bean Advisory Board are working on the U.S. Dry Bean Industry's stance on the pending free trade negotiations that are about to happen between Mexico-U.S.A. and Canada.

The National Dry Bean Council represents dry bean farmers and processors from New York to California. The California Dry Bean Advisory Board is one of the largest dry bean producer organizations in the world. Bolster and Melban claim their membership is concerned over talk that the Mexican government would seek protection under the FTA agreement for corn, beans, rice and wheat in the upcoming negotiations.

U.S. dry bean interests already market U.S. grown bean products in Mexico. The U.S. bean group claims that tariffs or other restictions placed on beans and other primary U.S. crops now imported by Mexico from the U.S. would place a very jaundiced light on the National Dry Bean Council's consideration for support of the FTA. For sure the U.S. producers of dry beans, many of whom produce corn, rice and wheat will vigorously oppose FTA if Mexico imposed tariffs or taxes on the import of these U.S. agricultural products.

Mr. AKAKA. Mr. President, I rise in support of the resolution offered by the Senator from South Carolina [Mr. HOLLINGS] to disapprove the extension of fast-track authority. My support for Senate Resolution 78 is based on the need to assure full congressional involvement in trade negotiations, including the responsibility to fully debate, and offer amendments to, any legislation to implement trade agreements.

It is not my goal to derail the negotiations now underway to resurrect the Uruguay round of GATT. If that were the case I would be too late, since news accounts from Brussels indicate that our trading partners need no assistance in bringing negotiations to a standstill, despite the presence of United States fast track. Nor do I seek to preclude negotiations with Mexico on a North American Free-Trade Agreement. Negotiators from Mexico have stated that discussions will continue with or without fast-track authority.

However, I believe renewal of fast-track authority unnecessarily restricts congressional debate and involvement when considering trade agreements. Future trade packages could require substantial revisions, and sharp reversals, in current U.S. law. Congress would be compelled to vote on these changes without amendment and under limited debate. The promises made by the administration and assurances given by USTR in return for fast track have done little to guarantee the fair and equitable treatment of American workers and industries under any trade agreement.

Consider the case of my own State, where sugar has been an integral part of our history and economy for over a century. I am proud to represent over 17,600 sugar workers and their families. Today, Hawaii remains the second largest sugar-producing State in the Union, with the highest yields in the world, more than double its nearest rival. Our workers are the best in the world at what they do. Their 1990 per capita output of 152 tons per capita is the highest in the sugar industry by far, more than 10 times the level of productivity achieved by other countries.

As a consequence of their efficiency and productivity, Hawaii sugar workers earn the highest agricultural wages and benefits in the industry. Sugar remains a vital component of Hawaii's economy. In spite of this enviable record of achievement, they enjoy no real feeling of economic security.

Sugar is the most heavily subsidized commodity in the world. Nowhere is it more heavily subsidized than in Europe by the European Community. By comparison, the U.S. sugar program provides our American industry a minimal safety net and operates at no cost to the Treasury or the taxpayer.

Yet, Mr. President, our USTR trade negotiators have admitted, both in Brussels and in congressional testimony, that sugar is a bargaining chip in the Uruguay round. The United States has already given up its GATT waiver allowing use of "section 22" authority to limit imports that would jeopardize domestic commodity programs.

Last December, U.S. negotiators looked to the "Hellstrom Proposal" as a compromise to break the impasse over Uruguay round agricultural reforms. This proposition calls for an across-the-board 30-percent cut in price supports, import barriers, and export subsidies. Acceptance of this proposal would be the death knell for the American sugar industry, while EC producers would continue to benefit with support levels above their cost of production.

The damage done to the U.S. industry, and Hawaii in particular, would be considerable. Yet the administration has so far refused to provide an analysis of the impact of a Uruguay round agricultural agreement upon United States sugar, EC sugar, and other foreign production.

This oversight extends to the initial studies the administration has undertaken on a United States-Mexico free-trade agreement. A U.S. International Trade Commission study released in February evaluated the potential effects of a trade agreement on a number of American agricultural products. However, strange as it may seem, an analysis of sugar was conspicuously ab-

sent, even though Mexico is the eighth largest sugar producer and the seventh largest consumer.

Officials of the United States sugar industry have offered credible testimony that under a free-trade agreement, Mexico could ship all of its domestic production to the United States to take advantage of our higher minimum price, while satisfying its domestic needs with sugar purchased on the international dump market. This surge of sugar imports could replace half of U.S. production and turn our cost-free sugar program into a fiscally draining and politically untenable one.

A trade policy aimed at enhancing the export market for manufactured goods and services and protecting U.S. intellectual property at the expense of American agriculture is misdirected and warrants careful consideration by Congress. It should not be subject to the up-down, take-it-or-leave-it approach provided under fast track.

The inclusion and implementation of these proposals in a Uruguay round agreement would have a devastating impact upon my State. The massive unemployment resulting from the destruction of our domestic sugar industry would have a ripple effect measurable on the "tsunami" scale upon the Hawaiian economy. Unemployed workers would be unable to purchase homes, unable to patronize local retailers, and would require additional State and local services while the tax revenues to support these services would shrink.

This scenario is not unique to Hawaii. Auto workers in Ohio, textile workers in South Carolina, Governors and mayors across the country are all aware of the precarious financial situation confronting families, businesses, and communities today. An international trade agreement offers these communities the great promise for economic prosperity and revitalization. It poses an equally great threat to their fiscal security and very existence.

The key to American productivity, prosperity, and growth is the American worker. Under fast track, and without sufficient safeguards, the stakes for the working men and women of Hawaii, for all working families in America, are too important for Congress to surrender its constitutional responsibility to play a leading role in working to secure strong, enforceable, and balanced trade agreements to unelected USTR negotiators.

We must affirm the role of Congress to participate fully in consultations and negotiations in any trade agreements before they are written. The Hollings resolution preserves this authority, and I urge my colleagues to support the measure.

Mr. LEAHY. Mr. President, today's debate on fast track gives us the opportunity to look once again at the issue of trade.

I have long been a supporter of efforts to lower trade barriers and to expand overseas markets. That is why I supported fast-track GATT 4 years ago and a free-trade agreement with Canada. I expect to support other agreements in the future.

But now the administration comes before Congress asking for a blank check—to continue GATT negotiations in the Uruguay round and to begin negotiations with Mexico. I have met privately with administration officials, pushing them to specify their negotiating goals and positions. I have chaired hearings in the Senate Agriculture Committee and the Judiciary Committee to flesh out the pros and cons of the GATT negotiations and of a possible agreement with Mexico.

While I hope the administration will come back with excellent agreements I can support, I have not seen enough to make the leap of faith to support the fast-track extension.

This issue is not about free trade—it is about fair trade. Based on what I have seen to date I do not believe that the administration will negotiate a GATT agreement that is fair for American agriculture. And I remain concerned that a free-trade agreement with Mexico will not be fair to American workers nor include strong environmental standards.

Does the fundamental concept of fair trade matter to this administration? By following the ideological straightjacket of free trade, they have lost sight of the most important goal of any agreement—fair trade. I believe that our negotiators are more committed to good rules than to good results.

While the administration cannot be expected to spell out each and every detail of its negotiating strategy, the American public deserves greater assurances than they are now receiving. The public and those industries affected by the negotiations have the right to know more about how the administration plans to prevent the deterioration of our environmental standards and loss of American jobs. They need more than vague promises that these issues can be resolved in some foreign capital. There comes a time when it is important to say "nice try, but back to the drawing board." That time has come with fast track.

GATT AND AMERICAN AGRICULTURE

Early in the GATT negotiations, I believe an agreement could benefit all agricultural commodities. In 1987, the administration calculated that 40 percent of U.S. agricultural spending was required just to offset the money spent by other nations to subsidize their exports.

It clearly makes no sense for both the United States and Europeans to bid against each other and bribe other countries to buy their farm products. This only drives prices down and raises taxpayer costs. I believed our negotiators deserved the chance to end this chaos and rid agricultural trade of direct export subsidies.

But 4 years later, the chaos is still with us and few believe success is imminent. Negotiations collapsed last year when the European Community was unwilling to negotiate the kind of agreement that would benefit U.S. agriculture. And there is little evidence that the Europeans' position has changed.

To compound the problem, proposals discussed at Brussels last year, would have devastated dairy farmers and producers of other commodities, including peanuts and sugar. I cannot vote in favor of fast track and implicitly condone the current direction of these negotiations.

Indeed, according to the Department of Agriculture's own estimates, the most recent negotiating proposals if adopted could force a drop in dairy farmers' net returns of over $1 billion, and a 68-cent reduction in milk prices, a price drop that could push many family farmers into bankruptcy.

Today in Vermont, family farmers are having difficulty making it through these tough times. A bad GATT agreement could push them over the edge.

The administration has told U.S. agriculture that by eliminating the export subsidies of the European Community, U.S. agriculture will benefit from significantly higher world market prices and huge savings in Government expenditures. A close look at the facts does not paint such a rosy picture.

First, the so-called increase in prices touted by the administration would, in many instances, give U.S. farmers a lower domestic price than they now receive. The result—a net loss of U.S. agriculture.

Second, with GATT negotiations going into their fourth year, the European Community has not made a bona fide commitment to control its export subsidies. Initially, the administration argued for complete elimination of those subsidies. Now, it will agree to only a 30-percent reduction. But the European Community would not agree to even that. The result—no real gain for U.S. agriculture.

Third, the administration's position on market access would open up the U.S. markets to subsidized foreign competition. This puts U.S. farmers even more directly into competition with the treasuries of foreign governments than they are now. The result—unfair competition for U.S. agriculture.

Further, the administration, while seeking increased market access to all countries' markets, has not addressed the legitimate desire of countries to maintain domestic agricultural production—even if it is not price competitive.

U.S. negotiators are so intent on achieving a GATT agreement that they cannot accept the economic analysis of their negotiating positions. I fear that they have lost sight of the real goal of multilateral trade negotiations—to benefit the entire U.S. agricultural community.

INTELLECTUAL PROPERTY

The issue of intellectual property is one I have carefully considered. Last week, Senator DECONCINI and I held hearings on intellectual property in the context of GATT and negotiations with Mexico. We heard not only from the administration, but also from various intellectual property industries—including computers, computer software, motion pictures, sound recordings, and pharmaceuticals.

Intellectual property is one of the crown jewels of our economy. While smokestack industries—like steel and autos—used to fire out the engine of our economic growth, more and more that engine is being fired by the works of our imagination—software, motion pictures, sound recordings, and the like. Our core copyright industries in 1989 alone accounted for $22 billion in foreign sales, more than the entire U.S. aerospace industry.

At the same time, success carries risks. Products like computer programs, pharmaceuticals, and movies are expensive to make, but easy to copy. It takes no great genius for an overseas bootlegger to duplicate a U.S.-made floppy disk or a video cassette or for a foreign chemist to break down the components of a new wonder drug.

Modern day pirates who steal the creations of American artists, scientists, and engineers cheat the American economy of billions of dollars each year.

So there is no doubt that we must demand the highest level of worldwide protection for intellectual property. We must demand strict standards of production and serious enforcement.

Last month, the administration sent China, Thailand, and India the right messages under special 301 of the 1988 Trade Act: Entry into the United States market is not a one-way street; reciprocity must guide our trade relations; and countries that raise barriers to American goods cannot expect a free ride into our open market.

Would the United States interest in tough protection for intellectual property be served by an Uruguay round accord or a North American agreement? The answer is far from clear. With respect to Mexico, it is too early to know since negotiations have not begun.

But with respect to the Uruguay round, we know that after 4 years of negotiations, serious problems still exist. These include: The level of protection for computer software and for semiconductor chip designs; the European determination to exempt cultural industries from a services agreement; the conditions under which countries may grant compulsory licenses for patented products; the right, if any, of producers of sound recordings and software to prohibit rental; and the dangerous inclusion of a provision on the international exhaustion of rights.

Other issues remain as well. I am troubled that an agreement may preclude us from taking a unilateral action under special 301—our most potent tool for securing tougher intellectual property protection. The last thing we want is a watered-down least-common-denominator agreement that codifies inadequate levels of protection while curtailing our ability to act.

ENVIRONMENTAL/HEALTH AND SAFETY ISSUES

The United States has the toughest environmental and health and safety standards in the world and we are constantly looking for ways to make these laws better. While these issues are becoming increasingly important to the world community, other nations are scrambling to catch up. Even so, the gap between the United States and some developing countries is vast.

For example, a recent survey of 23 industrial sites and nearby rivers in the maquiladora area of northern Mexico along the United States border found evidence of toxic discharge at 75 percent of the sites and severe contamination at one-third of the facilities. Eight of these facilities are run by United States companies, including the Rimir plant—run by the General Motors Corp.—in Matamoros and the Lamosa plant (run by Ford Motor Co.) in Nuevo Laredo, both of which make automobile components.

In addition, the General Accounting Office reported in 1990 that Mexico registers for use 11 pesticides that have been canceled for or voluntarily withdrawn from United States use, including DDT, chlordane, heptachlor, and EDB.

The current structure to deal with the pesticide and maquiladora pollution problems are inadequate. Instead, we need a strengthened, joint United States-Mexico approach to tackle the problem. Also, U.S. corporations must take a major responsibility for cleaning up the chemical mess they helped create.

There are some bright spots. Mexico has begun to treat some of its worst environmental problems. For example, it recently closed down a large oil refinery near Mexico City because of air pollution emissions.

In addition, the administration, in its 70-page document on the environmental aspects of an agreement with Mexico, has gone a long way to easing some of the concerns of the critics. Even so, there are still some issues that remain unanswered.

First, what does the administration intend to do about the export from the United States of banned and unregistered pesticides to Mexico and about breaking the circle of poison?

Second, will the administration commit the resources to inspect the increased amount of food that will enter this country if an agreement with Mexico is reached?

Third, any North American agreement should be drafted to ensure that national and State environmental and health and safety laws, regulations, and standards are not intentionally or inadvertently weakened or undermined.

AMERICAN JOBS

While fast-track proponents argue that an agreement with Mexico will benefit the United States economy by creating jobs, they have offered little evidence to support their contentions. One study cited by the administration suggests that 64,000 U.S. jobs may be created by the year 2000. This number is so small that it would affect the unemployment rate by one-twentieth of 1 percent, hardly a statistically significant number.

Even the International Trade Commission study showed that a trade agreement with Mexico would reduce the income of unskilled workers in the United States—workers least able to weather tough economic times.

Are we willing to stake the lives of American workers on the tenuous promise of a handful of jobs in the future?

When I go home to Vermont, I would like to be able to tell the working men and women of the State we said "no" to exporting U.S. jobs.

This has not been an easy decision for me. I have heard from all sides and from Vermonters of all walks of life—from farmers to shop owners to business executives. Vermont is not just a State of dairy farmers. In fact, many favor fast track because they see its economic benefits.

With or without fast track, the administration can still negotiate trade agreements with Mexico and under GATT. During negotiations on past trade agreements, I maintained an active role, meeting with administration and foreign officials, commenting on proposed language, and holding hearings. I have raised a number of issues that the administration should consider in contemplating any future agreement. My vote against fast track should send a message to the administration that I can and will support a final agreement if it is fair to American farmers, workers, and consumers.

Mr. DASCHLE. Mr. President, when Congress is asked to suspend regular legislative procedure, the burden of proof should be on those advocating the change. The proponents should be required to prove why this procedure, and only this procedure, is so necessary that we must shift the balance between the executive and Congress. The proponents have not met this burden.

It is important to distinguish the fast-track procedure from the trade agreements themselves. My vote is not a vote against freer trade. My vote is not a vote against an agreement in the Uruguay round. My vote is not one against an agreement with Mexico, or against a North American Free-Trade Agreement. My vote is against this procedure, and my vote is against the proposals the administration has offered in these negotiations.

Ultimately, the decision on fast track for each Senator comes down to whether one can trust this administration to conduct these sensitive negotiations with a proper appreciation for the political, social, economic and environmental consequences of these agreements. Trust must be earned. It must be acquired through acts of good faith. Time and again, this administration has not shown good faith and, consequently, has not earned our trust. I have serious concerns, based on prior experience, that the administration's aims in these agreements are not limited to trade matters. I am concerned that the agreements are a pretext for a more fundamental restructuring of our economic relationships.

I commend Senator BENTSEN for his handling of this difficult issue. He has been fair and reasonable in attempting to help those of us who have had doubts about this matter. He has given opponents and proponents a chance to be heard and to raise their questions. He has worked tirelessly to try to answer our concerns. It is with a deep sense of regret that I cannot vote with him. I have no doubt that he firmly believes this procedure is necessary and in the national interest. I also believe that he has confidence in the administration. I wish that I could share his confidence. But I cannot. This issue is too important and the conduct of the administration too troubling to justify the extension of fast-track procedures.

One feels like a parent when the teenager asks for the keys to the family car. If you urge the teenager to be careful, and he tells you to mind your business, you're reluctant to turn over the keys. That's the position we are in here.

The extension of fast track is not justified on two grounds: First, the procedure is no longer adequate to deal with the scope of issues we must confront when these agreements come to us, and, second, the administration has not shown the proper appreciation for the consequences of its proposals.

Proponents of fast track argue that the procedure is necessary because other nations will not negotiate with us, or even if they do, will not give us their best deal, if they know Congress will amend, or pick apart, the agreement. That other nations would want this assurance is understandable, but this procedure provides little of that assurance. It can be changed at any time by majority vote. Other countries will have no more comfort that we will keep this procedure, than they will have assurance that the treaty will be approved. Fast track's benefit in this respect is merely symbolic.

Congress has approved many international agreements and treaties, involving multiple parties, without fast track. In the 1980's alone, the United States completed 79 multilateral agreements involving almost every country on Earth, including agreements in tax, trade, environment and arms control. Negotiators have successfully negotiated and Congress has approved such treaties without this procedure, and without the agreements breaking down under congressional amendments.

The necessity for assuring that the treaty will not be amended does not explain why fast track must apply to the implementing legislation for the agreement. Fast track covers two products of a trade negotiation: the treaty and the implementing legislation. The implementing legislation is the changes Congress must make in domestic law to come into compliance with the terms of the agreement. The administration submits this legislation after 90 days of working with the committees of jurisdiction. After the legislation is introduced, no further amendments are allowed.

In agriculture, for example, it is the implementing legislation by which we will rewrite farm programs. The 1990 farm bill took about 18 months to write, after 4 years of debate. Under fast track, this process is condensed into 90 days. The Senate farm bill was one of the largest, most comprehensive bills ever considered by this body, covering more than 1,000 pages and dealing with rural development, conservation, food safety, credit, trade and general commodity programs. The bill touched virtually every aspect of rural life. It was pieced together into an elaborate quilt of compromise, each segment linked to the other.

The administration is not being honest when it asserts that if its Uruguay round proposal prevails, no changes will be necessary in the farm bill. The opposite is true. By demanding that payments not be "trade-distorting," the administration is calling for dramatic changes in the ways payments are made for most commodities. Even without these changes, by abandoning section 22, as the administration proposes, programs for certain commondities must be substantially restructured. As the fast-track proponents frequently claim, once you pull the thread holding together such intricate compromises, you threaten to unravel the entire cloth. Changes in commodity programs will effect conservation and environmental provisions of the farm bill. The agreement also is likely to affect food safety and meat and poultry inspection. Fast track is not adquate to deal with changes in domestic law of this magnitude.

Furthermore, by tying the hands of Congress, fast track gives the administration unprecedented power in the legislative process. Even if the constitutional basis for Congress' authority over the trade agreement itself is debatable, there is no doubt as to Congress' total power over matters of domestic commerce affected by such agreements. Fast track is simply too tempting for those mischievous officials in the administration who will see an opportunity, when Congress has its hands tied behind its back, to sneak some special provisions in the implementing legislation that they could not get through Congress otherwise. If our negotiating partners insist that the treaty receive special treatment, then fast track should be applied to the agreement itself. But this argument does not, by extension, mean that fast track should apply to the implementing legislation.

If our trading partners observed the same procedure, perhaps fast track would be reasonable. But that is not the case. In Canada, the provincial governments have greater autonomy than our States. They operate independent of, and in cooperation with, the Federal Government in implementing Federal programs, including, for example, agricultural subsidies. Provincial governments contribute one-third of the funds applied to payments to producers of certain commodities. Thus, the provincial governments have a significant role in implementing a trade agreement.

The provincial government of Ontario, for example, reserves the right to not implement parts of a North American Free-Trade Agreement, with which the provincial government disagrees. This position would be similar to Congress reserving for itself the right to amend, or to not implement, parts of an agreement, a right Congress does not have under fast track. If this procedure is necessary for our participation in these negotiations, then it should also be necessary for Canadian participation, as well. Our negotiators must see to it that Canadian provinces obey a take-it-or-leave-it approach, if Congress must.

It is also not appropriate to compare fast track to parliamentary systems, where the executive is a member of the majority party of the parliament. For one thing, the executive and the majority party in Congress are not of the same party. As Members of Congress, we represent citizens and States who demand that their voices be heard on trade matters—not only heard, but responded to. Moreover, European trade negotiators operate from a specific mandate, while U.S. negotiators operate on proposals they develop without any formal endorsement by Congress.

Fast track might be appropriate if our negotiators were tied to a specific mandate. Absent a mandate, our negotiators have a blank check, and are free to disregard anything we say in the much-celebrated consultations.

As I hear my colleagues characterize the merit of these consultations, I must say, I think was in different meetings. In my experience, the consultations have not been meaningful. Senators like these consultations because they offer an opportunity to meet directly with administration trade negotiators. Muggers meet directly with their victims, too, but we don't call it consultations. We have had about as much chance convincing this administration to change its approach, as we would have persuading a mugger to not take our money.

Stripped of our constitutional powers, the extent of Congress' role in the process depends on these consultations being meaningful. If they are not meaningful, the consultations are nothing more than window dressing. Had these consultations been meaningful, I might have been willing to accept this procedure. But so long as the administration does not, in good faith, live up to its obligations under this arrangement, I cannot support its continuation.

The other ground for opposing this procedure is the administration's demonstration that it lacks a full appreciation for the consequences of its proposals. Those who favor extending fast track say that even if one has concerns about the agreement, one should still support fast track, because one can vote against the agreement later. While that observation is true, it misses the point. How can one support the negotiations if one opposes the proposals the administration has offered in the negotiations? With these proposals, the agreements are fundamentally flawed from the beginning. I will have more to say about that in a minute. But the proponent's argument also overlooks the main reason for voting against the agreement, that is, to prevent the agreement from taking effect.

Chances are, the administration will reach an agreement and will ask that it be approved. At that point, all the forces of international business that have been marshaled in support of fast track will descend upon Congress and urge that we set aside our reservations and approve the agreement. We will no doubt hear how it would be an embarrassment to our President to not approve an agreement that he has made with other governments. At that point, voting against the agreement is of little use. If one is concerned that constituents, or whole industries, will be harmed by the agreement, voting against an agreement that takes effect despite one's negative vote, is not much comfort for one's constituents who lose their jobs, their farms or their businesses. They expect more than symbolic votes.

I am opposed to the administration's proposals for negotiations in the Uruguay round and for the North America Free-Trade Agreement because they are flawed in conception and skirt too many fundamental issues. Free trade must be fair trade. The administration has not shown that it will make a deal that is fair. Our market will be wide open, while other countries will continue to block out American products.

While proponents often claim that a GATT agreement will expand the U.S. economy. What they do not say is that a GATT agreement will not reduce the trade deficit. In fact, the GATT agreement, by dismantling U.S. trade remedy laws, is likely to increase the trade deficit. Clyde Prestowitz of the Economic Strategy Institute, a leading critic of U.S. trade policy who is well-respected in the business community, testified before the Finance Committee that the GATT agreement, as it stands now, will increase the U.S. trade deficit by $14 billion per year. With the further weakening of our trade laws, the deficit could balloon by another $20 billion. The total annual increase in the trade deficit would be $34 billion, an increase of more than 33 percent. Mr. President, there's something wrong with a trade policy that will make our trade deficit worse, not better.

The 1988 United States-Canada Free-Trade Agreement is a case in point. Tens of millions of bushels of wheat from Canada are flooding United States markets, but American farmers can't get even a bushel of wheat into Canada. Now that United States support levels for wheat have dropped below Canadian levels, the Canadians are scheduled to remove their import licenses which are one barrier to United States wheat and wheat products. This step is no assurance any United States wheat will be sold in Canada. United States negotiators also failed to abolish the Canadian rail subsidy that applies to shipments of agricultural goods, another advantage for Canadian farmers. The proposals also overlook tax policies, which operate as subsidies, and that recent economic studies show give Canadian producers a significant edge over American farmers, and that tend to favor large farms over family farmers.

Despite walking out of the Uruguay round, the administration has not shown that it will stand tough for a fair deal for all segments of the economy. The administration and its negotiators should be commended for insisting on significant reductions in agricultural export subsidies and trade barriers. But these elements are only pieces of the puzzle.

The administration's proposal in agriculture calls for proportional reductions. Each party agrees to the same percentage cut. Proportional reductions are not fair, if one party starts the reductions from a significantly higher point than the other party. The party that starts from a higher point is still at a higher point at the end of the cuts. Under the administration's approach, an agreement will be reached that will lock in place gross disparities between United States and European support for farmers.

In 1991, the European Community will spend $46 billion to support its farmers. Direct support from EC member states will add another $14 billion, for a total of $60 billion in agricultural support. American farmers receive less than $11 billion in government support, one-fifth the amount of their European counterparts. Under the administration's proposal, EC farmers will still receive more government support than American farmers.

Depending upon the base years used to make these reductions, the agreement may improve the ratio of American-to-European subsidies. That would be a positive result. But subsidies measured in total dollar figures tell only part of the story. The more important question is whether the remaining subsidies continue to cover the producer's costs. Even if the Europeans spend less, if their farmers can recover their production costs through government subsidy and American farmers cannot, then American farmers are left at a significant disadvantage. Under the administration's proposal, a European farmer could recover his production costs from the government. Meanwhile, government support for the U.S. farmer is now well below a farmer's production costs. A deal that leaves this disparity in place is unfair.

The way the payments are made can have a significant effect on whether or not these subsidy reductions translate into cuts in agricultural production. No one should be deluded by what is promised for these agreements. Even the trade negotiators, in their candid moments, admit these agreements will not produce the promised results. Our chief negotiator in agriculture concedes that the European Community will agree to no more cuts in the Uruguay round than the EC will make through its own internal adjustments. Nevertheless, the administration has exaggerated the potential benefits of the agreement based on scenarios that bear little relationship to the likely outcome. USDA assumes substantial reductions in internal and external supports, and on the elimination of the EC variable levy. These are worthy objectives, but totally unrealistic. Furthermore, USDA makes the assumption that these reductions will translate into a comparable reduction in European agricultural production and exports. This factor is critical because unless European production declines by substantial amounts, American farmers will not see the price increases USDA promises. Without the price ben-

efits, farmers get none of the income increases. USDA's assumption on production declines ignores the ingenuity of European bureaucrats to devise payment schemes that will comply with GATT and will keep EC farmers producing at substantial levels that will prevent significant price increases.

The administration's proposal will have much broader effects than mere adjustments in subsidy levels. If carried out as proposed, it will unravel a delicate fabric of programs that strengthen rural America, including mechanisms to enforce and encourage soil conservation, environmental protection and resource management. These conservation and environmental measures are linked to program participation. If fewer farmers participate in government programs, enforcement of environmental and soil conservation measures will decline.

The administration's approach also fails to distinguish between the size of farms and to recognize how its approach will have a disproportionately harsh effect on midsized family farms, which are the basic building block of rural communities. The failure to appreciate this disparate impact on family farms goes to the very core of the philosophy behind the administration's approach. In the administration's view, farm families are merely economic entities. Certainly, a farm is a business. But it is that, and more. One does have to be a romantic to recognize that our society is more than millions of economic particles bumping into one another, like cells in a petri dish. The idea that our society is no more than the sum of our economic parts is tearing apart families and communities. A farm is part of a living, breathing organism called community. When you kill off parts of that organism, you weaken the community until it dies. This philosophy—that there is a social purpose served by maintaining healthy rural communities—is at the heart of the European farm policies. It is this philosophy, not just trade barriers, that the administration hopes to kill in the Uruguay round. The administration has been trying for 12 years to destroy rural programs. One should not be surprised that those of us who see the importance of rural communities in our society are suspicious of the administration's intentions.

The administration says that its proposal would permit governments to provide income assistance, so long as it is not trade distorting. First, income assistance in any form eventually becomes trade distorting if it covers a producer's cost of production so that he may stay in operation and continue producing surplus products, while farmers in other nations are not so advantaged. But, the important point is that this argument is nothing but a smoke screen. The administration refuses to commit any political support for assistance funds, and is evasive when asked to describe how such payments would be structured. The same problem arises when we consider worker retraining assistance. I'll have more to say about that later. The reality is, the administration will not support and will oppose assistance to farmers. If this is not true, then the administration should commit now to support such assistance, instead, it has refused to make such a commitment. This is an example of how the administration has not shown good faith.

The snap back provisions in the Budget Act are little assurance to farmers who are concerned that the United States has already disarmed unilaterally in this trade cold war. I have learned in my time in Congress that straightforward mandates in law are no assurance that the administration will carry out the law. If the administration believed marketing loans and increased spending for the Export Enhancement Program were needed, they could implement them now without the authority in the Budget Act. Denying fast track is not an automatic elimination of these snap back provisions. The provisions lose effect only if the President certifies that the denial of fast track in its current form was the reason for the collapse of the Uruguay round. If fast track is denied, I am sure that he will make such a certification. But he is not bound to, and could implement the provisions regardless of what happens here with fast track. That the administration is using these provisions as black mail is only more evidence of how the administration would sacrifice American farmers in return for political advantage.

Food safety is another case of administration duplicity. This issue receives little attention but it is central to several ongoing trade disputes with the European Community. Clearly, steps must be taken to establish a mechanism to resolve these kinds of disputes. I commend the administration for making this an objective. But, again, what starts as an important trade objective, can be, and has been, manipulated by others in the administration who have another agenda. Under fast track, food safety will be tucked away among hundreds of other concerns, many that will be seen as having greater economic significance. If there's a loophole—by which a USDA bureaucrat thinks he can turn over responsibilities under U.S. law to foreign meat inspectors—the problem could be lost in the shuffle. We need greater protection against such administration conduct than fast track affords.

The administration seeks to submit food safety and environmental regulations to an objective standard. That sounds good in principle, but it is doubtful that objectivity will result in practice. The body that will set the standard is an international committee composed almost entirely of representatives of multinational chemical and food-processing companies. Instead of objective science, food safety laws will be measured by science bought and paid for by international companies with no allegiance to the United States and with a direct economic stake in low food-safety standards. The international fox will be guarding the American chicken coop.

The administration has not been straight with the American people about its intentions for a Mexico agreement, either. It has attempted to hide behind a fog of economic studies that are rigged to produce numbers the administration wants. The administration has cited studies purported to show substantial job gains from a Mexico agreement. In fact, the job increases fall within the range for standard error. Based on these studies, there's no more reason to believe there will be job gains than to believe their will be job losses. None of the studies the administration cites deal with the crucial issue of whether businesses will relocate to Mexico, or what will happen if they do. Instead, these studies arbitrarily assume this issue away. They do not even factor this possibility into their calculations the ITC model and the Peat-Marwick study take this approach one step further and assume full employment. These studies do not consider net job losses because they assume no job losses.

Meanwhile, another economic analysis by the University of California at Berkeley for the Economic Policy Institute shows job losses as high as 550,000 American workers and a decline in U.S. gross national product of $36 billion. Because this model also assumes full employment, these 550,000 workers reemployed, but at a 50-percent cut in wages. The difference between these studies is that the Berkeley model attempts to account for some shift in investment to Mexico resulting from a more stable investment climate, while the studies the administration cites assumes this factor away.

The proponents rebut the jobs argument by asserting that there will be no greater incentive under the North American Free-Trade Agreement than exists now for American companies to relocate to Mexico. If Mexico can't anticipate foreign investment, then this agreement can't be of much value to Mexico. But, the truth is, there are incentives that will be enhanced by an agreement, presuming the removal of certain of these barriers is one of the objectives of the negotiators.

The maquiladora program gives us some picture as what economic development will look like under a free trade agreement. The program effectively suspends Mexican import duties on United States production-related machinery, as well as components, that are incorporated into exports manufac-

tured in a maquiladora plant. United States duties on the United States content of products imported from these plants are also eliminated. In response to these tariff suspensions, the maquiladora program has mushroomed from 120 plants, employing about 19,000 workers in Mexico 20 years ago, to about 1,800 plants employing about 500,000 workers today. Several United States companies have moved or set up operations in Mexico at the expense of United States workers, including Electrolux, Tyco, Zenith, Westinghouse, Farah, GE, AT&T, GM, Ford and Chrysler. As a result, trade from the maquiladoras has doubled and now accounts for 45 percent of all United States imports.

There must be some incentive for these companies to invest in Mexico. It's probably not the Mexican consumer. Most of the United States exports to Mexico are products shipped by United States companies to their plants in Mexico to be assembled and shipped back to the United States market. These value-added products are also the majority of Mexican exports to the United States. The fast-track proponents often say that United States-Mexico trade is about $50 to $60 billion a year, based on a $52 billion total in 1989. United States exports were $25 billion and United States imports were $27.2 billion. But real trade—that is, what Mexicans actually bought from and sold to Americans—is actually more than a third less than these figures suggest. An estimated $12.5 billion, about half of United States imports from Mexico, come from the maquiladora plants. Of this $12.5 billion, $9.5 billion is goods shipped from the United States to Mexico and counted as United States exports. Thus, of the $25 billion in United States exports to Mexico, more than one-third, $9.5 billion, is reexported to the United States. United States companies actually sold only $15.5 billion worth of goods to Mexicans, not $25 billion. These figures show that United States companies are using Mexican labor to make goods for the United States market.

No one can predict with certainty what businesses will do. Are these duty-suspension incentives alone enough to cause a company to close its United States operation and start up in Mexico? Probably not. Labor costs alone may not be enough, either. It is the aggregate of incentives, building one on top of the other, that will encourage companies to relocate. Start with cheaper wages, add lower tariff duties on components imported from the United States to Mexico, add the lower tariffs for reexporting to the United States, add the lower costs associated with not having to deal with OSHA, EPA, Social Security, health care costs, and a company reaches a point at which it may conclude that the savings outweigh the costs of doing business in Mexico.

But costs are only part of the relocation issue. The real incentive for relocation stems from greater stability for investment. Companies are unwilling to relocate now because they are afraid that the Mexican Government could change overnight and that a new government could take their business under government control. A free-trade agreement will create a more stable business climate. It will be a sign that the Mexican Government is less likely to change and become anti-American. That's the whole point to this agreement. American companies want a stable investment climate. Only the free-trade agreement gives them that. It is not Mexico's tiny domestic market that is of interest to United States multinationals, it is the labor force of almost 30 million people—about 25 percent of the United States labor force. For United States manufacturers to take advantage of that resource, Mexico must first be a safe place to invest.

Nobody is arguing that every business will find it cheaper and more desirable to relocate to Mexico. I am not saying that trade is a zero-sum game, that every job created in Mexico is a job lost in America. What skeptics are saying is, that if Mexico can offer cheaper wages and a safe haven from health, safety, and environmental regulations, some companies faced with high labor and high regulatory costs are likely to relocate. This point is so obvious it should defy contradiction. That the administration has strained so momentously to deny the obvious has weakened the administration's credibility.

It would have been better for the administration to have acknowledged the potential for some companies to relocate, and for some American workers to lose their jobs, and to have offered a plan to deal constructively with this potential. Instead, the administration's response in the action plan is a deathbed conversion—too little and too late to be taken seriously. The reluctance of the administration to even acknowledge these concerns as legitimate is palpable on the face the action plan. The document goes on for pages as to how there is no justification for concern over job losses. But, it says, if Congress insists on making it an issue, we'll agree to talk with you about an assistance package, but understand, we intend to make the criteria so tight that few people will be eligible. Besides, the administration might as well have said, we'll never let you fund it anyway. Given its history, the administration's assurances on environmental protection and worker assistance are not credible. The action plan should be seen for what it is—a cynical ploy to buy a few votes.

The administration also was dragged reluctantly into considering environmental issues in these negotiations. The administration should have been more disturbed by the development model set by the maquiladora program. While economic growth will help improve environmental regulation in Mexico, this is not enough. The U.S. News & World Report found indiscriminate dumping or long-term storage of industrial garbage and hazardous wastes fouling the landscape and poisoning the water and soil. The magazine also found chemical-laced industrial waste water and raw sewage pumped into canals and rivers which is causing widespread gastrointestinal illness, hepatitis and other long-term health problems. Massive discharges of toxic fumes have occurred in chemical plants and other factories. Maquiladora plants employ women and children, some as young as 13, who are exposed to toxic substances and other workplace health hazards without being given safety instructions or protective gear. Yet, until pressed by Congress, the administration insisted that these environmental health and safety issues were not relevant in these negotiations.

One of the disturbing aspects of this entire debate is the assumption that there can be only one model for trade agreements, and that if you challenge that model, you must be a protectionist. I cannot accept that our thinking must be so rigid, our minds so closed, that we cannot adopt new models for trade agreements to address the problems we face in the world now. The old model was designed for a postwar world dominated by the United States. That's not the world today. Environment, human rights, health and safety concerns take a much more prominent role now than in the past. Our trading partners are stronger, more aggressive, and more inclined to see their national interest linked with their economic well-being. Our negotiators, however, are committed to free trade as if it were some religion. We should be able to develop mechanisms to deal with the new world. These problems deserve more than lip service, which this administration has offered, they deserve a genuine commitment. We should seek a level playing field. An American company in Mexico should obey the same health, environment, safety, and child labor laws as that company faces here.

We should learn from the Europeans, who, when Portugal and Spain were brought into the European Commuity, took 7 years to negotiate the agreements, as well as provide 7 to 10 years for transition in certain sectors. The EC also provided an economic assistance package to Spain and Portugal to help them come up to EC standards, and provided meaningful retraining and assistance programs for farmers and workers displaced by the adjustments. This is the responsible way to go about trade agreements.

Trade agreements must accomplish more than reshuffling the economic deck. It must mean that we recognize that people are more than economic pawns in an elaborate international chess game. Trade agreements are not only abstract exercises over rules, they have a profound effect on people's lives. We must recognize that communities are important in the quality of life, and to social and family stability. Sadly, these proposals seek to speed up trends that are already tearing communities and families apart.

I can see why the President wants such a procedure because it gives him and his negotiators maximum power. But Congress should not be so eager. This procedure was written in a time when trade negotiations covered mostly tariffs. Now, these negotiations cover more sensitive issues, with much broader social implications, such as food safety, environmental regulation, health policy, to name a few.

Has our country become so desperate, has our relative economic strength become so weak, that we must agree to such a demand from our trading partners that compromises the fundamental relationships in our Government? If trade agreements are in the best interests of other nations, then they will negotiate. If not, no promises we make will persuade them to negotiate. If leverage is what we need to win concessions, then access to the American market should be our leverage. We will open our market to those who open their market to us. And we will close our market to those who close their market to us.

Mr. President, fast track is contrary to the principles of our Government. It weakens the ability of injured parties to challenge these agreements. It allows the most powerful economic forces in our country to run roughshod over the weaker. The Founders of our Nation created a bicameral legislature, and a three-branch form of government, to avoid this very outcome. I see no justification for overturning their wisdom now.

Mr. HATCH. Mr. President, as I have listened to the debate on the renewal of fast-track authority, I have been disturbed by what I have heard. At a time when Europe seeks to integrate its economies and even to establish a common currency and when Japan increasingly is carving out a Yen-based trading zone in the Pacific, it is hard to understand the opposition to renewing the President's authority to undertake fast-track procedures to conclude comprehensive trade agreements.

In my remarks, I would like to analyze the source of our disagreements.

First of all, what points do we all agree upon?

We agree that international trade benefits those who engage in it. In Economics 101, we all learned that through the workings of comparative advantage all countries enjoy greater prosperity if they trade with each other. No one can disagree with that logic.

We agree that increased trade abroad leads to economic growth and more jobs at home. In the 1980's, the explosive growth of world trade helped fuel the longest period of sustained economic growth in U.S. history. No one would advocate reducing trade and undercutting the growth of our economy.

We agree that we should seek reciprocal free-trade arrangements. Our trade disputes with Japan and other countries focus on our demands for reciprocity and for lowering barriers to trade. No one would dispute the desirability of reciprocal, low tariffs.

We agree that the free-trade pact with Canada and Israel were positive developments. They were enacted through fast-track procedures, and our economy has already benefited from them. No one would repeal these free-trade pacts.

Yet despite these broad areas of agreement, we are locked in a pitched battle here on the floor. Some who oppose the renewal of fast-track procedures argue that they represent an abdication of Congress' constitutional mandate to set external tariffs. Others make no bones about the fact that their opposition stems from the ulterior motive of preventing the negotiation of a free-trade pact with Mexico. I wish to take on these two arguments briefly.

The need for the fast-track procedures is clear. Congress has the constitutional power to regulate external tariffs. But only the Executive can negotiate trade agreements. Therefore, a modus vivendi must be devised.

In 1974, as we anticipated the need to conclude comprehensive trade agreements, the fast track was devised as a mechanism through which both branches of Government could exercise their legitimate powers. It allows the Executive to negotiate a deal that Congress must then vote up or down without amendment. In accepting fast track, the Congress gave away no powers, and the Executive usurped no constitutional prerogatives. Rather, through fast track, Congress created a means by which it can best exercise its constitutional powers to benefit the American economy and the American people.

The fact is that fast-track procedures are indispensable in the case of comprehensive trade agreements. To achieve comprehensive trade agreements, concessions in one area must be traded for counterconcessions in another. The overall deal depends on all these smaller tradeoffs. If Congress has the right to amend specific provisions in such agreements—and all of us have parochial interests that would demand such amendments—it would not take long before the entire agreement unraveled. In fact, no trading partner would even enter negotiations for a free-trade pact if Congress had the right to second-guess the bargain that was finally struck. Mexico's leaders have explicitly stated that without fast track they cannot go forward with talks to achieve a free-trade agreement.

So let's be honest. A vote against renewing fast-track authority is a vote against free and fair trade and against greater trade abroad and greater job opportunities at home for all Americans. The defeat of fast track would make it impossible for President Bush to negotiate comprehensive trade agreements. It would represent a major victory for the protectionist lobby. It would give post-1992 Europe and other emerging trade blocs an uncontested advantage over North America.

Others who oppose renewing fast track really want to prevent a free-trade agreement with Mexico. For them, the fast-track issue is a false issue, a way to block a free-trade pact without taking on the merits of such an agreement. They argue that a free-trade agreement would lead to a loss of United States jobs, a decline of import-sensitive industries, and an unfair competitive advantage for Mexico because of its lax environmental standards and labor laws. None of those arguments is valid.

A free-trade agreement would produce a net increase, not a decrease, in U.S. jobs. While some firms and jobs would move to Mexico, the United States would gain even more jobs in industries in which we are more competitive than Mexico. All government and academic studies have concluded that the net effect would be U.S. job growth. From 1986 to 1990, as Mexico reduced its import barriers, United States exports more than doubled from $12.4 billion to $28.4 billion, generating 264,000 additional jobs. The gradual elimination of nearly all Mexican tariffs through a free-trade agreement would have an even greater effect.

Those industries that would be particularly sensitive to competition from Mexico would be protected through agreed-upon transition periods. The tariffs for those goods would not be lifted immediately but rather phased out over a number of years, thereby enabling vulnerable U.S. industries to upgrade their competitiveness. President Bush has also agreed to provide tariff removal schedules that exceed the 10-year limits in the Canadian Free-Trade Agreement.

Although Mexico's environmental laws are not as strict as United States laws, President Salinas has sought tougher legislation and more active enforcement to clean Mexico's air and water. For example, Mexico has committed itself to the expensive step of mandating catalytic converters for new cars, a requirement even some European countries have yet to enact. In re-

cent months, over 900 firms that violated Mexico's environmental regulations have been shut down. Contrary to the critics, President Salinas is already serious about environmental issues.

Mexico also has quite strict labor laws, in many cases tougher than United States laws. In a fact-finding trip to Mexico last August, I found that one of the principal problems Mexican employers face is a lack of flexibility and mobility because of a wide variety of regulations restricting adjustments in a firm's work force. While enforcement has sometimes been lax, particularly in the area of child labor, the Mexican Government has committed itself to expanded cooperation and joint action with the United States Department of Labor to enhance occupational health and safety and to regulate child labor practices.

Critics of a free-trade agreement also fail to see the four reasons why creation of a North American free-trade zone is vitally important.

First, the failure of the most recent Uruguay round of the General Agreement on Trade and Tariffs reinforces the probability that the future of free and fair trade for the United States will depend on bilateral arrangements with major trade partners. If we create a unified North American trade zone, we can use control over access to that market as leverage in the battle to expand access to European markets. Moreover, a free-trade pact with Mexico will increase the global competitiveness of United States products that have components produced in Mexico—and thereby will increase our capability to penetrate even protected markets abroad.

Second, given the long and troubled history of United States-Mexican relations, a free-trade agreement would open a positive and cooperative chapter. We depend on Mexico's help to control the flow of drugs from South America and on many other issues. Locking in a free-trade pact would enhance cooperation across the board.

Third, with a foreign debt of $95 billion, Mexico cannot repay its lenders—most of which are United States banks—if it cannot export its goods. Coupled with President Salinas's domestic economic reforms, a free-trade agreement would bring home Mexican capital stashed in foreign banks and would create opportunities for Mexico to earn its way out of its debt crisis rather than seeking debt forgiveness.

Fourth, we must help Mexico succeed in its effort to become a modern country. President Salinas has initiated reforms to replace its one-party political system with pluralism and to transform its state-dominated economy with free markets. These changes not only will create a better life for the Mexican people but also will reduce incentives for the poor to emigrate unlawfully to the United States.

A free-trade agreement will not be a one-way deal. It serves the interests of both sides. It will increase economic growth, make our products more competitive in international markets, and generate jobs.

In the past, the United States has enthusiastically concluded free-trade agreements with Israel and Canada. Congress approved these agreements because they were clearly in our interest. At the time, we raised no objection to fast-track authority. And all would agree that we have derived clear benefits from these agreements.

But when we look at the present debate, I must say that I am sad to see Members of this distinguished body applying such a blatant double standard to the case of Mexico. The critics apply a different standard to Mexico than was used in the cases of Israel and Canada. What was good for the United States then, the critics argue, is not good for the United States now. They refuse to treat Mexico as an equal and valued partner. They would discriminate against Mexico, dooming its people to underdevelopment and in many cases to poverty.

Yet these are the same people who pose as friends of the poor, as advocates of foreign aid, and as proponents of the Third World. But where are they now, when they have a clear chance to help Mexico turn the corner toward sustained growth. The Mexican people do not want charity. They are not asking for a giveaway. They are asking for a chance to develop their economy through free markets and private enterprise. They are seeking the chance to work their way out of the economic crisis produced by decades of incompetent statist management of their country.

We should reject the double standard through which the critics of a free-trade agreement would discriminate against Mexico. We should treat the Mexican people as equal and valued partners in building more prosperous and competitive economies through a North American free-trade zone.

I urge my colleagues to join me in opposing this resolution, which would have disastrous economic consequences, not only for our neighbors to the South, but also to our own economy as well.

Mr. MURKOWSKI. Mr. President, I rise today to add my support to the President's request for an extension of fast-truck authority. On March 1 of this year, President Bush formally asked for this 2-year extension, as is his right under the 1988 Omnibus Trade Act.

FOCUS OF OPPOSITION—MEXICO FTA

In reading the newspaper articles and editorials, in reading the piles of mail my office has received, and in listening to my colleagues here in Congress debate the fast-track issue, it strikes me that the debate has largely failed to focus on fast-track authority.

Instead, the debate has focussed almost entirely on issues relating to a free trade agreement with Mexico. The fast-track extension issue, on which we must vote before June 1, will not settle any part of the Mexican FTA. A vote for fast track will ensure only that the United States retains the right to negotiate a free-trade agreement.

Conversely, Mr. President, a vote against fast track will almost certainly ensure that we cannot negotiate an FTA with Mexico. It will also greatly reduce the chances of reviving the Uruguay round of the GATT talks. And, without fast-track authority we can safely say that the Latin American FTA will be unattainable.

CONGRESSIONAL ROLE

We must remember that Congress is not a loser in the fast-track procedures. Fast-track procedures guarantee that the administration must consult closely with Congress throughout the process of formulating U.S. bilateral and multilateral trade policies. Last Friday the Washington Post ran an editorial on this point which I would like to submit for the RECORD at the end of my statement.

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

(See exhibit 1.)

BENEFITS OF FREE TRADE

Mr. MURKOWSKI. Mr. President, we must also remember that the United States as a whole benefits greatly from all its trade negotiations. That GATT round currently underway will significantly lower tariffs and trade barriers around the globe if we can complete it successfully. Free-trade areas not only eliminate tariff and trade barriers, they also reduce costs of American products for our trading partners, stimulate export-oriented growth, and provide new jobs at home.

Americans are deeply concerned about the large U.S. trade deficit. In 1990 this deficit was $101 billion. But just 3 years earlier, in 1987, the United States' trade deficit reached an all time record high of $152 billion. Simple math illustrates that the deficit was brought down by a full third in only 3 years. In fact, the 1990 deficit would have likely come down even more to only $91 billion if the Persian Gulf war had not caused higher oil costs.

ENFORCING TRADE LAWS

Mr. President, the trade deficit has not fallen of its own accord. In 1988 the Congress enacted tough trade legislation aimed at making our trade partners play by the rules of the free-market game. We have demanded a level playing field. And Congress is not acting alone; the administration has been using our trade laws to demand equal access for American goods.

Through the use of the section 301 investigations, the Super 301 priority

watch list, our antidumping and countervailing duty laws, and export licensing controls, the administration has shown our partners that we mean business. This is why our deficit has fallen and continues to fall.

JAPANESE CONSTRUCTION MARKET

For the last several years Mr. President, I have worked to resolve the trade dispute with the Japanese over the opening of their construction market to United States business. As with many trade disputes, United States firms were specifically limited to a tiny market share in Japan, and even within that share had trouble securing contracts because of unfair trade practices such as bid-rigging.

Over the last 15 months the administration has been in negotiations with the Japanese on this issue. The Congress had passed legislation in 1990 that I introduced which would have barred Japanese construction firms from the United States public works market if access to the Japanese market could not be achieved by May 1, 1991.

In April, USTR Carla Hills decided to initiate sanctions against Japan because of their repeated failure to drop trade barriers. The announded sanctions encompass all aspects of my legislation, and include other sectors of the market which Congress had not. Concurrently, Under Secretary of Commerce, Mike Farren continues to negotiate the issue and in fact is in Japan at this time pressing for greater access.

CONCLUSION

During these months the administration, particularly Commerce and USTR have worked closely with me on the issue, consulting with me almost weekly. The Congress can expect the same to be true when the GATT accords or the Mexican FTA are being negotiated and enforced. But only if we act to extend the fast-track authority which the President has requested. I urge my colleagues to support the request, and to allow our negotiating strength to continue.

EXHIBIT 1

THE NECESSITY FOR FAST TRACK

Prospects for fast track have suddenly improved, and fast track is essential to a strong and competent American foreign trade policy. It is the procedure for enacting trade legislation, and Congress will vote next week whether to extend it—in effect, whether to let the President negotiate a trade agreement with, for example, Mexico. Earlier this spring it seemed very possible that Congress would say no. But this week the two key committees on trade—Ways and Means in the House, Finance in the Senate—voted by large majorities in favor of fast track. A few days earlier the House majority leader, Richard A. Gephardt, who had been on the fence, said he would support it. He reserves the right, he said, to amend or reject a free trade argreement with Mexico if it falls short, but he won't vote to block the negotiations.

That's exactly the right point. As the Mexican negotiations get underway, Congress will have many opportunities to advise, criticize, oppose and amend. Opponents have been claiming that fast track robs Congress of all discretion, giving it only an up-or-down vote on the final product. The AFL-CIO argues that fast track will put Congress "on the sidelines." That's exactly wrong.

The reason for a fast-track procedure is that trade agreements are difficult to handle under the American system of government. The President's negotiators, in an agreement, commit the United States to change its laws. But only Congress can enact those changes. No foreign government will negotiate with the United States if it knows that any deal is going to be reopened and changed by successive committees of Congress. The solution is the fact-track rule, which says that there will be no delays after the President submits as signed agreement and no changes in it as it goes to a final vote.

But a lot happens before the agreement is signed. No President wants to see an international agreement fail—least of all Mr. Bush, who is investing much political capital in the Mexican agreement. He is under great pressure to bring Congress deeply into the process. You can see that happening already. Last month, the chairmen of the trade committees and, separately, Mr. GEPHARDT wrote to him setting out concerns that they wanted a Mexican agreement to address. Mr. Bush replied at length 2 weeks ago. The Ways and Means Committee has put the President's response into the form of a resolution on which the House will shortly vote.

Before the President signs anything, he has to give Congress 90 days' notice. In earlier trade talks the administration brought the draft agreements back to Congress while they were still being negotiated and the two trade committees held shadow markups, actually voting clause by clause on the drafts. Where the committees objected, the American negotiators went back to the table for changes. There were caucuses of chairmen of the other interested committees. By the time these treaties were finally signed, they had been carefully reviewed and at many points revised by Congress.

That's the kind of congressional participation necessary to ensure passage of any trade agreement, Mr. GEPHARDT is correct. Extending the fast-track procedure only allows the President to negotiate. Congress will not only have the last word on the Mexican agreement, but in the meantime it will have enormous influence in molding it into its final form.

Mr. BAUCUS. Mr. President, I think that essentially concludes debate tonight. I thank very much the Senators from New Mexico and Missouri for their last two statements. I think they were two of the better, more farsightful statements that we have heard in this debate. I think they capsulize the nub of the reasons why fast track should be extended.

Let me just say, Mr. President, I believe very strongly that this vote that we will take later on this morning, actually at 12 noon on Friday, is going to be one of the more important votes that we are going to cast not only this year, but perhaps this decade. This could very well be one of those turning points in history where the United States signals to the world whether it is going to look forward, meet the challenges of the future, or whether, on the other hand, it is going to cower and shrink and be withdrawn.

It is clear to this Senator that, even though we are not Simon pure as Americans, we have some barriers to trade, we are not perfect, we do not wear white hats and it is also clear to me that other countries are not the Darth Vader, they do not all wear black hats, they are not the countries that have all the trade barriers. But it is also clear the shade of gray of our hats is a lot lighter than the shade of gray of their hats. That is, most countries have far more barriers to trade than we Americans. We are proud of the military POW's in the Persian Gulf. We are very proud. We have the best defense establishment in the world, undisputed.

We Americans are, on the other hand, a little uncertain about the economic future, uncertain about ecomomic powers in the world, uncertain, a little tentative whether we can meet the challenge of the Japanese, other Asian countries, or the European or even Latin American countries, for that matter. We are not uncertain. It is clear to me, Mr. President, if we are going to be more confident of our economic prowess, more confident of our ability to trade in the world and meet the economic challenge, we are going to have to at least sit down and try to negotiate with these other countries' international trade agreements that give us Americans the opportunity to compete and knock down those barriers. I know there is some concern, there are some worries, there are worries about potential loss of jobs, worries about insufficient protection in Mexico. There are very great worries, but we have two choices, Mr. President, either we try or we do nothing. I submit to ask the question is to answer it. We have to try. We have to see if we have within us as Americans what it takes to meet these challenges to be creative, to dig down deeper, pull ourselves up by the bootstraps a little bit more. That is the challenge we face. It is clear to this Senator, if we reject fast track, that other countries will not negotiate. There is no reason for them to.

As has been said on the floor tonight, they will go on their own way. They will pass us by. Today the European Community is already very confident, it is very self-assured. They care much less about the United States today compared to a decade ago. You see it if you go to Europe and talk to Europeans. I saw it myself, and Senator

DANFORTH was with me a short while ago. It is obvious I tell you, Mr. President, if we turn down fast track, the Europeans will be a little bit saddened and say, "Poor Americans; we hoped maybe they had it within them to look toward the future. It is too bad they do not. That is their tough luck. We Europeans are going our way." Asians will feel the same way. People in other countries will, too.

It is critical, Mr. President, that we face the future, that we try to find solutions, and certainly this Congress, certainly every Member of the U.S. Senate is going to work very, very aggressively with the administration to make sure it is a good agreement for America. We are going to do that. And the very fact that we spent so much time debating this issue is evidence to this Senator that Senators are going to be spending a lot of time closely consulting with the administration to be sure that it is a good agreement. That is clear. And certainly no Senator is going to vote for an agreement that is not in the United States best interests, and certainly no administration is going to bring back an agreement to the Senate which it knows is going to be turned down. Senators are going to be looking at this much more closely because so many more jobs are at stake and because our livelihood as Americans is at stake.

I submit to you, Mr. President, the choice is clear. We have no choice but to vote for fast track so we can sit down and try to negotiate an agreement and give it our best shot, because if we do not, we are going to have to answer to our children. Our children are going to ask, "Where were you, Dad, or Mom, where were you back in 1991 when the United States took a turn inward, the United States decided not to meet these challenges? Where were you?"

We owe it to ourselves and to our children to face the future positively, creatively, with imagination, and at least give it our best shot. It is for those reasons, Mr. President, I feel very strongly we should vote to extend fast track and get on with it.

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. BAUCUS. 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.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

ZEBRA MUSSELS FOUND IN UPPER HUDSON

Mr. MOYNIHAN. Mr. President, I rise today with distressing but not unexpected news. The zebra mussel has been found in the Upper Hudson River at Catskill, NY. This is the first confirmed discovery of the mussel in U.S. waters outside of the Great Lakes drainage basin. We learned this today from the New York Sea Grant Institute, State University of New York, College at Brockport.

New York City receives 95 percent of its water from upstate reservoir systems. As those of my colleagues familiar with New York City and its magnificent water supply system will note, Catskill, NY, is within 50 miles of this system.

In January, on the first day of the 102d Congress, I introduced S. 36, the New York City Zebra Mussel Monitoring Act, which will direct the U.S. Army Corps of Engineers to protect New York City's critical water supply. It appears ever more urgent that we act on this legislation.

Indeed, as Coastal Resources Specialist Charles O'Neill of the Sea Grant Institute announced in a press release today:

> With the mussel now in the Hudson and poised to enter the Mississippi River drainage system south of Chicago, the genie is out of the bottle.

Mr. President, last year the Senate Committee on Environment and Public Works, Subcommittee on Water Resources, Infrastructure, and Transportation, of which I am chairman, conducted several hearings concerning the zebra mussel. I learned many things about the zebra mussel and at that time made the simple projection, that within the coming two decades the zebra mussel will have infested the entire water system of the United States and Canada and that its migration is irreversible and cannot be quarantined. What I report today is the first of many such stories.

Mr. President, I ask unanimous consent that a press release from the New York Sea Grant Institute be entered into the RECORD.

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

ZEBRA MUSSELS FOUND IN UPPER HUDSON—IDENTIFICATION CONFIRMED BY INTERNATIONALLY RENOWNED MARINE BIOLOGISTS

BROCKPORT, NY.—New York Sea Grant Extension announced today that the zebra mussel has been found in the upper Hudson River. According to Coastal Resources Specialist Charles O'Neill, the mussels were found on freshwater clam shells, rocks, and driftwood in the vicinity of the Rip Van Winkle Bridge near Catskill, New York. The suspected mussels were sent to Cornell University's Biological Field Station where a preliminary identification as zebra mussels was made by Dr. Edward Mills, an aquatic biologist. This identification was corroborated by Sea Grant Extension Biologist David MacNeill. Zebra mussel experts approached the identification of these mussels with caution because the native brackish water "dark false mussel" (*Mytilopsis leucophaeta*) was mistakenly identified as the zebra mussel (*Dreissena polymorpha*) last November in the lower Hudson near Corton Point. Final confirmation that the Rip Van Winkle mussels are, indeed, zebra mussels was provided by Dr. James Carlton, director of the Maritime Studies Program of Williams College in Mystic Seaport, Connecticut, and an internationally recognized expert on marine exotic organism introductions.

"Although zebra mussels are known to be along the entire south shore of Lake Ontario, in the Erie Canal from Buffalo to Palmyra (about 20 miles east of Rochester), and in the eastern end of Oneida Lake near Syracuse, the sighting in the Hudson River is the easternmost occurrence of the mussel in New York," said O'Neill. "The mussel showing up in the Hudson is not unexpected," O'Neill said, "it's just there much sooner than we had predicted." The sighting is also significant in that it is the first confirmed sighting of the mussel in the United States outside of the Great Lakes drainage basin. "Up until now, all occurrences of the zebra mussel have been within the portion of North America that drains into the Great Lakes. With the mussel now in the Hudson and poised to enter the Mississippi River drainage system south of Chicago, the genie is out of the bottle," O'Neill stated.

The mussel is capable of being transported throughout North America by currents in lakes, rivers, and canals. It can also be carried by boats traveling through waterbodies and from infested waters to uninfested waters in the form of juvenile and adult mussels "hitchhiking" on trailered pleasure boats or as larval mussels carried in bait buckets, live wells, or boat bilges filled with infested water. "While the actual transmittal vector in this case is not known," said O'Neill, "it could have been by direct transport in the waters of the Erie Canal, on a boat trailered to the Hudson from Lake Erie or Lake Ontario, or dropped off directly into the river from freshwater ballast from an international commercial ship traveling to the Port of Albany," said O'Neill.

The zebra mussel, a small black and white striped bivalve mollusk, made its way into North America through the discharge of international shipping ballast water. Since its first Great Lakes discovery in Lake St. Clair in June 1988, the zebra mussel spread rapidly into and throughout Lake Erie, becoming one of the dominant organisms in the West Basin of Lake Erie by the end of 1989. It has now spread throughout Lake Ontario, in the western reaches of the Erie Canal, and in locks of the St. Lawrence Seaway in Massena. The zebra mussel threatens to have major impacts on utility, industrial, and public water supply intakes, sportfishing, tourism, boating and recreation, and ecosystems throughout North America.

New York Sea Grant is a university-based research and education program administered through the State University of New York and Cornell University. New York Sea Grant research provides scientific information on a wide variety of important coastal issues. This information is made available to individuals, groups, industry, and public de-

cision makers through the Sea Grant Extension Program's education programs, serving all of New York's coasts. Sea Grant is supported by SUNY, Cornell University, and the National Oceanic and Atmospheric Administration.

THE ANNIVERSARY OF THE ELECTION IN BURMA

Mr. MOYNIHAN. Mr. President, it is now nearly 1 year since the Burmese people on May 27, 1990, overwhelmingly, decisively, and irrefutably repudiated the military junta that reigns in Burma. In a free election, albeit not a free campaign, the National League for Democracy won 80 percent of the seats for the Burmese assembly. Eighty percent.

No sooner had the results of the election been tabulated then the junta, the SLORC as it is known, reverted to repression. The army in Burma resumed the role that it has played since 1962; it once again crushed the will of the Burmese people. And it does it in the name of "law and order." Nothing could be less true. The SLORC stands for the opposite of law and order. It is illegal and lawless; it brings Burma chaos and death.

Once again the bolt of light and hope created by the strength and majesty of the democratic will of the Burmese people was obliterated by the thugs who pretend to speak for them. But the world clearly knows who speaks for the Burmese, the National League for Democracy.

And no individual speaks for them with more force than Aung San Suu Kyi Even though we have not been able to hear her for almost 2 years now, her silence still speaks to us with more majesty, more eloquence, and more strength than all the pathetic prater of the SLORC.

Aung San Suu Kyi inspires us as she inspires the Burmese people for whom she speaks. We can only hope that we soon hear her voice in freedom once again. I, among many others, have urged that Aung San Suu Kyi be awarded the Nobel Prize for Peace, and we can hope that the Nobel Committee will find her to be the most deserving candidate from the list of such extraordinary persons that they consider.

For the past 12 months, arrests, torture, and murder have continued to sweep Burma. It is a hell for human rights. The brutal civil war against the minority people has continued to take thousands of lives. The regime continues to survive by stealing from its own people, whether it be their teak forests or their fishing resources. The SLORC also runs one of the biggest protection rackets in the world for Burma's heroin dealers.

The world has watched all of these events with horror, outrage, and sorrow. The Congress of the United States has spoken out consistently and forcefully, and we will continue to do so. We will continue to encourage our friends and allies to do the same. It is long overdue for the United Nations to take serious action against the regime in Burma. Now is the time.

As we recall this Memorial Day in the United States the price we have paid in lost lives to preserve freedom, let us also for a moment remember the Burmese people who continue their struggle to reclaim their freedom.

THE HEROIC ACTIONS OF JANET COLVIN

Mr. GORTON. Mr. President, it is with great honor that I rise today to commend the heroic actions of Janet Colvin of Clayton, WA. Janet is a 17-year-old Deer Park High School student whose outstanding judgement was responsible for saving the life of her 2-month-old nephew, Patrick Haggard, on April 1, 1991.

While babysitting Patrick, Janet noticed the child had stopped breathing and had no heartbeat. Although she had no formal training, Janet immediately administered cardiopulmonary resuscitation [CPR].

Janet's father, Tom Colvin, has spent 17 years as a member of the Clayton Fire Department and he has always made his children aware of CPR. Janet's younger brother, Bucky, has now gone through formal CPR training.

Because of Janet's quick thinking, her ability to stay calm in a tense situation, and her parent's dedication to teaching the importance of safety procedures, Patrick was released from the hospital after only a few days. The doctors have since credited Janet with saving her nephew's life.

Mr. President, I am proud to pay tribute to Janet Colvin, whose bravery and good judgement was responsible for ensuring that Patrick will have a chance at life.

TRIBUTE TO COL. JACK LIBBY

Mr. BRYAN. Mr. President, I rise today to recognize a good friend and outstanding citizen of Nevada. Col. Jack Libby will be inducted tomorrow into the Army's Officer Candidate School [OCS] Hall of Fame. Since 1958, this Hall of Fame has honored those graduates of OCS at Fort Benning, GA, or the Ground General School at Fort Riley, KS, who have distinguished themselves in military or civilian pursuits. Jack Libby has certainly done both.

Col. Jack Libby joined the Armed Forces in 1943 and served in World War II and the Korean war. For his service, Colonel Libby was awarded three Silver Stars, two Purple Hearts, the Bronze Star, the Legion of Merit, the French Croix de Guerre, the Belgium Fourragere, and the Combat Infantryman's Badge. These honors speak to his outstanding record of military excellence. Jack Libby's service is not confined to the Armed Forces.

As an invaluable member of our community in Las Vegas, Jack has served as director of the National Association of Home Builders, president of the Southern Nevada Home Builders Association, and president of Young American Homes. He served as vice chairman of the Las Vegas Convention and Visitors Authority and is a former president of the Las Vegas Chamber of Commerce "Prospectors." He also is a commissioner of the California-Nevada Super Speed Train Commission.

Mr. President, I could go on and on. I have known and admired Jack Libby for many years, and am proud of both his efforts to protect our Nation's security and to improve our community. This year marks the 50th anniversary of the Army's Officer Candidate School, and Colonel Libby will join the ranks of approximately 1,500 of our Nation's most distinguished officers in the Hall of Fame. I congratulate my friend on this outstanding achievement and offer my appreciation for all he has done for both Nevada and the United States.

AMERICA 2000 EDUCATION

Mr. HARKIN. Mr. President, yesterday President Bush visited St. Paul, MN, to announce his legislative package for improving American education based on the America 2000 strategy released a month ago.

Overall, America 2000 should make a valuable contribution to improving education in our country and I appreciate the attention President Bush has focused on this issue. We in the Congress have repeatedly expressed our desire to work with the administration on a plan that will enable the United States to meet the national education goals adopted more than a year ago. However, America 2000 does not address the most important goal—that of school readiness.

We all support the six national goals but these goals are meaningless if we don't put some muscle into programs to make them happen. Unfortunately, the budget submitted lacked the muscle of a Popeye, in fact it was more like a Whimpie—"I'll gladly pay you Tuesday."

At first glance it looked pretty good, but once we take a closer look we find that discretionary education programs do not even keep pace with inflation.

Head Start recently celebrated its 25th anniversary and received praise from all quarters as being an effective program. But only 25 percent of eligible children participate.

In 1988, candidate George Bush promised to fully fund Head Start so all eligible children could benefit. However, at the current rate being requested by President Bush, this won't happen

until 2050. By the middle of the next decade, today's children will be receiving Social Security.

It's time for the resources to match the rhetoric.

I was most disheartened to see that the plan announced yesterday did not even mention school readiness. We all know that the best way to accomplish a task is to start at the beginning and the administration's proposal doesn't do that.

Not one word about school readiness even though the No. 1 national education goal says that by the year 2000 all children will start school ready to learn. All of the goals are important but school readiness provides the foundation for achieving the rest. The best schools in the world won't mean much if our kids aren't physically and mentally ready to learn when they start kindergarten.

In order to accomplish this goal, we must change our views about education. A report by the Committee for Economic Development entitled "The Unfinished Agenda: A New Vision for Child Development and Education" calls for a systematic reappraisal of the way children are prepared for school and urges—

> a comprehensive and coordinated strategy for human investment that redefines education as a process that begins at birth.
>
> The nation must make investment in early childhood development a priority and should support full funding of such demonstrably effective programs as Head Start, The Women's, Infant's and Children's (WIC) nutrition program and childhood immunization.

The administration plan calls for a comprehensive, coordinated strategy and yet none of these programs are mentioned.

In education, as in health care, we should intervene at an early age and we need to look at the whole child. We need to change our attitude that school begins at age 5—school begins with prenatal care.

Education is not just school work. Good nutrition, healthy bodies, a secure home and a drug-free neighborhood enhance educational achievement. We need to take a comprehensive approach to solving our educational crisis. Until we do, we will not reach the education goals we have set for our Nation.

FIRST BAPTIST CHURCH OF FLORENCE: 125 YEARS OF PROUD CHRISTIAN WITNESS

Mr. HOLLINGS. Mr. President, on Sunday, June 9, the city of Florence, SC, will celebrate a remarkable milestone: the 125th anniversary of the founding of First Baptist Church of Florence. Since its birth in 1866, First Baptist Church of Florence has occupied three buildings on the same site in the center of downtown. This historic church is often referred to as the "Heart of Florence," and the fact is that First Baptist is the soul of this Pee Dee community.

Mr. President, if you want to experience a true example of a robust, thriving Christian congregation, I recommend a visit to First Baptist Church of Florence. Not only does it stand as a beloved extended family to its 3,000 members, First Baptist has also set an inspiring example of spiritual and humanitarian outreach to the surrounding community and State. Within the South Carolina Baptist Convention, it is recognized as a leader in missions and evangelism, and it is has won special respect for its generous, open-armed outreach to "the least of these our brethren." Taken together, this is a living tradition—an active Christian witness—which the people of First Baptist Church of Florence can take tremendous pride in.

Mr. President, for the last 13 years, Pastor Jimmie Harley has continued another tradition at the First Baptist Church of Florence—a tradition of dynamic pastoral leadership not only in Florence, but also within the State Convention and the Southern Baptist Convention. His leadership in his church and in the greater Florence community has made a tremendous difference.

Mr. President, my hat is off to this fine church as it celebrates its anniversary June 9. For one and a quarter centuries, the Good Lord has abundantly blessed First Baptist Church of Florence. May He bestow an equal blessing on the church during its next 125 years.

EASTERN MARKET CELEBRATES A CENTURY

Mr. LEVIN. Mr. President, I rise to commemorate the 100th anniversary of Eastern Market in Detroit. The market has a long and colorful history and now, each week, some 70,000 tons of produce and other food, livestock, flowers and plants are trucked in to be sold to wholesale and retail customers.

This 43-acre market is primarily a supplier to the wholesale trade, but thousands of retail customers also use the market. Each Saturday, some 30,000 shoppers from the Detroit metropolitan area show up to purchase farm produce and shop at the stores. An estimated 100,000 people will visit on each of the two Flower Days held this year.

What is remarkable about this bustling site is not just its use as a market, but its history. For instance, before 1981, it was used as a stop along the Underground Railroad. In a warehouse beneath what is now the Roma Restaurant, escaped slaves were housed awaiting passage through a tunnel into Canada and freedom.

Mr. President, I offer my best wishes for a successful celebration, which began in April and continues through the Oktoberfest celebration in Detroit.

TRIBUTE TO STAFF OF SENATOR JOHN HEINZ

Mr. SPECTER. Mr. President, during his 20 years in the Congress, 6 in the House and the last 14 in the Senate, the late John Heinz compiled an enviable record of accomplishment. He was successful in many areas, building a national reputation for his work on retirement, health, international trade and human development issues.

John Heinz succeeded because he was intelligent and talented, but mainly because he was willing to pay the price. And the price of anything worthwhile is hard work. John Heinz got things done. In the final analysis, that is the true measure of any Member of Congress.

For his efforts and resultant successes, John Heinz has been fittingly eulogized. Today I believe it is also appropriate to publicly take notice of the fine staff that supported him in these endeavors.

There is an old cliche that behind every successful man or woman is a good and supportive spouse. And this is very often true. In the case of Members of Congress, it is also true, however, that there is a fine, hardworking, dedicated and loyal staff. Every one of the 535 Members strives diligently to assemble such a staff, and this was yet another of John Heinz's accomplishments.

He brought together a group of people who were absolutely dedicated to assisting him with his legislative agenda and with serving his Pennsylvania constituents. They did this with competence, integrity and enthusiasm. They did this because they believed in John Heinz and his never faltering mission to serve his fellow Pennsylvanians.

Now this fine group is in the process of disbanding, which is the normal course when a Member of Congress, for whatever reasons, leaves office. His staff, both here and in the State, either have found or are seeking new endeavors, new challenges for the skills they learned and honed in the employ of John Heinz and the U.S. Senate.

I feel I would be remiss if I did not compliment them on the fine job they have done. As John's colleague, who worked with him closely on many issues affecting our Nation and Pennsylvania, I have had the opportunity to observe their work close up. I know how good they have been.

As this cohesive group disbands and its individual members move on, I think it is only fitting that the U.S. Senate take note of all their hard work, their dedication and their loyalty, not only to Senator Heinz but to this institution. They have served nobly and well and we can all be proud of them and their efforts.

To each of them, I say: "Thank you. We are all grateful. We are in your

debt. We wish you every success in all future endeavors."

I know my colleagues in the Senate will join me in saluting Senator Heinz's very distinguished staff:

HEINZ STAFF

Mark Adams, Jeanne Alexander, Larry Bageant, Gerry Balbier, Mary Bennett, Jane Bonner, Cynthia Brown, Richard Bryers, Jon Caudle, Leslie Caudle, Allison Cessna, John Deasy, Mark DeSantis, Gerry Dorian, Ken Frantz, Michael Fulwider, Peter Gleason, Joe Haviland, Megan Hedden, Sharesa Wilkins James, Gail Johnson, Janice Kelly, Bruce Kirkpatrick, Marja Maddrie, Grant Oliphant, Trip Oliver, Melissa Perez, Bill Reinsch, Dolores Senanis, Cliff Shannon, Mary Louise Sinclair, Leonard Swoopes, Kathryn Turman, Lynda Walker, Scott Whipple, and Matthew Winslow.

SPECIAL COMMITTEE ON AGING

Leslie Alexander, Diane Braunstein, Mark Coin, Kendra Diamond, Jeff Lewis, Deborah Matthews, Tom Morgan, Jay Shah, and Joan Venes.

NORTHEAST/MIDWEST COALITION

Gray Maxwell.

GOVERNMENTAL AFFAIRS

Joel Cliff, Lenny Glickman, and Ingrid Sausjord.

BANKING

Brad Belt, Ira Paull, and John Walsh.

STATE OFFICES—PHILADELPHIA

Jonathan Decker, Julie Han, Walter Irvine, Hope Jackson, Cindy Mota, Thorne Sparkman, and Allan Wolinsky.

PITTSBURGH

Agnes DeLuca, Diane Martz, John McCarty, Deborah Shiring, Sharon Simmons, Mary Louise Turano, and John Verbanac.

HARRISBURG

Susan Boyle and Bob Bushey.

SCRANTON

David Pease and Joe Stefko.

ERIE

Gail Sherred.

TRIBUTE TO PROF. BARBARA HORWITZ

Mr. SPECTER. Mr. President, May 23, 1991, Prof. Barbara Horwitz, professor of metabolic physiology at the Univerity of California at Davis, will receive that institution's prestigious UC Davis prize for teaching and scholarly achievement.

Only those preeminent in their field, who have great stature both in the classroom and the laboratory, are selected for this honor.

During a rich and rewarding career, Professor Horwitz has exhibited time and time again her ability as teacher and researcher. Her work and erudite writings in cell physiology, metabolism and energetics, in nutrition and how it can affect appearance and ward off disease have earned her the high regard and esteem of her peers in academe.

As a teacher, she has demonstrated the efficacy to inspire her students with enthusiasm for the disicipline to be mastered, to make them willing warriors in the often exasperating battles waged to conquer human ignorance.

Professor Horwitz eminently deserves the prize to be bestowed upon her.

As she receives this honor, I believe it is fitting that the U.S. Senate take note of her efforts to advance human knowledge and to inspire new scientists and to wish her continued success in her praiseworthy career.

EDUCATION OF OUR CHILDREN AND OUR YOUTH

Mr. ADAMS. Mr. President, I rise today to join with my colleagues to take up one of the most important issues facing our Nation: The education of our children and youth.

We are a nation at risk. We are at risk of educational mediocrity, even educational failure. Nearly 30 million Americans are illiterate; 25 percent of our students drop out of school before graduation; among industrial nations, American 13-year-olds rank 13th in the world in math achievement.

A little over a year ago, the President and the Nation's Governors announced six national education goals to be achieved by the year 2000: Every child will be ready to learn, the high school graduation rate will rise to 90 percent, students in grades 4, 8, and 12 will have high competency in the basic courses, U.S. students will be first, in the world in math and science, every adult will be literate, and schools will be safe and drug free. These are admirable and laudable goals. But simply identifying benchmarks of educational achievement is not enough. We must talk less and do more. Parents and teachers demand more. Our children deserve more.

We should achieve these six national education goals, and other education goals. When faced with the conflict in the Persian Gulf, Americans quickly met the crisis and prevailed. Now we must use that same dedication of purpose for the education of American children, youth, and families.

Unfortunately, for the last 10 years, we have lacked Presidential leadership on education. However, we have not lacked for rhetoric. As a result, in terms of action, education has not even registered on the administration's priority list for our Nation.

I am pleased that the President, has accepted of the importance of education and that he has decided to fulfill his campaign promises by presenting a comprehensive education plan of his own. Today, he has submitted legislation to implement his education agenda, America 2000. America 2000 includes some constructive ideas, some of which were initiatives in the Democrats education legislation, the Strengthening Education for American Families Act. It also includes some very controversial measures. I am hopeful, however, that the President and the Congress can work cooperatively to create education legislation that invests in the future of all Americans.

As the various education proposals move forward, I intend to take a significant role in ensuring that the best education programs are made available to all students, that children and their families receive the comprehensive services that will make them ready and able to learn, that every school has quality teachers, safe and healthy learning environments, and state-of-the-art educational materials, and that every student who wants to go to college is able to.

Last Tuesday, I introduced the Homeowners Higher Education Student Assistance Relief Act of 1991. The dramatic increases in home values in many areas of the country has created a serious problem for lower and middle income families applying for higher education financial aid. Families who own homes whose market value has far outstripped their family income find themselves ineligible for financial aid. My bill will return fairness to this equation for middle and lower income families by capping home value at two times family income.

In addition, I will continue to push for early, comprehensive intervention services for children and families. For many children, the day they reach the school house door is already too late. We must begin before birth, by ensuring that their mothers have access to quality prenatal care. A child deprived of early childhood health care, nutrition, and emotional support will not be ready or able to learn at age 5. That is why I cosponsored S. 911, the School Readiness Act of 1991, because every child deserves a head start. The legislation will phase in full funding for the Head Start Program by 1994. It also expands maternal and early childhood health care because early, quality health care is integral to a child's ability to learn.

Unfortunately, the President's America 2000 barely mentions Head Start or early, comprehensive intervention programs. Yet school readiness is the first of the six national education goals.

Another of the six education goals is safe and drug free schools. Today, 135,000 children will bring a gun to school. For some children, violence is a way of life in their homes, neighborhoods, as well as their schoolyards. In addition to enhancing the number of school counselors, we should be empowering students to deal constructively with their frustrations and problems. I will be proposing an initiative to help students, starting at a very early age, learn how to resolve their conflicts without resorting to violence and to become peer mediators.

There is no one simple solution to the education crisis. Any solution demands fundamental changes in the

American education system. But those changes must involve not only the President and Congress. Parents, students, community organizations, and business must all be players in the search for a better education for all of our Nation's children, youth, and families.

The education Congress is well on its way to making educational excellence for all Americans a reality and not just a goal. We must not slacken our efforts; we must work even harder. I would like to commend Chairman KENNEDY of the Committee on Labor and Human Resources, and Majority Leader MITCHELL for pledging to make the 102d Congress the education Congress.

I join them in restating my commitment to making the lives of American children and families better. I strongly urge my colleagues to join me in matching our rhetoric with action, in accomplishing the educational goals, and in improving education for our Nation's young people.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, as we prepare to honor the men and women of this Nation who have given their lives in war, to remember—together—our loved ones and to celebrate their courage, I call upon my colleagues to reflect also on the courage of the American hostages in Lebanon. These men are victims of another kind of war. A private, illegal war.

Terry Anderson is the longest held hostage. Today is his 2,259th in captivity. Our thoughts must be with him, and with the other hostages and their families.

UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES—COMMENCEMENT

Mr. HARKIN. I was privileged to be invited to be part of the 91st commencement of the University of Osteopathic Medicine and Health Sciences in Des Moines, IA. The university is a truly distinguished Iowa institution which now ranks in enrollment as the third largest private health science center in America.

Since 1898, the school has graduated thousands of men and women dedicated to making our country a healthier America. The commitment of these young doctors and health professionals is truly inspiring, and I ask unanimous consent to share my remarks to their class of 1991 with you here today:

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

REMARKS OF SENATOR TOM HARKIN AT THE UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

Thanks President Azmeer for that generous introduction. but I'm not sure I deserve all that praise.

It reminds me of what Mark Twain once said. He said, "You'll go to heaven for your charity, unless you go somewhere else for your exaggeration."

Thank you all for inviting me to speak here today.

I'd like to say how proud and honored I am to receive this degree from you. And as someone who puts his foot in his mouth a lot, I'm comforted to see so many Podiatrists among you.

You know, growing up on Cumming, Iowa, population 151, I often wondered if I'd even have the chance to even go to college. My parents brought up six kids in a two-bedroom home. My dad was a coal miner with an eighth grade education. My mom was an immigrant without any formal education.

We didn't have any money. And, like most people who grew up in Cumming, I wondered if I'd ever get the chance to prove myself, to accomplish all I wanted to.

But my mom and dad believed in me—as your parents believe in you—and taught me that if you work hard, if you study, and if you're responsible, that you can accomplish anything in life.

Well, Mom, you were right. You can accomplish anything. I've got the robe and the funny hat to prove it.

So, I just want you to know how proud I am to be standing before you today.

And for all the moms and dads, spouses and relatives who believed in *YOU*, the graduating class of 1991, I think we owe them a round of applause.

Standing here, looking at so many doctors of osteopathic medicine, and podiatrists, and physicians's assistants, and physical therapists, and health care administrators, and health information managers, I'm reminded of a story about the famous preacher, Norman Vincent Peale.

One day, Reverend Peale went to make use of the services of a young doctor who wasn't much of a churchgoer. After the Reverend left, the doctor never sent a bill.

A few weeks passed, and still, no bill. So one day, Reverend Peale approached the young doctor and said, "Look here, doctor, I have to know how much I owe you."

The doctor thought a minute, scratched his head, then looked at the preacher and said, "I'll tell you what, Reverend Peale. I hear you're a pretty fair preacher. And you seem to think I'm a pretty good doctor."

"I'll make a deal with you. I'll do all I can to keep you out of heaven, if you'll do all you can to keep me out of hell, and it won't cost either of us a cent."

Well, as a politician I tried to make a similar deal, but the good preacher said he had the much harder job.

But I will make a deal with you today. With all of you. It's a deal that will benefit all of us.

And here it is: As chairman of the subcommittee which oversees the funding of health programs in America, I'll continue to fight for the resources doctors and health professionals need to keep people well.

Notice I said "keep people well" and not "make people well." This is where your part of the deal comes in.

While you work to cure people, make sure you give equal attention to preventive health care, to keep people well in the first place.

Prevention is something that has always been among the first priorities of osteopathic medicine and allied health professionals. Now we have to work to make it the first priority of health care in America.

By putting prevention first, we can improve our quality of life, prevent a lot of suffering, and save a lot of money.

You know, we spend more than $700 billion on health care in this country—and we're not getting our money's worth. We don't need to spend more on health care. We just need to spend it better.

Experts say that nearly half of that amount is preventable. Yet, of the more than $700 billion, only about one percent is spent on prevention.

Well, my mother taught me the same way your mother taught you, that an ounce of prevention is worth a pound of cure.

If that's true, what is a pound of prevention worth?

Everybody's talking about how to patch and fix and mend people, and that's important, no doubt. But it's also important to prevent or reduce injury, disability, and disease in the first place.

Imagine if Americans took care of their cars like they take care of their bodies.

What would you say if I bought a new car, drove it out of the lot, and never checked the oil, and never checked the water, and never tuned it up. Just drove it. And then, one day the engine seizes, and I call the mechanic, and he tells me that I need a new engine, so I say, okay, just put one in.

You'd probably think I was a little crazy.

Fact is, most of us spend more to maintain our cars than we do to maintain our bodies.

Earlier this year, I introduced seven bills—called Prevention First, to focus our attention on prevention and get rid of some of the anomalies in our system.

I'd like to talk about some of these anomalies. On both sides of life.

First, look at breast cancer. In America this year, 1 in 9 women will develop breast cancer. Of those, 1 in 4 will die. In Iowa alone this year, 500 women will die of breast cancer.

If you qualify for Medicare or Medicaid, they'll pay up to $15,000 for a mastectomy, and up to $50,000 for chemotherapy. And, after all that, too often a woman dies because they didn't catch it in time.

But here's the anomaly: We won't pay $75 to pay for mammograms to help catch the cancer in the first place. This year, for the first time, Medicare will provide mammograms for women over age 65. But there are as many women ages 50 to 65 that are at risk, and aren't covered.

I had two sisters die of breast cancer before they turned 55. If the disease was caught early, they'd probably be alive today.

That's the back side of life. Here's an example from the front side.

You know low-infant babies? We spend up to $2,000 per day to care for low birthweight babies. And we gladly pay it. There's not a person here that wouldn't. It tears your heart out to see those sick children.

But here's the anomaly: while we'll pay $2,000 a day to care of them, we won't spend the $500 it takes for 9 months of pre-natal care that will generally ensure a healthy baby in the first place. We know that women who have pre-natal care are 90% likely to have a healthy baby, yet we cut that program. Why?

One more example. The number one preventable disease among kids today is lead poisoning. It affects nearly 3.5 million children. A few months ago, a Wisconsin boy had so much lead in his system, it began to replace the calcium in his bones.

Children afflicted by lead poisoning are 7 times more likely to drop out of school. The cost in social and economic terms is enor-

mous. But if the poisoning is caught early, we can treat it, so a kid can live a healthy life. Yet, we won't pay the $50 it takes to get a lead screening.

I just don't understand the logic here. It's really common sense. Isn't it better to pay a little now than pay a lot later?

What role can you play in all of this, as this nation's freshmen doctors and health professionals?

Continue your dedication to good health care. Educate the public. And promote wellness and prevention with all of your patients.

I'm glad to see so many of you going into primary care practicioning. Because that is where our future lies in both preventing illness and disease and improving our health care system.

There may be limits to your abilities to cure, but there are no limits to your capacity to teach and care. Together, we can make *Prevention First* America's motto for health care in the 90s.

Finally, there's one more thing I want to mention to you graduates.

After you leave here, when you go to celebrate with family and friends, after you take off your robes and funny hats, when you drive past the farms of Iowa, or fly over its fields, think about rural health care.

If you haven't decided where to practice, or even if you have, think about practicing in rural hospitals and health centers. Think about setting up shop on main street in one of America's great rural towns.

People in rural communities can use your talent and your help.

It's also a good place to start out and to raise a family. Rural towns generally have good values, strong communities, nice people, safe streets, low drug use, and is just plain fun.

In closing, I'd like to congratulate you all. When you leave today, don't forget to thank the people who helped you get here, and the people who believe in you.

You know, I've always believed that the richest life, the fullest life, is a life dedicated to helping others. Whether through public service, as I do, or through medicine, as you do.

I'm counting on you to continue your dedication to making America a healthier America. And don't let anybody tell you that we can't.

Because never forget. When you set your mind to it, you can accomplish anything you want to in life.

Thank you.

IN HONOR OF IRVING D. RUBENSTEIN

Mr. DOMENICI. Mr. President, there are often times very special individuals in our midst, who have served their country with distinction and selflessness, but who have also served without great fanfare or extraordinary public display.

However, there are also times when we can take a few minutes and recognize their talents, their kindnesses, and their dedication.

This is the case today. I am very honored to have the opportunity to recognize Mr. Irving D. Rubenstein of Las Cruces, NM. Irv has just retired from White Sands Missile Range after 50 years of service to our Government. This is truly an outstanding record.

Irving Rubenstein served 29 years in the military and 21 years in the civilian service. He has served in Illinois, Ohio, Indiana, New Jersey, and New Mexico. His last 9 years of service have been at the U.S. Army White Sands Missile Range as the Chief, Community Operations Division, Directorate of Personnel and Community Activities.

Irv has also given of his time for many community and civic activities. He is now serving his second term as the regional president for the Federal Managers' Associaton and is an active member and past president of the International Military Club Executive Association. He is a guest editor for the column, Civilian Corner, in the Missile Ranger, a newspaper at White Sands Missile Range. And, he serves as the Jewish lay leader for the White Sands Missile Range.

Most importantly, Mr. President, Irv Rubenstein has been a warm and generous individual. He has given his time and energies to his work and he has given of himself to so many of us who have had the opportunity to be his friend.

I am proud to have this chance to recognize Irv's many achievements. He indeed epitomizes what we think of as a fine and skilled contributor to our work force. Most of all, however, he is indeed a great American, and a very special and great friend.

I feel privileged to have the opportunity to acknowledge Irving D. Rubenstein for his talents and many contributions to our Government service and to our country. And, I know he will continue his caring and generous service to his community and friends in the years ahead.

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 Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 51

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting for Fiscal Year 1990 and the Inventory of Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1990.

GEORGE BUSH.

THE WHITE HOUSE, *May 23, 1991*.

ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 52

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 360D of the Public Health Service Act (21 U.S.C. 360qq), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1990.

The report recommends the repeal of section 360D of the Public Health Service Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through Center technical reports, the Radiological Health Bulletin, and other publicly available sources. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

GEORGE BUSH.

THE WHITE HOUSE, *May 23, 1991*.

MESSAGES FROM THE HOUSE

At 5:15 p.m., a message from the House of Representatives announced that the House agrees to the amendments of the Senate to the bill (H.R. 232) to amend title 38, United States Code, with respect to veterans programs for housing and memorial affairs, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 157. Concurrent resolution providing for an adjournment of the House from May 23, 1991, to May 29, 1991, and an adjournment of the Senate from May 23 or May 24, 1991, to June 3, 1991.

49-059 O—95 Vol. 137 (Pt. 9) 22

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–1247. A communication from the Acting Secretary of Defense (Acquisition), transmitting, pursuant to law, the selected acquisition reports for the quarter ended March 31, 1991; to the Committee on Armed Services.

EC–1248. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report for 1991 on the Strategic Defense Initiative; to the Committee on Armed Services.

EC–1249. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the commissary storage and warehouse function at Fort Leavenworth, Kansas, as an in-house function; to the Committee on Armed Services.

EC–1250. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the commissary storage and warehousing function at Redstone Arsenal, Alabama, as an in-house function; to the Committee on Armed Services.

EC–1251. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, a report on the decision to retain the commissary storage and warehousing function as an in-house operation; to the Committee on Armed Services.

EC–1252. A communication from the Principal Deputy Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a study on recycling postconsumer waste at Department of Defense facilities; to the Committee on Armed Services.

EC–1253. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a supplement to the report entitled "Military Bases: Letters and Requests Received on Proposed Closures and Realignments"; to the Committee on Armed Services.

EC–1254. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a supplement to the report entitled "Military Bases: Observations on the Analyses Supporting Proposed Closures and Realignments"; to the Committee on Armed Services.

EC–1255. A communication from the Secretary of Defense, transmitting, pursuant to law, notification that he had exercised certain authority under the National Defense Authorization Act with respect to certain foreign nationals; to the Committee on Armed Services.

EC–1256. A communication from the Director of the Office of Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, notice of a delay in the submission of the annual report on research and technology development; to the Committee on Armed Services.

EC–1257. A communication from the Director of the Office of Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, notice of a delay in the submission of the report on the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy; to the Committee on Armed Services.

EC–1258. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1259. A communication from the Deputy Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1260. A communication from the Managing Trustee and the Trustees of the Federal Old Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, the 1991 annual report of the Board of Trustees of the Funds; to the Committee on Finance.

EC–1261. A communication from the Managing Trustee and Trustees of the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the 1991 annual report of the Board of Trustees; to the Committee on Finance.

EC–1262. A communication from the Managing Trustee and Trustees of the Federal Supplementary Medical Insurance Trust Fund, transmitting, pursuant to law, the 1991 annual report of the Board of Trustees; to the Committee on Finance.

EC–1263. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the study of the Medicaid Eligibility Quality Control negative case action program; to the Committee on Finance.

EC–1264. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the Commission's recommendations on the Feed Update and Medicare Volume Performance Standards for 1992; to the Committee on Finance.

EC–1265. A communication from the President of the United States, transmitting, pursuant to law, notice of the waiver of legislative prohibitions on approval of United States-origin exports to China for the Aussat Project; to the Committee on Foreign Relations.

EC–1266. A communication from the Executive Director of the United States Commission for the Preservation of America's Heritage Abroad, transmitting a draft of proposed legislation to amend the International Security and Development Cooperation Act of 1985 to authorize appropriations for fiscal years 1992 and 1993 for carrying out that Act; to the Committee on Foreign Relations.

EC–1267. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential determination with respect to Bulgaria; to the Committee on Foreign Relations.

EC–1268. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the provision of certain emergency medical assistance to Israel; to the Committee on Foreign Relations.

EC–1269. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the proposed increase in the resources of the International Monetary Fund; to the Committee on Foreign Relations.

EC–1270. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Maritime Commission, for the period October 1, 1990–March 31, 1991; to the Committee on Governmental Affairs.

EC–1271. 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 October 1, 1990–March 31, 1991; to the Committee on Governmental Affairs.

EC–1272. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report of the Office under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–1273. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1989; to the Committee on Labor and Human Resources.

EC–1274. A communication from the Chairman and Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act and the Railroad Unemployment Insurance Act to enhance the authority of the Government to recover debts resulting from overpayments of benefits under those Acts; to the Committee on Labor and Human Resources.

EC–1275. A communication from the Secretary of Veterans Affairs and the Secretary of Defense, transmitting jointly, pursuant to law, a report on the implementation of the health resources sharing portion of the Department of Veterans Affairs and the Department of Defense Health Sharing and Emergency Operations Act; to the Committee on Veterans' Affairs.

EC–1276. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to establish nonprofit research corporations, to contract for alcohol or drug treatment services, to make State home grants, to contract for the care of United States veterans in the Philippines, to furnish adult day health care services, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Special Report entitled "First Monetary Policy Report for 1991 (Rept. No. 102–62).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 210. A bill to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long-term economic value to the United States, to provide assistance to the domestic uranium industry, and to provide a Federal contribution for the reclamation of mill tailings generated pursuant to Federal defense contracts at active uranium and thorium processing sites (Rept. No. 102–63).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 343. A bill to provide for continued United States leadership in high-performance computing (Rept. No. 102-64).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and an amended preamble:

S. Res. 121. A resolution supporting the breakthrough for peace in Angola, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 129. A resolution regarding the recent parliamentary elections in Albania.

S. Res. 132. A resolution commending the humanitarian relief efforts for Iraqi refugees.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 113. A bill to amend title 18 of the United States Code, to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is present in the vehicle.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 41. A concurrent resolution to express the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Qinghai that have historically been a part of Tibet, is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile as recognized by the Tibetan people.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Ira H. Raphaelson, of Illinois, to be Special Counsel, Financial Institutions Fraud Unit, Department of Justice.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to the requests to appear and testify before any duly constituted committee of the Senate.)

Emilio M. Garza, of Texas, to be United States Circuit Judge for the Fifth Circuit;

Louis J. Freeh, of New York, to be United States District Judge for the Southern District of New York;

Sharon Lovelace Blackburn, of Alabama, to be United States District Judge for the Northern District of Alabama;

Richard T. Haik, Sr., of Louisiana, to be United States District Judge for the Western District of Louisiana;

Edward G. Bryant, of Tennessee, to be United States Attorney for the Western District of Tennessee for the term of four years;

Donald R. Brookshier, of Illinois, to be United States Marshal for the Southern District of Illinois for the term of four years; and

W. Bruce Beaty, of Texas, to be United States Marshal for the Northern District of Texas for the term of four years.

By Mr. NUNN, from the Committee on Armed Services:

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Harold T. Fields, Jr., 263-56-8708, U.S. Army.

The following named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Bradley C. Hosmer, 224-48-7119, U.S. Air Force.

The following named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Howard D. Graves, 466-48-4668, U.S. Army.

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 101-21) Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Exec. Rept. 102-8).

TEXT OF RESOLUTION OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, with Annex, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, with Annexes, done at Noumea, New Caledonia, on November 24, 1986, subject to the following understandings:

1. In ratifying the Convention, the United States understands that wastes and other matter which would be recommended for exemption from regulatory control as radioactive waste by the relevant recommendations, standards, and guidelines of the international Atomic Energy Agency shall be treated as nonradioactive for the purposes of the Convention; and

2. It is the understanding of the United States that as the Convention does not apply to any warship, naval auxiliary, or other vessels or aircraft owned or operated by a state and used, for the time being, only on government noncommercial service and therefore entitled to sovereign immunity under international law, each state shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

Bruce S. Gelb, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium:

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Bruce S. Gelb.

Post: Ambassador to Belgium.

Contributions, amount, date, and donee:

1. Self, Bruce S. Gelb:

Amount, date, and donee:

$5,000, 1987, Fund for America's Future; $1,000, 1987, Hatch Election Committee; $1,000, 1987, Pete Dawkins for U.S. Senate; $1,000, 1987, Bristol-Myers PAC; $5,000, 1988, Committee for Fairness; $10,000, 1988, Republican National Committee; $5,000, 1988, Fund for America's Future; $1,000 1988, George Bush for President Compliance Committee; $1,000, 1988 Bristol-Myers PAC; $1,000, 1988, Republican Congressional Leadership Council; $1,000, 1988, Dole for President; $1,500, 1989, Pete Dawkins; $15,000, 1990, RNC Eagles; $1,000, 1990, The President's Club; $1,000, 1990, FINA for Ellington; $15,000, 1991, RNC Eagles.

2. Spouse: Lueza T. Gelb, $5,000, 1987, Fund America's Future; $5,000, 1988, Fund for America's Future; $10,000, 1988, Presidential Trust; $2,000, 1988, Bob McMillan for US Senate; $5,000, 1988, Victory '88 NYS Account; $1,000, 1988, Bob McMillan for US Senate; $1,000, 1988, Friends of Voinovich; $1,000, 1988, Friends of Senator D'Amato.

3. Children and spouses: John T. and Janice L. Gelb, $500, 1988, McMillan for Senator; $200, 1989, Manufacturers Hanover Trust Corp. Assn for Responsible Government Fund; $200, 1990, Manufacturers Hanover Trust Corp. Assn for Responsible Government Fund. Joan H. Gelb[1] and Yacek Jarkowski, none. Richard E. and Rosanna Gelb, none. Mary Constance Gelb[1] amd Scott Otteman, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses: Richard L. Gelb, $5,000, 1987, Fund for America's Future; $1,000, 1987, Weicker '88; $250, 1987, Business-Industry PAC; $1,000, 1987, Senator Lloyd Bentsen Elect Committee—1988 Campaign; $250, 1987, George Bush for President; $1,000, 1987, Committee for Cong. Green—'88; $500, 1987, Friends of Ham Fish; $500, 1987, Bristol-Myers Company Political Action Committee; $500, 1987, Bristol-Myers Company PAC; $1,000, 1987, Pete Dawkins for US Senate; $1,000, 1987, Danforth for Senate; $10,000, 1987, Republican Eagles; $1,000, 1988, NY Salute to Senator Pete Wilson; $5,000, 1988, Committee for Fairness (G. Bush); $250, 1988, Business-Industry PAC; $5,000, 1988, Fund for America's Future; $500, 1988, Lehigh Valley Citizens for Don Ritter; $1,000, 1988, George Bush for President Compliance Committee; $500, 1988, Friends of Ham Fish, Jr.; $1,000, 1988, People for John Heinz Committee; $1,000, 1988, Dole for President Committee (Campaign Deficit); $5,000, 1988, Presidential Trust; $1,000, 1988, 1988 Republican Convention Gala; $500, 1988, AHC Committee on Legislation and Taxation (COLT); $250, 1988, Committee to Elect John Ravitz Rep. Candidate 66th AD; $10,000, 1989, Republican Eagles; $1,000, 1989, McMillan for US Senate (Campaign Deficit); $1,000, 1989, Cohen for Senator; $500, 1989, Friends of Ham Fish, Jr.; $500, 1989, AHC Committee on Legislation and Taxation; $250, 1990, Business-Industry PAC; $15,000, 1990, Republican Eagles; $1,000, 1990, Committee for Bill Green; $1,000, 1990, The Moynihan Committee—1994 Election; $500, 1990, Lynn Martin for US Senate; $500, 1990, Friends of Ham Fish, Jr.; $1,000, 1990, Hank Brown for US Senate Committee; $250, 1990, Senate Republican Campaign; $500, 1990, Lynn Martin for US Senate; $1,000, 1990, The President's Club; $500, 1990, NY Thoroughbred Racing PAC; $250, 1990, Committee to Elect John Ravitz; $15,000, 1991, Republican Eagles; $1,000, 1991, Citizens for Arlen Specter; Phyllis N. Gelb (brothers spouse); $5,000, 1987, Fund for America's Future; $5,000, 1988, Fund for America's Future; $1,000, 1988, people for John Heinz Committee; $1,000, 1988, Pete Dawkins or US Senate; $1,000, 1988, Weicker '88.

7. Sisters and spouses: none.

[1] Joan H. Gelb and Mary Constance Gelb believe that they may have made a contribution to the Bush Presidential Campaign. No record of those contributions has been found.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. PELL, Mrs. KASSEBAUM, Mr. DOLE, Mr. SIMPSON, Mr. JEFFORDS, Mr. THURMOND, Mr. DURENBERGER, Mr. COCHRAN, Mr. NICKLES, Mr. HATFIELD, Mr. SPECTER, Mr. KASTEN, Mr. LUGAR, Mr. GORTON, Mr. DANFORTH and Mr. STEVENS) (by request):

S. 1141. A bill to help the Nation achieve the National Education Goals by supporting the creation of a new generation of American schools in communities across the country; rewarding schools that demonstrate outstanding gains in student performance and other progress toward the National Education Goals; creating academies to improve leadership and core-course teaching in schools nationwide; supporting State and local efforts to attract qualified individuals to teaching and educational administration; providing States and localities with statutory and regulatory flexibility in exchange for greater accountability for student learning; encouraging, testing, and evaluating educational choice programs; increasing the potential usefulness of the National Assesment of Educational Progress to State and local decisionmakers; expanding Federal support for literacy improvements; and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON:

S. 1142. A bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1143. A bill to include the Territory of American Samoa in the program of aid to the aged, blind, or disabled; to the Committee on Finance.

By Mr. MACK:

S. 1144. A bill to authorize the Secretary of Transportation to carry out a highway demonstration project for construction of a tunnel to replace the 17th Street Causeway Bridge in Fort Lauderdale, Florida; to the Committee on Environment and Public Works.

By Mr. LEVIN (for himself and Mr. COHEN):

S. 1145. A bill to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics; to the Committee on Governmental Affairs.

By Ms. MIKULSKI:

S. 1146. A bill to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN (for himself, Mr. LAUTENBERG, Mr. MACK, Mr. MURKOWSKI, Mr. CRANSTON, Mr. KASTEN, Mr. PACKWOOD, Mr. WIRTH, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. D'AMATO, Mr. GRASSLEY, Ms. MIKULSKI, and Mr. LEVIN:

S. 1147. A bill to require that the United States Government hold certain discussions and report to Congress with respect to the secondary and tertiary boycotts of Israel by Arab nations; to the Committee on Foreign Relations.

By Mrs. KASSEBAUM:

S. 1148. A bill to amend title VII of the Public Health Service Act to improve certain health professions training programs, and for other purposes; to the Committee on Labor and Human Resources.

S. 1149. A bill to amend the Social Security Act to increase payments for direct graduate medical education costs of primary care residents in initial residing period, and for other purposes; to the Committee on Finance.

By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH):

S. 1150. A bill to reauthorize the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 1151. 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; read the first time.

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

S. 1152. A bill to facilitate the employment of certain Public Health Service employees by the Bureau of Prisons at the Gillis W. Long Hansen's Disease Center, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 1153. A bill to require the Administrator of the Environmental Protection Agency to issue regulations concerning the reporting of compliance assurance activities; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 1154. A bill to amend title 18, United States Code, to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 1155. A bill to require that executions under Federal law be carried out in public and to protect prison employees from being required to participate in executions contrary to moral or religious conviction; to the Committee on the Judiciary.

By Mr. PACKWOOD. (for himself, Mr. HATFIELD, Mr. GORTON, Mr. MURKOWSKI, Mr. BREAUX, Mr. HEFLIN, and Mr. SHELBY):

S. 1156. A bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and federal lands elsewhere; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE:

S. 1157. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal propery against the entire regular tax and the alternative minimm tax; to the Committee on Finance.

By Ms. MIKULSKI:

S. 1158. A bill to amend title 38, United States Code, to provide for the payment, on an interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if the claims of such persons for such benefits are not resolved by the Secretary of Veterans Affairs within specified time periods, to provide for the provision of interim rehabilitative and counseling services, and for other purposes; to the Committee on Veterans' Affairs

By Mr. GORE (for himself, Mr. KASTEN, Mr. DODD, Mr. AKAKA, Mr. ADAMS, Mr. HEFLIN, Mr. MOYNIHAN, Mr. WELLSTONE, Mr. PELL, Mr. BUMPERS, Ms. MIKULSKI, Mr. GORTON, Mr. BRYAN, Mr. RIEGLE, Mr. KENNEDY, Mr. DASCHLE and Mr. CHAFEE):

S. 1159. A bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO (for himself and Mr. SPECTER):

S. 1160. A bill to amend and extend programs under the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN:

S. 1161. A bill to prevent the unreasonable use of tied aid and partially untied aid credits, to authorize appropriations for tied aid credit programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL:

S. 1162. A bill to strengthen the ties between the United States and Central and Eastern European countries through the improvement in such countries of education for competent and responsible citizenship in a constitutional democracy; to the Committee on Labor and Human Resources.

By Mr. THURMOND (by request):

S. 1163. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. McCAIN, Mr. DURENBERGER and Mrs. KASSEBAUM):

S. 1164. A bill to authorize the Secretary of Health and Human Services to impose debarments and other penalties for illegal activities involving the approval of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEVIN (for himself, Mr. HATCH and Mr. HEFLIN):

S. 1165. A bill to extend the patent term of certain products; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. FORD, Mr. GORE, Mr. SIMON and Mr. BRYAN):

S. 1166. A bill to provide for regulation and oversight of the development and application of the telephone technology known as payper-call, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 1167. A bill to deny the People's Republic of China most-favored-nation treatment; to the Committee on Finance.

By Mr. DASCHLE:

S. 1168. A bill to authorize the Secretary of Transportation to carry out a highway bridge demonstration project in the Vermillion, South Dakota-Newcastle, Nebraska area to improve the flow of traffic between the States of Nebraska and South Dakota; to the Committee on Environment and Public Works.

By Mr. GORTON:

S. 1169. A bill to authorize a certificate of documentation for the vessel COMMANDO; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER:

S. 1170. A bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 1171. A bill to require the Secretary of Agriculture to take action to prevent the inadvertent introduction of brown tree snakes into Hawaii from Guam, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1172. A bill to require the Secretary of Defense to take actions to prevent the inadvertent introduction of brown tree snakes from Guam to Hawaii in Department of Defense aircraft and vessels; to the Committee on Armed Services.

By Mr. LIEBERMAN:

S. 1173. A bill to authorize Federal Government guarantees for private loans for defense export projects with friendly foreign countries and international organizations, and for other purposes; to the Committee on Foreign Relations.

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

S. 1174. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself, Mr. MURKOWSKI, Mr. CRANSTON, Mr. BURDICK, Mr. DOLE and Mr. ROBB):

S. 1175. A bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes; to the Committee on Armed Services.

By Mr. DECONCINI (for himself, Mr. MCCAIN, Mr. DOMENICI, Mr. SARBANES, Mr. BURDICK, Mr. HARKIN, Mr. BAUCUS, Mr. WIRTH, Mr. KENNEDY, Mr. BRADLEY, Mr. INOUYE, Mr. REID, Mr. DASCHLE, Mr. AKAKA, Mr. BRYAN, Mr. BINGAMAN, Mr. HATCH, Mr. NUNN, Mr. CHAFEE, and Mr. SIMPSON):

S. 1176. A bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER:

S. 1177. A bill to amend the Social Security Act to assure universal access to health insurance for basic health services in the United States through qualified employer health plans and a public health insurance plan, to contain costs and assure quality in the provision of health insurance to small employers, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. DANFORTH, Mr. BOREN, Mr. D'AMATO, Mr. BINGAMAN, and Mr. NICKLES):

S. 1178. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for expenditures for vehicles which may be fueled by clean-burning fuels, for converting vehicles so that such vehicle may be so fueled, or for facilities for the delivery of such fuels, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON (for himself, Mr. BINGAMAN, and Mr. CRAIG):

S. 1179. A bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants; to the Committee on Energy and Natural Resources.

By Mr. FOWLER (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, Mr. WIRTH, and Mr. WOFFORD):

S.J. Res. 150. Joint resolution to designate June 15, 1991, as "Magna Carta Day"; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. LUGAR, Mr. ROTH, Mr. DECONCINI, Mr. GLENN, Mr. D'AMATO, Mr. PACKWOOD, Mr. METZENBAUM, Mr. HELMS, Mr. SPECTER, Mr. BROWN, Mr. KERRY, Mr. SHELBY, Mr. CONRAD, Mr. DIXON, Mr. LEVIN, Mr. GRASSLEY, Mr. ROBB, Mr. INOUYE, Mr. BURDICK, Mr. DASCHLE, Mrs. KASSEBAUM, Mr. DOMENICI, Mr. DANFORTH, and Mr. KERREY):

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. PELL, Mrs. KASSEBAUM, Mr. DOLE, Mr. SIMPSON, Mr. JEFFORDS, Mr. THURMOND, Mr. DURENBERGER, Mr. COCHRAN, Mr. NICKLES, Mr. HATFIELD, Mr. SPECTER, Mr. KASTEN, Mr. GORTON, Mr. DANFORTH, and Mr. STEVENS) (by request):

S. 1141. A bill to help the Nation achieve the national education goals by supporting the creation of a new generation of American schools in communities across the country; rewarding schools that demonstrate outstanding gains in student performance and other progress toward the national education goals; creating academies to improve leadership and core-course teaching in schools nationwide; supporting State and local efforts to attract qualified individuals to teaching and educational administration; providing States and localities with statutory and regulatory flexibility in exchange for greater accountability for student learning; encouraging, testing, and evaluating educational choice programs; increasing the potential usefulness of the national assessment of educational progress to State and local decisionmakers; expanding Federal support for literacy improvements; and for other purposes; to the Committee on Labor and Human Resources.

(The remarks of Senators and the text of the legislation appear earlier in today's RECORD.)

By Mr. GORTON:

S. 1142. A bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals; to the Committee on the Judiciary.

REGULATION OF PRECURSOR CHEMICALS

Mr. GORTON. Mr. President, although Americans are acutely aware of the continuing drug war in this Nation, most believe that the battlegrounds are confined largely to major metropolitan areas. How wrong they are. Home drug laboratories producing synthetic drugs such as methamphetamines can be found across this Nation, in neighborhoods rich and poor, urban and rural, bucolic and blighted. Hiding in houses, apartments, motel rooms, shacks, barns, and even abandoned buses, these amateur scientists produce a variety of street drugs in relative obscurity.

Although these drug kitchens often are small, each has the potential of creating a miniature "Love Canal," contaminating entire neighborhoods or towns with highly toxic chemical wastes. This problem already is severe and is growing. With the advent of new

capabilities to manufacture a powerful and particularly virulent form of methamphetamine nicknamed "ice," home drug laboratories will proliferate at an exponential rate, as will the environmental destruction.

I hope to prevent that tragedy. The Precursor Chemical Registration Act of 1991 will restrict and regulate the sale of precursor chemicals used to make methamphetamines such as ice. In addition, it will make the owners and operators of home drug laboratories fully liable for costs to dispose properly of these toxic chemicals and to restore the buildings and contaminated property to their original pristine state. Currently, those environmental cleanup costs are borne by Federal and State governments, in other words, the American taxpayer.

Home drug laboratories are popular within the drug trade primarily because precursor chemicals—chemicals used to produce synthetic drugs such as methamphetamines—are simple and legal to purchase. Further, the risks and consequences of arrest and conviction are relatively modest.

Earlier this year, Paul Pearce of Camas, WA, testified before the Senate Judiciary Committee about the environmental hazards associated with home drug laboratories. As a field expert on clandestine drug laboratory investigations and the president of the Clandestine Laboratory Investigations Association [CLIA], Mr. Pearce understands the imperative need to reduce these drug kitchens and the assured hazards they represent.

The rise of a popular new form of methamphetamines known as ice has the potential of causing an explosive increase in the size and number of home drug laboratories. The Western States, including my home State of Washington, are reporting increased trafficking of new methamphetamines such as ice. In addition, this problem is spreading rapidly across the Nation.

Most precursor chemicals are used as chemical reagents in the manufacturing process. Following drug production, these highly toxic reagents are disposed, usually in the manner most convenient to the drug cooks. Acids, poisons, corrosive sludge, and flammable liquids are carelessly dumped on the ground, poured into drains, flushed down toilets, and released into rivers. Other toxins evaporate. These toxic wastes contaminate the ground, air, and water and can endanger human health for miles around.

The popularity of ice stems from its potency; it is far more potent and deadly than even crack cocaine. Users sustain a chemically induced euphoria for 2 to 16 hours, as compared to a 30-minute high from crack cocaine. In addition, ice can cause users to lose their inhibitions, often resulting in fits of unbridled rage and violence. Robberies, assaults, and murders are already prevalent in cities fallen prey to the crack epidemic. Imagine the consequences if ice were to replace crack as the "drug of choice."

The home drug industry is attempting to import from the Pacific rim the technology necessary to produce ice in mass quantities. Although this effort has been largely unsuccessful to date, the Drug Enforcement Agency and other law enforcement officials acknowledge that it is only a matter of time until that technology is achieved.

Mr. President, in 1988, Congress took a step in the right direction by passing the Chemical Diversion and Trafficking Act. This law regulates precursor chemicals that otherwise could be diverted to clandestine drug laboratories operating abroad. My legislation builds on those principles and applies them domestically. Provisions of a bill similar to this that I introduced last session were incorporated into the omnibus crime bill with overwhelming bipartisan support in the Senate, but were later dropped in conference.

Mr. President, seizures of domestic drug laboratories increased 400 percent during the 1980's. Even with increased manpower, our law enforcement officials always will be one step behind the problem. In addition, none of us wants this decade to become known as the ice age. Nor do we want to expose our friends and neighbors to more and more miniature Love Canals.

It would be both prudent and more effective to prevent the problem before it starts by inhibiting the supply of precursor chemicals from illegal operations. Convicted drug laboratory owners and operators should be held responsible to undo the environmental damages they cause. The American taxpayer should not bear the burden of their contemptible acts. This cause will be served well by the adoption of this timely and vital legislation.

Mr. President, I ask unanimous consent that a copy of my bill be printed in the RECORD.

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

S. 1142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (Y) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(c) RECORDS OF REGULATED TRANSACTIONS.—Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(d) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(e) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical,

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General shall not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license ap-

plication to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(f) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical contained in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(g) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921—6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

By Mr. INOUYE:

S. 1143. A bill to include the Territory of American Samoa in the program of aid to the aged, blind, or disabled; to the Committee on Finance.

INCLUSION OF AMERICAN SAMOA UNDER CERTAIN AID PROGRAMS

• Mr. INOUYE. Mr. President, I am introducing legislation to amend the Social Security Act, which will include American Samoa under the program of "Aid to the Aged, Blind, or Disabled" to provide basic assistance for 1,600 aged and disabled individuals residing in American Samoa.

Many of the men and women I seek to help do not qualify for benefits from either Social Security or the territorial retirement program. These people have been caught between two systems. When Social Security went into effect in American Samoa, this group was nearing retirement and did not contribute enough to receive minimum benefits. The territorial retirement system began in 1971. This, too, was implemented too late for this group to qualify for benefits.

Mr. President, the benefits of the Aid to the Aged, Blind, or Disabled Program have been extended to Puerto Rico, Guam, and the Virgin Islands. The Commonwealth of the Northern Marianas Islands [CNMI] enjoys similar benefits under the Supplemental Security Income Program [SSI]. This has been an important program for their handicapped and needy elderly citizens.

The Territory of American Samoa is the only insular possession of the United States that is not included in any Social Security program to specifically serve the needs of its elderly and disabled population. American Samoa does not even receive aid for families of dependent children or food stamp benefits. The elderly and handicapped individuals, approximately 1,600 people, have no personal resources and nowhere to turn. There are no local or Federal support programs to address their needs. The territorial government is severely strained financially at the present time to meet all its needs. I believe this measure will help relieve the critical needs of these elderly and handicapped individuals. There is no reason why American Samoa should be left out.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD. I urge my colleagues to support this important measure.

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

S. 1143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF THE TERRITORY OF AMERICAN SAMOA IN THE PROGRAM OF AID TO THE AGED, BLIND, OR DISABLED.

(a) IN GENERAL.—The fifth sentence of section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended by striking "and Guam" each place such term appears and inserting "Guam, and American Samoa".

(b) PROGRAM PAYMENTS.—Sections 3(a)(2), 1003(a)(2), 1403(a)(2), and 1603(a)(2) of such Act (42 U.S.C. 303(a)(2), 1203(a)(2), 1353(a)(2), and 1383 note) are each amended by striking "and Guam" and inserting "Guam, and American Samoa".

(c) LIMITATION ON PAYMENTS.—Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended—

(1) in paragraph (3), by striking the period and inserting "; and"; and

(2) by inserting after and below paragraph (3) the following:

"(4) for payment to American Samoa shall not exceed—

"(A) $1,000,000 with respect to the fiscal year 1992, or

"(B) $1,000,000 with respect to the fiscal year 1993.".

(d) ALTERNATIVE FEDERAL PAYMENT AUTHORITY.—Section 1118 of such Act (42 U.S.C. 1318) is amended by striking "and Guam," and all that follows and inserting "Guam, and American Samoa, means 75 percent.".

(e) EFFECTIVE DATE.—The amendments made by this Act shall take effect on October 1, 1992.•

By Mr. LEVIN (for himself and Mr. COHEN):

S. 1145. A bill to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics; to the Committee on Governmental Affairs.

OFFICE OF GOVERNMENT ETHICS AMENDMENT OF 1991

• Mr. LEVIN. Mr. President, today I am introducing a bill that would remove the specified limit on the authorization of appropriations for the Office of Government Ethics [OGE] and permit the Appropriations Committees to appropriate such sums as may be necessary for each fiscal year. Senator COHEN, the ranking member of the Subcommittee on Oversight of Government Management, which I chair, joins me as an original cosponsor.

OGE was created in 1978 as part of the Office of Personnel Management. Over the years, Congress has given OGE more authority and autonomy, making it a separate agency as of October 1, 1989.

But OGE's budget and staff have not kept pace with its growing responsibilities. When it was reauthorized in 1988, OGE's annual authorization was capped at $3.5 million. We have since raised that cap to $5 million, at the administration's request. But even that is no longer sufficient to allow OGE to fully discharge its duties. The President's budget calls for $6.3 million for OGE for

fiscal year 1992—$1.3 million over its current authorized limit. The bill Senator COHEN and I are introducing today would permit OGE to receive the funds requested in the President's budget, and it would permit the funding of OGE in future years to be similar to that of other freestanding agencies—based on the amount necessary for that particular fiscal year.

It is OGE's job to promote ethics throughout the entire executive branch. As part of that mission, both Congress and the President have assigned new tasks to OGE over the past few years. OGE's responsibilities range from teaching to enforcement, from issuing regulations to providing guidance and interpretation, from reviewing financial disclosure forms to auditing agency ethics programs. In one sense, OGE's successes add to its workload: Increased education about ethics leads to a heightened sensitivity to potential ethical problems, and more agencies and individuals call on OGE for help and guidance.

Last summer, my subcommittee held a hearing to look at OGE's oversight of agency ethics programs. What we found was that when OGE went in and took a look at an agency's ethics program, it did a pretty good job of identifying weaknesses. The problems were, first of all, the OGE didn't look at enough programs and, second, that OGE didn't follow up effectively to get problems solved in the programs that it did look at. So, as a practical matter, OGE was not adequately overseeing agency ethics programs.

OGE told us that one big impediment to its doing a better job in the auditing area was lack of staff—it simply did not have enough people in its monitoring and compliance division to visit all of the executive branch agencies as often as it would like, or to follow up diligently with the agencies it did audit. GAO concurred in OGE's assessment that staffing was a major problem.

The basic premise of the ethics program in the executive branch is that it is a decentralized system. Each agency bears primary responsibility for its own ethics program—for training, guidance, investigations, and enforcement when necessary. This system can only work, however, if OGE is there to provide overall guidance and coordination. If OGE doesn't have sufficient resources to play its part, the whole system breaks down.

OGE has told us that it wants to improve its oversight of agency ethics programs. If it receives the additional funds requested, it will target the overwhelming proportion of its new staff—21 out of 26 new full-time positions—to the monitoring and compliance division. We think that this would be an important improvement.

We've all had our fill of newspaper revelations about ethical lapses by Government officials in the last few years. These tales of conflicts of interest and using public office for private gain undermine people's confidence in government. Providing adequate funding for OGE will allow it to do its job as leader and watchdog on ethical issues. There's no telling how much this will save in the long run—both in terms of the costs of transgressions not committed and in public confidence in government integrity.•

By Mr. LIEBERMAN (for himself, Mr. LAUTENBERG, Mr. MACK, Mr. MURKOWSKI, Mr. CRANSTON, Mr. KASTEN, Mr. PACKWOOD, Mr. WIRTH, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. D'AMATO, Mr. GRASSLEY, Ms. MIKULSKI, and Mr. LEVIN):

S. 1147. A bill to require that the United States Government hold certain discussions and report to Congress with respect to the secondary and tertiary boycotts of Israel by Arab nations; to the Committee on Foreign Relations.

PROCOMPETITIVENESS AND ANTIBOYCOTT ACT

• Mr. LIEBERMAN. Mr. President, today I am introducing legislation, the Procompetitiveness and Antiboycott Act of 1991, that will help to make American companies more internationally competitive by getting our economic allies to end their participation of companies within their borders in the secondary and tertiary boycott of Israel.

The boycott of Israel by Arab nations has been in existence since the mid-1940's when the Arab League formalized the boycott of Palestinian Jews. While it is bad enough that Arab nations themselves refuse to deal with Israel, it is even worse that they have created a blacklist of companies from third-party nations that engage in economic relationships with Israel.

It is against the law for American companies to obey the secondary boycott of Israel. But our law can only truly be effective if we get other nations to do the same: ignore the secondary boycott. We need to create a level playing field for American companies to do business where they want by making certain that no nation that believes in free international trade in any way condones the participation of a company within its borders in the secondary boycott. In a very real way, the secondary and tertiary boycotts are the ultimate expression of disregard for a market-based economy.

While we in this country have some good laws on the books to prohibit the participation of American companies in these restraints on trade, we must begin the process of getting other nations to do the same, either through the passing of their own tough domestic laws that would penalize companies that follow Arab League boycott guidelines, or by establishing international rules of the road for ending boycott compliance.

On March 16, I hand-delivered a letter signed by 85 of my colleagues in this body to Crown Prince Saad of Kuwait, asking that his government end the secondary boycott of Israel. Soon after, Senators ROCKEFELLER, WIRTH, and others sent a letter to Japanese Prime Minister Kaifu, asking him to encourage Japanese companies to end their observance of the boycott. Then, eight Members of the Senate sent a letter to Secretary of State James Baker, asking him to raise the issue of the secondary and tertiary boycott with members of the G-7 that were holding meetings at the State Department in late April. Members of the House, led by Congressmen SCHUMER, LEVINE, and TORRICELLI have also been taking action on this problem.

The bill that I am introducing today along with Senators LAUTENBERG, MACK, MURKOWSKI, CRANSTON, KASTEN, PACKWOOD, WIRTH, GRAHAM, ROCKEFELLER, D'AMATO, GRASSLEY, MIKULSKI, and LEVIN, emphasizes the harm that the secondary and tertiary boycott has on the international economic environment and calls on international economic organizations that were founded on the principles of free-trade to play a part in ending the boycotts. I refer specifically to the OECD and the GATT. The legislation also requires a report from the administration to the Congress on progress that has been made to get other nations to end compliance with the boycott and to get the Arab nations to end the boycott entirely.

We attempt to achieve these goals in three fundamental ways: by requiring our ambassador to the OECD to enter into negotiations with other member nations on what steps must be taken to end compliance with the boycott, establishing guidelines on how to eliminate compliance with the secondary boycott; by requiring the USTR to enter into discussions with members of the GATT to get that organization more involved in trying to eliminate the secondary and tertiary boycott; and by requesting that the President send a report to the Congress on what steps the administration has taken to end the boycott.

This legislation is a first, positive step in the process of making other nations aware through their participation in international organizations, whose purpose it is to create an open and prosperous international economic environment, that the pernicious practice of the secondary and tertiary boycott of Israel must end because it is an impediment to global investment and trade. Why should a company that does not participate in the boycott be penalized and put at a competitive disadvantage with a company that does comply? That's not good business. That's not

fair competition. That's blackmail, and it has to stop.

I ask unanimous consent that a copy of the bill be included in the RECORD after my statement.

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

S. 1147

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 "Procompetitiveness and Antiboycott Act of 1991".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Arab boycotts of Israel has distorted international trade and investment;

(2) the secondary and tertiary boycotts of Israel by Arab nations has put American companies refusing to obey it at a competitive disadvantage;

(3) the secondary and tertiary boycotts of Israel by Arab nations has stifled foreign investment in Israel;

(4) companies that conform to the boycotts contribute to the distortion of international commerce and investment; and

(5) it is in the interest of all nations to have free trade and a liberal climate for investment.

SEC. 3. OECD REPORT.

(a) DISCUSSIONS AT THE OECD.—The United States Ambassador to the Organization for Economic Cooperation and Development (OECD) shall discuss with representatives from other OECD member nations—

(1) the extent to which companies, public and private, obey the secondary and tertiary boycotts of Israel by Arab nations;

(2) the effectiveness of antiboycott laws of those nations that currently have or have had such laws;

(3) the extent to which the boycotts has skewed global trade and investment, as well as regional trade and investment in the Middle East;

(4) the extent to which companies not obeying the boycotts are placed at a competitive disadvantage as a result of the boycott;

(5) the extent to which the boycotts contradicts OECD trade and investment policy; and

(6) the development of a set of guidelines, using the Arrangement on Export Credits as a model for the development of these guidelines, that OECD nations can agree on as a way to eliminate compliance with the Arab secondary and tertiary boycotts of Israel.

(b) REPORT TO CONGRESS. —The United States Ambassador to the OECD shall submit to Congress a report six months after the date of enactment of this Act on the progress of discussions as described in section 3(a).

SEC. 4. GATT REPORT.

(a) IN GENERAL. —The United States Trade Representative shall enter into discussions with representations from member nations of the General Agreement on Tariffs and Trade (GATT) to determine the extent to which—

(1) the Arab secondary and tertiary boycotts of Israel has distorted trade;

(2) members of and observers to the GATT encourage actions, including the furnishing of information or entering into implementing agreements, which have the effect of furthering or supporting the secondary and tertiary boycotts;

(3) the GATT can and should work to eliminate the Arab secondary and tertiary boycotts of Israel; and

(4) GATT articles, specifically Articles I and XI, can be used to eliminate compliance with the secondary and tertiary boycotts and what additional measures, including penalties, can be applied to nations imposing and obeying the secondary and tertiary boycotts.

(b) REPORT TO CONGRESS.—The United States Trade Representative shall submit to Congress a report six months after the date of enactment of this Act on the discussions as described in section 4(a).

SEC. 4. PRESDIENTIAL REPORT.

Not later than 90 days after the date of enactment of this Act, the President shall submit a report to the Congress on—

(1) what progress has been made on getting other nations to end compliance with the secondary and tertiary boycotts; and

(2) what progress has been made to get Arab nations to end the secondary and tertiary boycotts of Israel.

SEC. 6. DEFINITIONS.

For purposes of this Act, the term "secondary and tertiary boycotts" means the boycotts by Arab governments of companies which provide goods or services to Israelis or Israeli firms, invest in Israel or Israeli firms, ships that call at Israeli ports, and the goods and services of people or entities which support the State of Israel.•

• Mr. LAUTENBERG. Mr. President, I am pleased to join Senator LIEBERMAN in introducing this legislation, which is aimed at unifying the major industrialized nations and trading partners of the world against the Arab boycott of companies that do business with Israel.

The Arab League has maintained a primary economic boycott against Israel since 1948, refusing to do business with any individual or business in that country. Since the early 1950's, the Arab League has maintained secondary and tertiary boycotts against Israel and her trading partners. Under the terms of the secondary boycott, the Arab League demands companies worldwide to refrain from trading with or investing in Israel. If a company does trade with Israel, it is blacklisted by the Arab League. Arab League countries will not trade with any blacklisted company. They also will not trade with any company that does business with a blacklisted company. This is known as the tertiary boycott.

The Arab League must end its boycott. The boycott demonstrates the depths of the Arab countries' denial of Israel's existence. It makes peace impossible.

Mr. President, the Arab boycott doesn't hurt only Israel, it harms America as well. Longstanding U.S. policy on the boycott has been clear. We don't accept it. We won't stand by and let American firms be threatened and coerced. We won't tolerate or cooperate with these outrageous barriers to trade. That's why U.S. law bars American companies from providing certain information to Arab countries to demonstrate compliance with the boycott.

This bill is aimed at encouraging the major industrialized countries of the world to move in the same direction. We have laws preventing compliance with the boycott. So should they.

The bill would require our Ambassador to the OECD [the Organization of Economically Development Countries] to enter into negotiations with other member nations to determine what steps must be taken to end compliance with the boycott and to establish guidelines on how to eliminate compliance with the secondary boycott. It would require the USTR to enter into discussions with GATT members to get that organization more involved in trying to eliminate the secondary and tertiary boycott. And it requests that the President send a report to the Congress on what steps the administration has taken to end the boycott.

Our international trading partners should be tough on this issue. They should have laws that prohibit their companies from complying with the Arab boycott of Israel. During the war, we witnessed just how powerful the world community can be when it is unified. This issue is no different. It requires cohesion. If the world trading partners are unified in their approach, the Arab countries can be convinced to lift their nefarious boycott against businesses that do have economic relations with Israel.

Mr. President, the time has come for the Arab League countries—particularly our coalition allies—to end their economic boycott of Israel and companies that do business with Israel. Lifting the boycott against Israel and her trading partners would provide an important gesture of good faith and a critical confidence building measure between the Arab states and Israel. It would be a positive first step toward the goal of achieving a long-lasting Arab-Israeli peace.

I met with Egyptian Foreign Minister Ahmed Esmat Abdel Meguid in Egypt in early April. I discussed this issue with him. I called on the Egyptians to encourage the Arab world to reverse this longstanding policy. He told me it is an Arab League policy, and that the Arab League must take the first step.

Well, now, Mr. Meguid is the new head of the Arab League. He now has the opportunity to seek a reversal of this policy. I hope that as a representative of Egypt, which made peace with Israel, Mr. Meguid will take this issue up with other Arab League diplomats.

Mr. President, if Arab countries and the Arab League agreed to reverse this policy, it would be a positive step toward recognizing Israel's right to exist. It would give hope to the Israelis that her neighbors are serious about acknowledging her permanence. It would bring hope to many that Arab nations

will one day formally end their state of war with Israel and enter direct negotiations for peace agreements with that country.

It is also important for U.S. businesses. America fought to preserve the national sovereignty of Arab nations faced with Saddam Hussein's aggression. It is an absolute insult that they will not trade with our companies if they have business relations with Israel.

The international community must keep the pressure on the Arab nations until they take this important step. Governments of all our trading partners should also demand that no company in their country comply with the boycott. This legislation is aimed at moving the industrialized nations of the world in that direction, and I urge my colleagues to cosponsor this legislation.●

By Mrs. KASSEBAUM:

S. 1148. A bill to amend title VII of the Public Health Service Act to improve certain health professions training programs, and for other purposes; to the Committee on Labor and Human Resources.

S. 1149. A bill to amend the Social Security Act to increase payments for direct graduate medical education costs of primary care residents in initial residing period, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH PROFESSIONS TRAINING IMPROVEMENT AND THE MEDICARE MEDICAL EDUCATION IMPROVEMENT ACT

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation aimed at reducing this country's alarming shortage of primary care physicians, as well as its serious undersupply of health care providers in rural and inner-city communities.

Our problem is not that we lack for enough doctors. In fact, a recent study in the New England Journal of Medicine predicts that the overall supply of physicians will have risen 22 percent from 1986 to the year 2000. Where we do have a problem, however, is that too many of the doctors we do have are concentrated in narrow medical specialties, rather than in the primary care disciplines of family medicine, general internal medicine, and pediatrics.

Only about 30 percent of the doctors practicing in this country today are primary care physicians. This is among the lowest such percentages in the developed world. In Canada, for example, 50 percent of the doctors are in primary care practice, and in Great Britain, this figure is 75 percent.

Mr. President, Health and Human Services Secretary Louis Sullivan and others have pointed to the overspecialization in American medicine as one of the forces behind the current explosion in health care costs. What is happening is that we are focusing too many resources on expensive specialty procedures, and too few on the basic, primary care services that keep people healthy and out of the hospital.

Regrettably, the current health care marketplace rewards medical specialists with incomes averaging two to four times higher than those received by doctors in primary care. Recent reforms in Medicare reimbursement may eventually narrow this gap somewhat, but significant disparities are certain to remain.

Understandably, it is difficult for medical students to resist the temptation to pursue the vastly higher incomes associated with specialty practice, particularly considering that many of them leave medical school with a tremendous load of debt. Not surprisingly, the proportion of medical school graduates choosing primary care residencies declined from 37.3 percent in 1981 to 23.6 percent in 1989.

Mr. President, nowhere is the relative lack of primary care physicians felt more acutely than in the sparsely populated communities of rural America and in the poverty-stricken neighborhoods of our innercities. Over the past decade, the number of federally designated primary care shortage areas has increased by more than 35 percent, and the Department of Health and Human Services estimated last year that an infusion of an additional 4,000 doctors, nurses, and other health professionals would be needed to bring these communities up to even a minimal level of primary care. In my own State of Kansas, fully 69 of the State's 105 counties have been identified by the University of Kansas Medical Center as being underserved in primary care.

The legislation I am introducing today has two purposes, both of which are designed to address the problems I've just outlined. The first is to boost the profile of primary care in our medical schools and residency programs, and the second is to provide strong incentives for health professions schools of all kinds to place greater emphasis on training students for practice in medically underserved communities.

The provisions of this legislation are based, in part, on recommendations contained in the Office of Technology Assessment's recent comprehensive study of rural health care in America. In addition, much credit should also go to the innovative work done by the Univeristy of Kansas Medical Center at Wichita. Over the past year, Wichita has developed a program known as the Bridging Plan, which is targeted at attracting medical students and residents to practice in underserved areas. Sponsored in part by the Kansas-based Wesley Foundation, this program makes effective use of incentives such as loan-repayment options and clinical clerkships in rural communities. As it nears the end of its first academic year, the Bridging Plan is already oversubscribed, and it has now expanded to include students at the State's partner medical school in Kansas City.

Mr. President, because of divided Senate committee jurisdiction on health care issues, I am introducing this legislation as two separate bills. One of these deals with programs operated by the Public Health Service, while the other addresses Medicare medical education funding.

The Health Professions Training Improvement Act specifies that medical and health professions schools with a high rate of placement in underserved areas will be awarded priority for receiving health professions and nurse training grants under Titles VII and VIII of the Public Health Service Act. Schools can also receive such priority if they develop programs aimed specifically at increasing placement rates in underserved communities. Such programs could include—but are not limited to—clinical rotations to underserved areas, service-contingent scholarship programs, or the targeted recruitment of students likely to choose practice in a medically underserved area.

This bill also authorizes special grant assistance to medical schools and other health professions training programs to help them implement curricular changes such as those outlined above. Additional grants will also be available to consortiums of medical schools and other health professions programs for the development of training programs that emphasize clinical cooperation between doctors and mid-level health professionals in underserved areas. Total authorized funding for these grant programs would be $22 million in fiscal year 1992.

Mr. President, both title VII and title VIII are up for reauthorization this year, and it is my hope and intention to add a version of this bill to the Senate's reauthorization package.

The second bill I am introducing today is the Medicare Medical Education Improvement Act. Its chief provision is to increase the Direct Medical Education [DME] weighting factor for primary care residents by 20 percent, while at the same time reducing overall resident reimbursements by an exactly proportionate amount. This change, which is strictly budget-neutral, will provide an incentive for residency programs to shift greater emphasis toward training physicians in the under-represented primary care disciplines.

Further, this bill requires that hospitals wishing to receive Medicare assistance for their residency programs must set salaries for primary care residents at least 20 percent higher than those paid to specialty residents. Doing this will create a strong material in-

centive to medical students to choose primary care residencies. It will also help offset the current deep bias toward specialty residencies caused by the anticipation of high incomes in private practice.

Mr. President, as discussion of these issues develops, I would very much appreciate any suggestions my colleagues may have for improving either of these bills. Likewise, I would welcome comments from those in the health care community who have not yet had an opportunity to review these proposals.

In particular, I think there are a number of additional issues in the area of medical education reform that deserve further attention. One avenue we might want to explore, for example, is the possibility of associating a medical school's receipt of Federal biomedical research funding with its performance in graduating at least a basic number of primary care physicians. If a school is receiving thousands, if not millions, of taxpayer-supported research dollars, might it not be appropriate to hold that school accountable to certain minimal public health policy goals?

Mr. President, for many years now, financial and demographic pressures have been driving doctors and other health professionals away from primary care and away from the underserved communities that need them the most. The legislation I am introducing today is a fair and responsible effort to fight back, and I urge all of my colleagues to lend it their support.

Identical bills are being introduced in the House today by Congressman PAT ROBERTS, my colleague from Kansas and the co-chairman of the House Rural Health Coalition.

Without objection, I ask unanimous consent that summaries of the two bills, as well as the bills themselves, be made a part of the RECORD.

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

S. 1148

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 "Health Professions Training Improvement Act of 1991".

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 3. MEDICALLY UNDERSERVED AREA TRAINING INCENTIVES.

Part A of title VII (42 U.S.C. 292 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 711. PRIORITIES IN AWARDING OF GRANTS.

"(a) ALLOCATION OF COMPETITIVE GRANT FUNDS.—In awarding competitive grants under this title or title VIII, the Secretary shall, among applicants that meet the eligibility requirements under such titles, give priority to entities submitting applications that—

"(1) can demonstrate that such entities—

"(A) have a high permanent rate for placing graduates in practice settings which serve residents of medically underserved communities; and

"(B) have a curriculum that includes—

"(i) the rotation of medical students and residents to clinical settings whose focus is to serve medically underserved communities;

"(ii) the appointment of health professionals whose practices serve medically underserved communities to act as preceptors to supervise training in such settings;

"(iii) classroom instruction on practice opportunities involving medically underserved communities;

"(iv) service contingent scholarship or loan repayment programs for students and residents to encourage practice in or service to underserved communities;

"(v) the recruitment of students who are most likely to elect to practice in or provide service to medically underserved communities;

"(vi) other training methodologies that demonstrate a significant commitment to the expansion of the proportion of graduates that elect to practice in or serve the needs of medically underserved communities; or

"(2) contain an organized plan for the expeditious development of the placement rate and curriculum described in paragraph (1).

"(b) SERVICE IN MEDICALLY UNDERSERVED COMMUNITIES.—Not less than 50 percent of the amounts appropriated for fiscal year 1995, and for each subsequent fiscal year, for competitive grants under this title or title VIII, shall be used to award grants to institutions that are otherwise eligible for grants under such titles, and that can demonstrate that—

"(1) not less than 15 percent of the graduates of such institutions during the preceding 2-year period are engaged in full-time practice serving the needs of medically underserved communities; or

"(2) the number of the graduates of such institutions that are practicing in a medically underserved community has increased by not less than 50 percent over that proportion of such graduates for the previous 2-year period.

"(c) WAIVERS.—A health professions school may petition the Secretary for a temporary waiver of the priorities of this section. Such waiver shall be approved if the health professions school demonstrates that the State in which such school is located is not suffering from a shortage of primary care providers, as determined by the Secretary. Such waiver shall not be for a period in excess of 2 years.

"(d) DEFINITIONS.—As used in this section:

"(1) GRADUATE.—The term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health professions discipline that such individual has selected.

"(2) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means—

"(A) an area designated under section 332 as a health professional shortage area;

"(B) an area designated as a medically underserved area under this Act;

"(C) populations served by migrant health centers under section 329, community health centers under section 330, or Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(D) a community that is certified as underserved by the Secretary for purposes of participation in the rural health clinic program under title XVIII of the Social Security Act; or

"(E) a community that meets the criteria for the designation described in subparagraph (A) or (B) but that has not been so designated.".

SEC. 4. MEDICALLY UNDERSERVED AREA TRAINING GRANTS.

Part F of title VII (42 U.S.C. 295g et seq.) is amended by adding at the end thereof the following new section:

"SEC. 790B. MEDICALLY UNDERSERVED AREA TRAINING GRANT PROGRAM.

"(a) GRANTS.—The Secretary shall award grants to health professions institutions to expand training programs that are targeted at those individuals desiring to practice in or serve the needs of medically underserved communities.

"(b) PLAN.—As part of an application submitted for a grant under this section, the applicant shall prepare and submit a plan that describes the proposed use of funds that may be provided to the applicant under the grant.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applicants that demonstrate the greatest likelihood of expanding the proportion of graduates who choose to practice in or serve the needs of medically underserved areas.

"(d) USE OF FUNDS.—An institution that receives a grant under this section shall use amounts received under such grant to establish or enhance procedures or efforts to—

"(1) rotate health professions students from such institution to clinical settings whose focus is to serve the residents of medically underserved communities;

"(2) appoint health professionals whose practices serve medically underserved areas to serve as preceptors to supervise training in such settings;

"(3) provide classroom instruction on practice opportunities involving medically underserved communities;

"(4) provide service contingent scholarship or loan repayment programs for students and residents to encourage practice in or service to underserved communities;

"(5) recruit students who are most likely to elect to practice in or provide service to medically underserved communities; or

"(6) provide other training methodologies that demonstrate a significant commitment to the expansion of the proportion of graduates that elect to practice in or serve the needs of medically underserved communities.

"(e) ADMINISTRATION.—

"(1) REQUIRED CONTRIBUTION.—An institution that receives a grant under this section shall contribute, from non-Federal sources, either in cash or in-kind, an amount equal to not less than 50 percent of the amount of the grant to the activities to be undertaken with the grant funds.

"(2) LIMITATION.—An institution that receives a grant under this section, shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (d) in the fiscal year preceding the year for which the grant is received.

"(f) DEFINITIONS.—As used in this section:

"(1) GRADUATE.—the term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health professions discipline that such individual has selected.

"(2) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means—

"(A) an area designated under section 332 as a health professional shortage area;

"(B) an area designated as a medically underserved area under this Act;

"(C) populations served by migrant health centers under section 329, community health centers under section 330, or Federally qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

"(D) a community that is certified as underserved by the Secretary for purposes of participation in the rural health clinic program under title XVIII of the Social Security Act; or

"(E) a community that meets the criteria for the designation described in subparagraph (A) or (B) but that has not been so designated.".

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for each of the fiscal years 1992 and 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.".

SEC. 5. HEALTH PROFESSIONS INTEGRATION GRANTS.

Part F of title VII (42 U.S.C. 295g et seq.) (as amended by section 5) is further amended by adding at the end thereof the following new section:

"SEC. 790C. HEALTH PROFESSIONS INTEGRATION GRANT PROGRAM.

"(a) GRANTS.—The Secretary shall award grants to eligible regional consortia to enhance and expand coordination among various health professions programs, particularly in medically underserved rural areas.

"(b) ELIGIBLE REGIONAL CONSORTIUM.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity must—

"(A) be a regional consortium consisting of at least one medical school and at least one other health professions school that is not a medical school; and

"(B) prepare and submit an application containing a plan of the type described in paragraph (2).

"(2) PLAN.—As part of the application submitted by a consortium under paragraph (1)(B), the consortium shall prepare and submit a plan that describes the proposed use of funds that may be provided to the consortium under the grant.

"(c) USE OF FUNDS.—A consortium that receives a grant under this section shall use amounts received under such grant to establish or enhance—

"(1) strategies for better clinical cooperation among different types of health professionals;

"(2) classroom instruction on integrated practice opportunities, particularly targeted toward rural areas;

"(3) integrated clinical clerkship programs that make use of students in differing health professions schools; or

"(4) other training methodologies that demonstrate a significant commitment to the expansion of clinical cooperation among different types of health professionals, particularly in underserved rural areas.

"(d) LIMITATION.—A consortium that receives a grant under this section, shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (c) in the fiscal year preceding the year for which the grant is received.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $7,000,000 for each of the fiscal years 1992 and 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.".

SUMMARY OF THE HEALTH PROFESSIONS TRAINING IMPROVEMENT ACT OF 1991

I. MEDICALLY UNDERSERVED AREA TRAINING INCENTIVES

Goal: Create financial incentives for medical schools and other health professions training institutions to address the growing shortage of health professionals in medically underserved rural and inner-city areas.

(A) In deciding the allocation of competitive grant funding under Titles VII and VIII of the Public Health Service Act (Health Professions Training and Nurse Education) the Secretary shall award priority to institutions which can either demonstrate the following characteristics or present an organized plan for their expeditious development:

(1) A high permanent rate for placing graduates in settings which serve medically underserved communities, and

(2) A curriculum which features the following:

(a) Rotation of students and residents to clinical settings whose focus is to serve medically underserved comunities,

(b) Appointment of health professionals whose practices serve medically underserved areas as preceptors to supervise training in such settings,

(c) Classroom instruction on practice opportunities involving medically underserved communities,

(d) Service-contingent scholarship or loan-repayment programs to encourage practice in or service to medically underserved communities,

(e) Targeted recruitment of students most likely to choose practice in an underserved area (i.e. minorities or persons who are natives of underserved regions), or

(f) Other training methodologies which show significant promise of expanding the proportion of graduates choosing to practice in, or serve the needs of, medically underserved communities.

(B) Commencing four years after enactment, not less than 50 percent of newly appropriated competitive grant funding awarded to teaching institutions under Titles VII and VIII (Health Professions and Nurse Education) shall go to institutions which can demonstrate either 1) that at least 15 percent of graduates over the previous two years are engaged in full-time practice serving the needs of medically underserved communities or 2) that the number of graduates in such practice has increased by not less than 50 percent over the previous two years.

(C) For the purpose of this legislation, "medically underserved community" shall be defined as either 1) A federally designated Health Professions Shortage Area (HPSA), 2) a federally designated Medically Underserved Area (MUA), 3) populations served by Community Health Centers, Migrant Health Centers, or Federally Qualified Health Centers, 4) a community certified as underserved by the Secretary for purposes of participation in the Medicare rural health clinic program, or 5) a community which meets the criteria for designation as a HPSA or an MUA but which may not have applied for official designation.

(D) For the purpose of this legislation, the term "graduate" shall refer to a person who has successfully completed all training and residency requirements for full certification in the health professions discipline he or she has chosen.

(E) Health professions schools may petition the Secretary for waivers under this title. To qualify, a school must demonstrate to the Secretary that the state in which the school is located is not suffering from a shortage of primary care providers, as defined by the secretary. Such waivers shall not be longer than two years in duration.

II. MEDICALLY UNDERSERVED AREA TRAINING GRANTS

Goal: Provide financial assistance to schools in adapting their training programs to better focus on training health professionals for practice in medicaly underserved areas.

(A) Establish grants under Title VII for health professions institutions (including nursing programs) which are seeking to expand training programs aimed at practice in medically underserved areas. Grants shall be awarded on a competitive basis.

(B) Proposed use of grant funds shall be at the discretion of the school, but must be described in a plan submitted to the Secretary.

(C) In making award decisions, the Secretary shall favor applications which demonstrate the greatest likelihood of expanding the proportion of graduates who choose to practice in or serve the needs of medically underserved communities.

(D) Use of funds may include the creation or enhancement of:

(1) Rotation of students and residents to clinical settings whose focus is to serve medically underserved communities,

(2) Appointment of health professionals whose practices serve medically underserved areas as preceptors to supervise training in such settings,

(3) Classroom instruction on practice opportunities involving medically underserved communities,

(4) Service-contingent scholarship or loan-repayment programs to encourage practice in or service to medically underserved communities,

(5) Targeted recruitment of students most likely to choose practice in an underserved area (i.e. minorities or persons who are natives of underserved regions), or

(6) Other training methodologies which show significant promise of expanding the proportion of graduates choosing to practice in, or serve the needs of, medically underserved communities.

(E) Schools receiving grant assistance will be required to provide a match of 50 percent toward the funding of the proposed conversion.

(F) Schools will not be permitted to use grant funding under this section to underwrite existing efforts in this area.

(G) Authorized funding for this section shall be $15 million in each of fiscal years 1992 and 1993, and such sums as may be necessary in fiscal years 1994 and 1995.

III. HEALTH PROFESSIONS INTEGRATION GRANTS

Goal: Address the need, particularly in underserved rural areas, for better integration between doctors, nurse practitioners, and other "physician extenders."

(A) Make grants available under title VII to regional consortia of different health professions training institutions (i.e. a medical school, a nursing school, and a physician assistant program) for the purpose of building better coordination among the various kinds of health professions programs. To be eligible, a consortium shall include at least one medical school.

(B) Proposed use of grant funds shall be at the discretion of the applicants, but must be

described in a plan submitted to the Secretary.

(C) Use of funds may include the developments and implementation of:

(1) Strategies for better clinical cooperation among different kinds of health professionals,

(2) Classroom instruction on integrated practice opportunities, particularly in rural areas,

(3) Integrated clinical clerkship programs making use of students in differing health professions schools, or

(4) Other training methodologies which show significant promise of expending clinical cooperation among different kinds of health professionals, particularly in rural underserved areas.

(D) Schools will not be permitted to use grant funding under this section to underwrite existing efforts in this area.

(E) Authorized funding for this section shall be $7 million in each of fiscal years 1992 and 1993, and such sums as may be necessary for fiscal years 1994 and 1995.

S. 1149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS ON PRIMARY CARE RESIDENTS INCREASED.

(a) IN GENERAL.—Subparagraph (C) of section 1886(h)(4) of the Social Security Act (42 U.S.C. 1395ww(h)(4)) is amended to read as follows:

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (D), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) on or after October 1, 1991, for a primary care resident who is in the resident's initial residency period, the weighting factor is 1.20,

"(ii) on or after October 1, 1991, for a resident (other than a primary care resident) who is in the resident's initial residency period, the weighting factor is the applicable factor, and

"(iii) on or after October 1, 1991, for a resident who is not in the resident's initial residency period, the weighting factor is .50.".

(b) DEFINITION.—Section 1886(h)(5) of such Act (42 U.S.C. 1395ww(h)(5)) is amended—

(1) by redesignating subparagraph (H) as subparagraph (I); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(c) OVERALL CAP ON PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.—Section 1886(h)(2) of such Act (42 U.S.C. 1395ww(h)(2)) is amended by adding at the end thereof the following new subparagraph:

"(F) OVERALL CAP ON APPROVED FTE RESIDENT AMOUNTS.—With respect to each fiscal year beginning after September 30, 1991, and ending before October 1, 1994, the Secretary shall make such adjustments as are necessary to approved FTE resident amounts for all hospitals to maintain the aggregate payment amount for all hospitals for such fiscal year under paragraph (3) at the same level as such amount would have been if the weighting factor for clause (i)(I) had been 1.00 for hospital cost reporting periods for such fiscal year.".

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1991.

SEC. 2. INCENTIVES TO PURSUE PRIMARY CARE RESIDENCIES.

"(a) IN GENERAL.—Paragraph (4) of section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)), as amended by section 1, is further amended—

(1) in subparagraph (C), by striking "subparagraph (D)" and inserting "subparagraphs (D) and (F)", and

(2) by adding at the end thereof the following new subparagraph:

"(F) RESIDENT COMPENSATION REQUIREMENT.—

"(i) GENERAL RULE.—For any fiscal year during which a hospital does not meet the compensation requirement described in clause (ii), the weighting factor for residents described in subclauses (II) and (III) of subparagraph (C)(i) shall be zero.

"(ii) COMPENSATION REQUIREMENT.—For purposes of clause (i), a hospital shall meet the compensation requirement for any fiscal year if such hospital provides a rate of compensation to each primary care resident which equals or exceeds 120 percent of the average rate of compensation of residents of such hospital who are not primary care residents.

"(iii) COMPENSATION.—For purposes of this subparagraph, the term 'compensation' means the value of any salary, employee benefits, debt forgiveness, or other monetary or material payment, whether actually received before, during, or after any residency period.".

(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendments made by this section shall apply with respect to any resident entering an approved medical residency training program (as defined in section 1886(h)(5)(A) of the Social Security Act) at a hospital after the date of the enactment of this Act.

"(2) ELECTION.—Any hospital may elect to apply such amendments to any resident in an approved medical residency training program on the date of the enactment of this Act.

SUMMARY OF THE MEDICARE MEDICAL EDUCATION IMPROVEMENT ACT

I. PRIMARY CARE RESIDENCY WEIGHTS

Goal: To provide an incentive for residency programs to shift greater emphasis toward training physicians in the under-represented primary care specialties.

(A) The funding formula for Direct Graduate Medical Education (DME) payments shall be changed so as to weight primary care residents as 1.2 of Full Time Equivalent (FTE). Currently, the weight for all beginning residents is 1.0.

(B) For the purpose of this legislation, "primary care" shall be defined as family medicine, general internal medicine, and general pediatrics.

II. COMPENSATING ADJUSTMENTS IN OVERALL DME PAYMENT LEVELS

Goal: To assure 1) that the new primary can DME weights outlined above are applied on a budget-neutral basis, and 2) that there be no overall reduction in the level of Medicare DME reimbursement.

(A) The Secretary shall be instructed to calculate the additional expenditures that would be needed to cover the new 20 percent primary care weight in the coming year.

(B) The Secretary shall then be directed to reduce the overall DME reimbursement level for the upcoming year by the amount determined above. This reduction will be applied across-the-board on a percentage basis.

(C) The *only* criteria the Secretary shall use in determining the compensation reduction shall be the amount of additional expenditure anticipated as a result of the new primary care weight. (This is to assure that this section is employed only to adjust for added weighting in primary care, and NOT as a mechanism for reducing the overall amount of money reimbursed through the DME program.)

(D) This legislation shall sunset after three years to allow for an assessment of the effect of the new weights on residency training.

III. RESIDENT COMPENSATION

Goal: To provide a material incentive to medical students to choose primary care residencies. Will help offset the current strong bias toward specialty residencies caused by the anticipation of high compensation in private practice. This provision will be budget-neutral.

(A) All schools wishing to receive Medicare DME and IME funding shall comply with the following conditions:

(B) The compensation of primary care residents shall be not less than 20 percent greater than the compensation of non-primary care residents.

(C) Compensation shall be defined as the sum of salary, benefits, debt forgiveness, and all other presentations to residents, both monetary and material. Payments or presentations made to residents by the residency program either prior to or following the actual period of residency shall also be considered as compensation under this section.

(D) This section shall apply to all persons entering residency training following the date of enactment. Residency programs may elect to apply the new differential to current residents, although they will not be required to do so.

(E) The Secretary shall monitor residency program compensation and shall apply penalties to programs found to be in non-compliance. The penalty for non-compliance shall be a one-year suspension of DME reimbursement for all non-primary care resident FTEs.

(Note: The 20 percent increase in primary care DME weights outlined in the first section will assist residency programs in adjusting financially to the new compensation requirements.)

By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH):

S. 1150. A bill to reauthorize the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

REAUTHORIZATION OF THE HIGHER EDUCATION ACT

• Mr. PELL. Mr. President, today I introduce a straight-line extension of the current Higher Education Act of 1965. This bill will serve as a vehicle for the rewrite of this most important education legislation.

It is appropriate that we should introduce this bill today, for just this morning the Education Subcommittee completed its last scheduled hearing on the reauthorization. We will now turn to the difficult task of compiling all the suggestions we have received and carefully weighing each recommendation. The subcommittee will spend the

better part of the summer putting together a comprehensive bill.

There is no more important work in this Congress than that being done on the Higher Education Act. For it is through this legislation that the dream of a colleage education has become a reality for an entire generation of Americans. I can assure my colleagues that those of us on the Education Subcommittee are firmly committee to assuring that the next generation of deserving students will find the same opportunities to pursue their educational dreams that we afforded the last.•

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

S. 1152. A bill to facilitate the employment of certain Public Health Service employees by the Bureau of Prisons at the Gillis W. Long Hansen's Disease Center, and for other purposes; to the Committee on the Judiciary.

EMPLOYMENT OF CERTAIN PERSONS BY THE BUREAU OF PRISONS

Mr. BREAUX. Mr. President, I rise to introduce legislation on behalf of the employees of the Gillis W. Long Hansen's Disease Center in Carville, LA.

The Carville Center is the only facility of its kind in the United States for the treatment of Hansen's Disease patients. Hansen's Disease is also known as leprosy. The patient population at the Center is now very small and research functions that were conducted there are being moved to a university setting in Baton Rouge. So, the Public Health Service facility will be gradually turned over to the Bureau of Prisons over the course of the next 3 to 5 years. The Bureau will use it as a long-term care facility for mentally and physically ill prisoners.

The people of Carville are generally glad that the facility will remain as a Federal entity and that jobs will be available when the Center is turned over to the Bureau of Prisons. Unfortunately, there is one hitch. The Bureau of Prisons does not hire "law enforcement personnel" who are over the age of 40. This makes sense for prison guards and similar positions for which an individual would have to be physically fit and in which he or she would have contact with prisoners. It does not make much sense for clerical workers and similar employees.

Senator JOHNSTON and I are introducing a bill today that would allow the Bureau of Prisons to hire the current Public Health Service employees, despite their age, should a suitable position be available under the Bureau's management. Our bill does not require the Bureau to keep individuals on for whom a suitable position is not available or who might be endangered by the physical requirements of working with prisoners. We simply allow the employees a fair chance of retaining their jobs where it is appropriate.

The Bureau of Prisons has the authority to retain as many of the current Public Health Service employees as they can use. It is possible for them to do this under the current law, which only applies the age requirement to "law enforcement personnel." It is my understanding, however, that the Bureau intends to apply this designation to all of the employees who will eventually work at Carville. I am not convinced that this is appropriate or fair. We are hopeful that we will be able to work this matter out in a manner that does not require legislation, but are prepared to handle it either way.

Mr. President, a companion bill is being introduced in the House of Representatives and, I am happy to say, most of the State delegation is sponsoring it. I look forward to working with the Bureau and accommodating their concerns as the transition at the Carville Center moves forward. I ask unanimous consent that our bill be printed in the RECORD at the conclusion of my remarks and I yield the floor.

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

S. 1152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMPLOYMENT OF CERTAIN EMPLOYEES BY THE BUREAU OF PRISONS.

(a) WAIVER OF MAXIMUM AGE LIMITATION.—Notwithstanding the provisions of section 3307 (d) and (e) of title 5, United States Code, relating to maximum age limitations, any employee of the Public Health Service of the Department of Health and Human Services who was employed at the Gillis W. Long Hansen's Disease Center in Carville, Louisiana on November 30, 1990 shall be—

(1) eligible for employment at any medical center for inmates in the custody of the Bureau of Prisons of the Department of Justice, which is established on the site of the Center; and

(2) considered by the Bureau of Prisons for such employment in all positions for which such employee applies and is otherwise qualified.

(b) EMPLOYEE PLACEMENT.—The Bureau of Prisons shall make all reasonable efforts to employ any such employee described under subsection (a), in a position for which such employee would qualify except for any maximum age limitation on original appointments. To the greatest extent practicable, the Bureau of Prisons shall employ such an employee in a position of equal or higher grade relative to such employee's most recent position with the Public Health Service.

Mr. JOHNSON. Mr. President, I am pleased to join my colleague from Louisiana in introducing legislation to facilitate the employment of certain Public Health Service employees by the Bureau of Prisons at the Gillis W. Long Hansen's Disease Center in Carville, LA.

This legislation is necessary due to an interagency agreement to transfer the Gillis W. Long Hansen's Disease Center from the Public Health Service to the Bureau of Prisons for use as a minimum security long-term care facility. Federal law prohibits the Bureau of Prisions from hiring anyone over age 40. Virtually all of the individuals who are employed at the Hansen's Disease Center are over 40 and have worked there most of their adult life. Many are just a few years short of retirement. Under current law, these individuals will have to seek employment elsewhere.

This legislation would waive the Bureau of Prisons age limitations with respect to employment at the Gillis W. Long Hansen's Disease Center. As such, individuals who would qualify for a job with the Bureau of Prisions but for their age will be equally considered for employment positions at the new minimum security long-term care facility.

Mr. President, the transfer of this facility has caused a lot of anxiety for both the employees of and residents at the Hansen's Disease Center. By providing employment options, I think this legislation will go a long way toward alleviating some of the uncertainty and fear that is being experienced by the employees and I therefore hope it will be acted upon as expeditiously as possible.

By Mr. JEFFORDS:

S. 1153. A bill to require the Administrator of the Environmental Protection Agency to issue regulations concerning the reporting of compliance assurance activities; to the Committee on Environment and Public Works.

ENVIRONMENTAL COMPLIANCE

• Mr. JEFFORDS. Mr. President, I rise today to introduce a bill to help improve compliance with our Nation's environmental laws. The current compliance record of many regulated facilities is poor. Numerous studies have shown that violations are commonplace. I believe this bill I am introducing today will help improve environmental compliance without imposing an undue burden on the regulated community.

I believe this legislation offers a significantly different approach from the auditing proposals introduced so far. These other proposals, I believe, will in fact be counter-productive. But first, let me describe my proposal.

In this bill, an applicant for a permit must describe in the permit application the system the permittee will use to ensure compliance. In short, this bill requires the permittee to report the activities they will conduct to ensure compliance with their permits. This reporting will also ensure that the permittee has an adequate understanding of the activities needed to maintain compliance.

Many regulated entities have developed an effective compliance assurance system and should be allowed to continue to use their systems. Other bills on this subject mandate a specific sys-

tem on a regulated entity regardless of the effectiveness of the systems already being implemented. My bill imposes no firm requirements for the form of the compliance program; thus, I refer to it as a flexible compliance assurance approach. It is flexible because it allows the regulated community an opportunity to develop a compliance system that works for its particular situation.

My approach allows corporations to set up compliance assurance programs that fit their particular corporate culture. Furthermore, this approach will allow corporations to apply a consistent auditing approach to all of their facilities. If one facility of a corporation is found to be in routine violation, then this approach allows the administrator to focus in on the offending plant and make the modifications needed without disrupting an entire company-wide compliance system. For example, the frequency of corporate oversight could be increased by the administrator. Then, once a plant has corrected its deficiencies and proven its compliance record once again, the permittee may apply to have its auditing program returned to that of the rest of the corporation.

Under my approach, each time a permittee is found in violation, the permittee must explain why the compliance assurance system did not detect this violation. Improvements, as necessary, must be made to the existing program sufficient to detect and prevent future violations. Thus, my bill sets up a cyclical process where a routine violator will have to continually improve its system; while complying facilities can go about their business.

Probably the biggest difference between my approach and the other approaches is the issue of confidentiality. The other approaches require a permittee to submit a copy of the audit report to the agency. I strongly object to this requirement for several reasons. First, I believe disclosure of such audits is self-defeating. The primary purpose of an audit should be to detect current violations and prevent future violations. Human nature is such that while people want to do the right thing, they also don't want their honest mistakes to hurt them or their employer.

Mandatory disclosure of the audit sets up an inherent conflict of interest. The people being audited will feel the need to protect themselves and their employers from the adverse public reaction to innocent mistakes. To do a good and accurate audit, the auditor must thus have the trust of the people being audited. The people being audited, and we are talking about people just like us, can use the audit as an opportunity to learn. They can feel free to ask questions even though these questions may disclose a violation. I honestly believe most people want to comply with the law, its just that there is so much to keep track of, so much to do, so many changes to the regulations, that sometimes people just don't know that they are in violation.

If you overlay the fear of public disclosure, then you've set up a situation where the people being audited will feel the need to protect themselves and the company. Accurate information may not be obtained. Violations may not be corrected.

Let's also think about what an audit report written for public consumption would look like. By the time the report was approved by the company hiring the independent auditor for release, while accurate, the report would be written in such noncontroversial language so as to be meaningless. The audit report would basically sugar-coat all violations.

We've seen evidence of this in hazardous waste cleanup plans, for example. How many cleanup plans submitted for approval say in plain language that ground water is contaminated and people are at risk. Few, I believe. Instead, words like "the presence of elevated concentrations of constituents was detected which could potentially pose a possibility of biological response on receptors." What does this mean?

I believe if we allow the regulated industry to keep the audit report internal, plain English will be used. The plant manager will see reports that say "you can go to jail if you don't stop bypassing your wastewater into the river" instead of "measures should be undertaken to correct the inadvertent overflow of wastewater during anamalous storm events."

Before closing, however, I want to make it clear that my proposal does not prevent the disclosure of violations, only the disclosure of the audit report. Permittees are already required to report violations, even those detected by the audit. Thus, the requirement for reporting of violations already exists. My proposal does not exclude EPA or citizen participation in the process. My proposal does not preclude the use of outside auditors, but it also allows permittees to use internal auditors to satisfy the need to improve compliance. I urge my colleagues to support this proposal as a fair, flexible means to help the regulated community comply with our environmental laws.

I ask unanimous consent to print the bill in the RECORD.

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

S. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORTING OF COMPLIANCE ASSURANCE ACTIVITIES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") shall promulgate regulations that require that each applicant for a permit issued under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. 1857 et seq.), or the Safe Drinking Water Act (42 U.S.C. 201 et seq.) and each permittee under any such Act shall, as a condition to receiving any such permit, agree to—

(1) periodically evaluate the internal control system of the entity that is the subject of the permit for the purpose of complying with paragraph (2)(C);

(2) set forth in the application for the permit or a renewal of the permit—

(A) a description and statement of the responsibilities of the permittee for compliance with Federal, State and local environmental laws, and for establishing and maintaining an adequate environmental compliance assurance system;

(B) a brief description of the environmental compliance assurance system described in subparagraph (A);

(C) an assessment of whether such environmental compliance assurance system (after any corrections of the type referred to in subparagraph (D)) reasonably assures compliance with Federal, State, and local environmental laws; and

(D) the disclosure of any material weaknesses that have been identified in such environmental compliance assurance system and that have not been substantially corrected by the manager as of the date of the filing of the permit application or permit renewal application.

(b) ADDITIONAL REPORTING.—In promulgating the regulations described in subsection (a), the Administrator shall require a permittee subject to the requirements of subsection (a), upon receiving a citation for a violation of any such Act that was not identified and reported pursuant to the permit conditions described in subsection (a) (or pursuant to any other permit conditions), to provide—

(1) a written explanation of the reasons why such violation was not detected by the environmental compliance assurance system described subsection (a); and

(2) a schedule of the dates of implementation of improvement measures—

(i) to rectify the violation and ensure compliance with the Act; and

(ii) to address any material weaknesses in the environmental compliance assurance system identified in the written explanation described in paragraph (1).

(c) REQUIREMENTS FOR REGULATIONS.—(1) In promulgating regulations under this section, the Administrator shall ensure that—

(A) no such regulation shall create an unreasonable economic burden with respect to—

(I) small communities (as defined in paragraph (2); and

(II) small business concerns (as defined in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1)); and

(B) to the maximum extent possible, such regulations shall not impede the development or implementation of a consistent compliance assurance program by any permittee (within a single facility or among multiple facilities).

(2) For the purposes of this subsection, the term "small community" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 5,000 individuals.

(d) CONFIDENTIALITY OF AUDITS.—(1) Except as provided in paragraph (2), notwithstanding any other provision of law, the Administrator may not require any permittee who is subject to the requirements of this section to submit any information (including any report or record) with respect to an environmental audit conducted by the permittee with respect to a facility of the permittee if such information is not otherwise required to be submitted pursuant to the reporting requirements under this section.

(2) If the Administrator determines that the information described in paragraph (1) is material to a criminal investigation, the Administrator may require a permittee to submit such information.•

By Mr. MOYNIHAN:

S. 1154. A bill to amend title 18, United States Code, to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms; to the Committee on the Judiciary.

COMPLIANCE WITH STATE AND LOCAL LAWS IN OBTAINING A FEDERAL FIREARMS LICENSE

• Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to prevent the issuance of a Federal license to deal firearms unless the applicant has a State or local license for this same purpose. My distinguished colleague in the other Chamber, Representative GREEN, will introduce an identical measure.

Our streets are riddled with crime involving guns, and many of the guns are possessed illegally. Too often these illegal firearms get to the street from people without licenses to sell in their locality. A Federal license to deal in firearms may be obtained directly from the Bureau of Alcohol, Tobacco and Firearms [BATF]. A valid State or local dealers license is not required. In New York City, for example, fewer than 1 in 12 people who have Federal dealer licenses hold a valid local license. In the District of Columbia, where handgun sales are banned, 41 individuals have Federal dealer licenses. There are another 2,400 or so in the Metorpolitan Washington area.

Law enforcement officials at every level worry that easy access to Federal dealer licenses may contravene efforts to control the flow of guns to criminals. The Gun Control Act of 1968 prohibits anyone but a federally licensed dealer from shipping guns interstate directly from the manufacturer or distributor. But the loophole permits gunrunning. Licensees, says BATF, "can purchase any handgun, rifle or shotgun anywhere and anytime." Thousands of guns are bought by federally licensed dealers and sold illegally to drug gangs, organized crime and common street criminals.

Law enforcement agencies have attempted to stem this flow. BATF has brought criminal charges against 270 dealers over the past 2 years, and New York City police have caused 18 licenses to be surrendered. But there are 272,000 licenses nationwide, and another 20,000 to 30,000 apply for new licenses each year.

This bill does not mandate new gun control legislation for the States, it simply requires that Federal licensing of dealers conforms to standards established at the State and local levels. It is simple common sense.

"It's a loophole you can drive a truck through," one Federal law enforcement official told the Washington Post. I hope my colleagues agree it is time to close this loophole. I urge them to cosponsor this legislation.

I ask unanimous consent that the text of the bill, a letter of support from New York City Police Commissioner Lee Brown, and articles from the New York Times and Washington Post 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. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS REQUIRED BEFORE ISSUANCE OF FEDERAL LICENSE TO DEAL IN FIREARMS.

(a) IN GENERAL.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end of the following:

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business; and

"(ii) the application includes a written statement which—

"(I) is signed by the chief of police of the locality, or the sheriff of the county, in which the applicant conducts or intends to conduct such business, the head of the State police of such State, or any official designated by the Secretary; and

"(II) certifies that the information available to the signer of the statement does not indicate that the applicant is ineligible to obtain such a license under the law of such State and locality.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for a license that is issued on or after the date of the enactment of this Act.

[From the Washington Post, May 8, 1991]

GUN DEALERS' "GREAT SCAM"—U.S. LICENSES GROW POPULAR WITH CRIMINALS

(By Michael Isikoff)

DETROIT.—The packages arrived at the United Parcel Service office twice a week—boxes filled with semiautomatic pistols and other handguns addressed to McClinton Thomas Jr., one of more than 7,200 federally licensed gun dealers in this city.

But when federal agents began looking into the shipments, they discovered that Thomas—operating under the name "MQ Firearms"—had never opened a gun store or kept records of his sales. Instead, federal agents said, Thomas ordered more than 400 handguns through the mail last year and distributed them for cash to gun runners working for a nearby crack house.

Thomas isn't charged with any crime, and in a recent interview he denied knowingly selling guns to drug dealers. But he acknowledged dealing "under the table" and illegally selling guns on the street.

"I never ask too many questions," said Thomas, 31, about his customers. "I didn't think I was selling to any homicidal maniacs or anything."

Thomas's activities illustrate what some officials say is one of the most gaping holes in federal firearms laws—and one reason for the proliferation in weapons that is fueling the nationwide surge in gun-related violence. By acquiring federal gun licenses—a relatively simple procedure that costs $30—illegal gun traffickers have discovered a convenient way to evade state and local gun control laws and acquire virtually unlimited quantities of high-powered weapons.

"It's a great scam—get a federal [gun] license, and you can buy and sell as many guns as you want," said David Krug, an agent with the Bureau of Alcohol, Tobacco and Firearms (BATF) office here. "And then you can drop them off as fast as you want—and not get caught."

The growing prevalence of such cases underscores the limitations of "piecemeal" gun control measures such as the seven-day waiting period scheduled to be voted on by the House today, some officials and gun control experts say.

The waiting period measure, dubbed the "Brady bill" after former White House press secretary James S. Brady, is designed to give local police time to conduct background checks on individual handgun purchasers, including reviewing federal and state felony records and making sure the buyers live in the residences they claim.

But federal officials say that abuses by loosely regulated federal gun dealers hold the potential for putting far more weapons on the street. "It's a loophole you can drive a truck through," said one federal law enforcement official.

There are 272,000 licensed gun dealers nationally—sports store owners, gun enthusiasts, Civil War collectors and "kitchen table" dealers who operate out of their homes. There are 2,400 licensed dealers in the Washington area, including 41 in the District where handgun sales to the public are banned.

Gun magazines promote the industry, carrying ads such as "Professional Gun Dealer Kit gives you everything you need!!" and "Federal Firearms License Guaranteed."

But increasingly, officials say, federal gun licenses have become a hot commodity on the streets, abused by illicit gun runners, drug dealers and others looking for fast and easy access to heavy firepower. In some of the city's drug-infested neighborhoods, "you have five, six or eight licensed [gun] dealers on the same street," said Bernard La Forest, special agent in charge of the Detroit BATF office.

But establishing criminal wrong-doing by dealers can be difficult. Last June, undercover BATF agents said, they trailed Thomas as he picked up boxes of handguns at the UPS office and then handed them over to two men in the UPS parking lot for large wads of cash.

The agents said they then followed the men to the crack house where, according to Krug, as many as 10 cars would congregate on the days that Thomas's UPS deliveries

were due. Thomas said he did not know who was buying his guns, adding that all he knew was that a man named "Dave" he met playing basketball was willing to pay cash for his UPS shipments.

Thomas was arrested on gun charges last June, but a criminal complaint was dropped. Federal agents said they are continuing their investigation.

Since 1989, BATF has brought criminal charges against more than 270 licensed gun dealers. Federally licensed dealers have been charged with selling pistols to crack dealers and assault rifles to street gang members. Two Miami gun dealers, operating under the name "Commando's Gun Shop," sold machine guns to operatives of the Medellin cocaine cartel. An Ohio dealer shipped weapons to the Irish Republican Army.

In some of these cases, agents said, the licenseholders themselves turned out to be directly involved in the drug trade. Agents here said federal license applications surged after the head of one of the city's biggest drug gangs—who has since been murdered—acquired a license and began using it to arm himself and his associates. "It got to be a word of mouth thing," said Krug.

What makes such cases alarming is the sheer quantity of weapons to which gun dealers have access. It is illegal for ordinary citizens to buy handguns in a state where they do not live. Cities such as the District and Chicago prohibit the purchase of handguns and some states have banned military-style assault rifles.

But no such restrictions apply to licensed gun dealers. Licensed gun dealers "can purchase any handgun, rifle or shotgun anywhere and anytime," according to a recent BATF briefing paper on the subject.

A wide-ranging investigation into Detroit's illegal gun trade identified one licensed gun dealer who had imported 2,169 assault rifles and handguns through an Ohio wholesaler in the course of a year. The dealer, Larry Wilson, who was later convicted, kept no records of his sales and diverted most of the weapons to the black market where they sold for premiums of 300 and 400 percent, earning him proceeds of up to $1 million, agents said.

Carroll Brown, a Baltimore postal worker and licensed gun dealer, pleaded guilty last month to unlawfully selling more than 300 handguns, taking out classified ads in the Baltimore Sun touting his stock of semiautomatic Glock 9mm pistols—a weapon of choice of the city's drug traffickers. Gustavo Salazar, a Los Angeles gun dealer who agents believe once belonged to the "Mexican Mafia" street gang, purchased more than 1,400 handguns from wholesalers and, with an associate, hawked them out of a van in Lincoln Park, an area notorious for crack dealing and violence.

But some agents said that despite the Justice Department's push to impose stiff mandatory sentences on criminals caught carrying guns or using them in the commission of crimes, sentences for the licensed gun dealers who sell them their weapons remain light. Proving criminal intent is often difficult. Salazar received less than a year in prison, a term in line with U.S. Sentencing Commission guidelines for such crimes.

"The severity of sentences for licensed dealers hasn't caught up with the severity of the crime," said Steven J. Markman, the U.S. attorney in Detroit who has made prosecuting firearm offenses his number one priority.

At the heart of the problem, officials said, is the relative ease with which virtually anyone can receive a gun dealer's license.

All one need do is fill out a two-page federal form listing a place of business and hours of operation, and affirming that one is not a mental defective or illegal alien and has never been convicted of a crime punishable by more than a year in jail. The cost is $30, covering the annual fee for the first three years.

Approvals of license applications are routine. Most of the time the only check of applicants is performed at BATF's Firearms and Explosives Licensing Center in Atlanta, where four data processors run the applicants through the Treasury Department's law enforcement computer system. The system contains a data base of convicted felons, but officials acknowledge it is largely incomplete because it excludes arrests and dispositions from many of the states.

But applicants can avoid even that minimal risk by getting friends, girlfriends or even their mothers to file the application for them. BATF officials were embarrassed last year when they discovered they had approved applications for two dogs. "The point is well taken," said Jack Killorin, chief of BATF public affairs. "The dogs would clearly pass a record check designed for human beings."

John Struewing, assistant chief of the licensing center, said that between July 1, 1990, and last March 31, BATF received 26,190 applications for gun dealer licenses and rejected 38. Struewing said that another 1,403 applications were abandoned or canceled after BATF inspectors, having gotten a positive "hit" on the Treasury Department computer or a tip that something was amiss, contacted the applicant for a personal interview.

Once an applicant has gotten his license, it is rare that he will lose it. It cannot be revoked unless the dealer is criminally convicted. And one licensed dealer here had his license renewed two years ago despite his conviction on a felony charge of carrying a concealed weapon.

The loose regulation in large part reflects the peculiar politics of firearm law enforcement. For years, the National Rifle Association and other gun groups campaigned to abolish the BATF, accusing the agency of overzealous enforcement and harassment of gun store owners and other licensed dealers. In an NRA film made in 1981, Rep. John D. Dingell (D-Mich.), a member of the NRA board of directors, called BATF agents "a jackbooted group of fascists."

As a result of the NRA lobbying, Congress cut funding for BATF enforcement in the early 1980s and in 1986 passed a law that limited inspection of dealer records. The NRA is currently sponsoring a lawsuit in Ohio to block BATF agents from copying the records of firearm sales kept by dealers. BATF officials say they need the records for investigations like those they did here, tracing guns seized in crimes back to their source.

But NRA officials said they are adamantly opposed to "wholesale copying" of records. "That's a method by which you can register firearm owners," said James Jay Baker, the NRA's top Washington lobbyist.

BATF treads gingerly when it comes to gun dealers, according to Josh Sugarman, executive director of the Firearms Policy Project, a gun control group. "They have been kicked in the teeth too much," he said.

CITY OF NEW YORK,
May 16, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senator,
New York, NY.

DEAR SENATOR MOYNIHAN: I am writing to ask for your assistance in our common effort to reduce the proliferation and criminal use of illegal firearms in our city. As you know, Congressman Bill Green has introduced legislation that would require all Federal Firearm License applicants to submit proof that they are duly licensed under state and local law. I am asking you to introduce a similar bill in the Senate.

Under current federal regulations, applicants for Federal Firearm License (F.F.L.) are required to be licensed with the state and local government of their residence. However, since applicants are not required to submit proof of their compliance with this requirement at the time of application there is no way to enforce the regulation. This loophole allows F.F.L. holders around the country to order weapons to be delivered to their houses or businesses without being licensed as firearm dealers or even having permits to possess firearms. There are nearly a thousand such F.F.L. holders in New York City. By contrast, only 77 individuals are licensed by the Police Department as firearms dealers. We are currently making efforts to contact these individuals to determine how many are actively using their licenses and to inform them of their responsibilities under the law. So far our efforts have led 18 individuals to surrender their licenses and the Bureau of Alcohol, Tobacco and Firearms is revoking an additional 83 licenses because of inaccurate addresses.

This legislation is consistent with our efforts to stop the flow of illegal weapons into our city and onto our streets. The enforcement of laws and regulations cannot be left to an honor system. I urge you to continue your efforts on this front by seeking Senate support for the concept embodied in this legislation.

With my best regards.

Sincerely,

LEE P. BROWN,
Police Commissioner.

[From the New York Times, Jan. 4, 1991]

REVOKING LICENSES TO KILL

(By James B. Jacobs)

The Federal Bureau of Alcohol, Tobacco and Firearms and New York City, both license firearms dealers, but the city's licensing criteria are much more stringent, requiring fingerprints and a criminal-record check. Consequently, according to the New York City police, there are 1,043 federally licensed firearms dealers in New York City but only 77 city-licensed dealers.

Anyone with a Federal license can purchase unlimited firearms by mail order from manufacturers. The B.A.T.F. is required to grant an applicant's request for a license unless it has evidence that the applicant fails to meet Federal standards. Since the bureau does not require fingerprints or proof of eligibility, it essentially operates as an honor system. Moreover, while Federal regulations require prospective firearms dealers to follow all state and local laws and regulations, they do not require proof of having obtained a local license.

Not surprisingly, some federally licensed firearms dealers in New York City have criminal records and, even worse, are in business to supply weapons to criminals. A 1985 U.S. Department of Justice study found that 21 percent of armed criminals obtained their

handguns directly through licensed gun dealers.

A small but eminently sensible step to take would be for Congress or the B.A.T.F. to require that applicants for Federal licenses provide proof of having met local laws for dealing in firearms. A New York City applicant would have to show that he had conformed to the city's demanding standards. If he could not make such a showing, he would be unable to obtain a Federal license—and unable to purchase firearms directly from legitimate manufacturers and wholesalers.●

By Mr. HATFIELD:

S. 1155. A bill to require that executions under Federal law be carried out in public and to protect prison employees from being required to participate in executions contrary to moral or religious convictions; to the Committee on the Judiciary.

PUBLIC EXECUTIONS LEGISLATION

● Mr. HATFIELD. Mr. President, as many of my colleagues are aware, a California public television station is currently seeking the right to broadcast California's first execution since 1987. This dispute between the State of California and a San Francisco public television station has focused national attention on whether the death penalty is consistent with the principles of a free society—and on how much of this gruesome practice the public should be allowed to see.

With that case in mind, I come to the floor today to introduce legislation that would require Federal executions to be televised. I have introduced this proposal as an amendment in the past, and plan to offer it again as an amendment to legislation containing a death penalty provision.

Despite overwhelming factual evidence to the contrary, many of my colleagues still seem to believe that the death penalty acts as a deterrent. If one accepts that argument—if one really believes that government-sanctioned killing is a deterrent to murder and other crimes—then it seems to me that we should do everything possible to assure the maximum deterrence value of each and every execution.

Let me be very clear: I do not believe that the death penalty serves as a deterrent. But the logical extension of the argument is that we should maximize the impact of the death penalty for all the would-be criminals around this country and for my colleagues who come to this floor year in and year out touting the deterrence value of the death penalty. I offer the next logical step: bringing executions to every home in this country by broadcasting the executions live on television and radio.

If, as my colleagues claim, the death penalty is a deterrent as it is conducted now—imagine what it would be like if the public were really exposed to it, really had a true appreciation for what the death penalty looks like.

As things are now, we execute prisoners in the middle of the night, out of public view, under bizarre procedures seemingly designed to dehumanize and sterilize the process as much as possible. The antiseptic term "capital punishment" is substituted for "public execution" or "government-sanctioned killing". Why does the government kill people in this way? The answer seems obvious: we don't want to see what we have done. But we can't have it both ways. We can't say the death penalty serves as a deterrent and then hide it from public view. Either it does or it doesn't—and if it does, then it should be made plain for all to see.

Mr. President, I speak—as do many of my colleagues—from very personal, practical experience. When I was elected Governor of Oregon in 1958, I inherited six people on death row. I remember the phoneline being strung into my home, directly from the execution chamber, where the executions were to take place. I remember the knocking on the door 10 minutes before the scheduled execution with a plea for a last-minute appeal. I remember the tremendous sense of responsibility I had for this human life, a life that would continue—or not—based upon my decision.

Life and death decisions, Mr. President. It's that simple—and that serious.

Death—the death penalty—is not some antiseptic concept, its hideous, and public viewing would allow Americans to see the many botched executions—like the execution of Jessie Tafero. For those of my colleagues who do not know, Jessie Tafero was executed by electrocution in Florida about a year ago. Because of a problem with the equipment, flames, smoke and sparks shot out 3 to 6 inches from the headpiece strapped to Mr. Tafero's head; he shook and gurgled for 4 minutes while his eyebrows burned and ashes fell from his head; the electric current had to be turned off and on twice to keep the headgear from bursting into flames.

Imagine if each of us could witness all this—right in our own living rooms. Would we still stand behind this embarrassing tradition of death?

The death penalty, as I have said many times before on the basis of empirical evidence, will not solve this Nation's violent crime epidemic. Violent crime is merely a symptom of our society's ills. Implementation of the death penalty does not address the root causes of the problems in our society.

Mr. President, to be quite honest, rarely do we address the root causes of the problems in our society. The roots of these problems often run through our very foundation, and even begging to find solutions requires great vision and creativity. Instead, we put blinders on and simply look for the quickest solution—a quick fix that remains effective for only about as long as it takes to apply.

With one murder every 24 minutes, one forcible rape every 6 minutes, and one violent crime every 6 seconds in this country, clearly we cannot apply a quick fix solution to violent crime. The death penalty—aside from being costly, immoral, and discriminatory—is nothing more than a quick fix solution to the problem of violent crime in our Nation.

Mr. President, my legislation is a repulsive proposal. It is repulsive because the reality of legalized executions is repulsive. But if we do want to execute people, we should not do so in hiding; we should take full credit for our barbarism. Just as democracy is taking place here in the open, under the lens of public scrutiny, so too should our executions. Let us put this product of our democracy to the test.●

By Mr. PACKWOOD (for himself, Mr. HATFIELD, Mr. GORTON, Mr. MURKOWSKI, Mr. BREAUX, Mr. HEFLIN, and Mr. SHELBY):

S. 1156. A bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of lands management plans for such public domain lands and Federal lands elsewhere; and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL LANDS AND FAMILIES PROTECTION ACT

● Mr. PACKWOOD. Mr. President, I rise today to introduce the Federal Lands and Families Protection Act. This is a comprehensive bill that addresses the old growth and timber supply problems facing Oregon, Washington, and northern California. I am pleased to have Senators HATFIELD, GORTON, MURKOWSKI, BREAUX, HEFLIN, and SHELBY joining me in the introduction of this legislation. Additional cosponsors will be added in the weeks ahead. The spotted owl/old growth issue of the Pacific Northwest has truly become a national issue requiring congressional action. A companion bill is being introduced in the other body today.

Since the listing of the northern spotted owl as a threatened species under the Endangered Species Act, the harvesting of timber on Forest Service and BLM lands has come to a virtual standstill. Communities and families dependent on timber for their livelihood are in jeopardy because of the uncertainty of the timber supply. The Federal courts have become the land managers of the old growth forests, and

that is not how our natural resources should be managed.

Last week Judge Dwyer of the District Court in Seattle held 7 days of hearings on whether or not to grant an injunction which would halt timber sales in old growth forests for 2 years. This would be devastating to the already hard pressed communities of the Northwest.

This bill incorporates the goals identified by the Oregon and Washington congressional delegations as being essential components of any comprehensive timber legislation. Briefly, our goals would:

First, provide a stable timber supply for the forest products industry;

Second, streamline the appeals process for timber sales;

Third, put additional resources into reforestation and timber stand improvement; and

Fourth, provide assistance to timber communities adversely affected by a decline in the timber supply.

The bill we are introducing today is consistent with these overall goals. This new approach has two principal components: First, a 3-year interim program to address the immediate short-term situation, and second, a long-term program.

The bill establishes a 3-year interim program specifically aimed at the spotted owl forests and districts in Oregon, Washingon, and California. It provides interim protection for old growth forests and establishes a minimum level of timber harvest for these forests and districts to provide the certainty necessary for the forest products industry to plan for the future. Congressionally mandated targets would be set for BLM and Forest Service annual timber sales programs in spotted owl districts and forests for each of the fiscal years 1992, 1993, and 1994. These targets would constitute a floor, below which the annual sales levels would not be allowed to fall during this interim period.

This proposal does not, however, short-circuit the consultation process under the Endangered Species Act. The Forest Service and BLM would submit annual timber sales programs for spotted owl forests and districts 6 months before the beginning of each fiscal year for consultation with the Fish and Wildlife Service under the Endangered Species Act. Should the consultation result in findings that the timber sales programs would adversely affect critical habitat, the agencies shall try to develop a reasonable and prudent alternative program that meets the annual timber sales target. If such an alternative cannot be agreed upon, the annual program would be submitted immediately to the Endangered Species Committee.

During the 3-year interim period, an Old Growth Research Program would be established to conduct basic research on ecosystems and species associated with old growth forest areas in spotted owl forests and districts. In addition, this program will include research on methods of timber harvesting that maintains or enhances those ecosystem values. It is my belief that we can set aside areas for protection while at the same time allowing for management within the old growth reserve. Accordingly, the research program would assist in preparing guidelines for management—including timber harvesting—of ecologically significant old growth areas. This bill, therefore, will balance protection of old growth while allowing for timber harvesting to continue.

Finally, the interim program establishes a fund for a Community Adjustment, Worker Assistance and Retraining Program. This program seeks to provide mechanisms for returning predictability to the management of our public lands and attempts to deal with those job losses that will be inevitable as a consequence of the need to devote greater attention to the protection of endangered species and old growth values. The program will provide health, retraining, and other benefits payments to dislocated workers and grants to promote economic diversification and stability for dependent communities.

Mr. President, the second component of the bill, long-term management, includes additional direction for the revision of Forest Service and BLM plans. Many of these provisions will apply nationally to Forest Service and BLM plans. This section establishes a practical process to revise, amend, and implement resource management plans. This component of the legislation amends the National Forest Management Act and the Federal Land Policy and Management Act to establish standards and levels for a minimum timber sale program from Federal lands. This is done on a forest-by-forest and district-by-district basis. The bill recognizes that community stability should be an integral component of resource plans. There are hundreds of communities throughout the nation dependent on resources from Forest Service and BLM lands. This section also streamlines the appeals process to ensure that plans can be implemented, not just indefinitely postponed. Accordingly, portions of my judicial review bill from the last Congress are incorporated in the bill we are introducing today.

I am happy to report that the Federal Lands and Families Protection Act of 1991 has broad support both within and outside the Congress. The list of Senate cosponsors spans several regions and is bipartisan in nature. The measure is also supported by the AFL-CIO as well as the labor unions that represent workers in the forest products industry. Finally, many forest industry and grassroots groups have already written in support of the measure with 61 groups from 28 States indicating support for it. The list of groups supporting the Forests and Families Protection Act of 1991 follows: I ask unanimous consent that this material, a section-by-section analysis of the bill, and the bill language be printed in the RECORD.

Mr. President, I stand ready to work with the appropriate committees to fashion legislation on which we can reach a consensus and which will address the severe crisis facing the communities of the Northwest.

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

S. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Lands and Families Protection Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in California, Oregon, and Washington contain the most significant remaining stands of old growth forests which were once abundant in many regions of the Nation;

(2) a significant but unquantified portion of this remnant old growth forest has been preserved by the Congress through statutory designation as, and withdrawn from the public domain for, units of the National Park, Wildlife Refuge, Wilderness Preservation, Wild and Scenic Rivers, Trails, and other conservation systems;

(3) the old growth forest on the Bureau of Land Management and Forest Service public domain lands which remains outside of the conservation system units designated by the Congress is subject to the sustained-yield and multiple-use planning and management mandates of the Federal Land Policy and Management Act of 1976 and other land management statutes;

(4) portions of this remaining old growth forest which occupy productive forest sites and are suitable for timber production contain extraordinary economic value for communities dependent on a stable and predictable supply of timber for employment, revenues, and public services, and for the manufacture of wood products critical for housing construction and other sectors of the national economy;

(5) portions of this remaining old growth forest, termed "ecologically-significant old growth forest," also contain rare and irreplaceable ecological and species preservation values which have recently gained heightened recognition from scientific research and widespread public interest;

(6) portions of the old growth forest serve as habitat for the Northern Spotted Owl;

(7) the intense, competing pressures to preserve or make economic use of the remaining old growth forest have severely disrupted the ability of the Bureau of Land Management and the Forest Service to plan and manage the existing or previously withdrawn public domain lands within their jurisdiction;

(8) most of the plans for public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in

California, Oregon, and Washington have been completed, but, notwithstanding administrative set-asides of old growth forest, may not provide fully for the protection and attendant management of ecologically-significant old growth forest and species associated with old growth forest, and remain, in any event, subject to continued controversy;

(9) further Congressional direction, including establishment of a Reserve system, is required to ensure the effective planning and management of such existing and previously withdrawn public domain lands which contain old growth forest to secure the protection and attendant management of those areas of old growth forest that are ecologically-significant and the species that are associated with old growth forest;

(10) further Congressional direction and an economic adjustment program are required to avoid or minimize any reduction in timber supply and any social or economic disruption in timber-dependent communities that might otherwise result from the protection and attendant management of ecologically-significant old growth forest and species associated with old growth forest on such existing and previously withdrawn public domain lands;

(11) areas of ecologically-significant old growth forest in the National Park and Wildlife Refuge systems should be added to the Reserve by the Secretary of the Interior;

(12) The Federal Land Policy and Management Act and the National Forest Management Act were enacted in 1976 in order to assure orderly and environmentally sensitive planning, with substantial public involvement, for the multiple-use of the resources of federal lands in a stable and predictable manner;

(13) numerous plans were not completed until after statutory and regulatory deadlines for plan completion and most completed plans in controversial areas have not been successfully implemented;

(14) changes in policy made outside the planning process have resulted in the constructive amendment of completed plans without adherence to statutory procedures for plan amendment;

(15) administrative appeals and litigation have been filed extensively, have substantially delayed plan preparation, have frustrated plan implementation and federal land management actions, and have on several occasions, compelled the Congress to enact emergency provisions to alleviate federal land management problems resulting therefrom;

(16) neither the Federal Land Policy and Management Act nor the National Forest Management Act contains any meaningful direction to the Bureau of Land Management or the Forest Service on how to effectively implement plans; and

(17) additional Congressional guidance on the implementation, amendment, and revision of plans is necessary to ensure that the stability and predictability in federal land management intended by the 1976 Acts are achieved, that the Congressional direction herein to protect and manage areas of ecologically-significant old growth forest and species associated with old growth forest is implemented, and that the environment impacts and community social and economic dislocation which result from instability and uncertainty in federal land management are avoided.

SEC. 3. DEFINITIONS.

(a) (a) As used in Titles I, III, IV, and V and sections 2 and 201 of this Act, the term—

(1) "Commission" means the Timber Economic Adjustment Commission established pursuant to section 402 of this Act;

(2) "Committees of Congress" means the Committee on interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate;

(3) "federal lands" means those lands managed by the Bureau of Land Management and defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1702(e)) and those lands in the National Forest System managed by the Forest Service and defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1609(a));

(4) "Land Management Plans" means land use plans prepared by the Bureau of Land Management for units of the Public Lands, as defined in clause (7) of this subsection, pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) and land and resource management plans prepared by the Forest Service for units of the National Forest Lands, as defined in clause (5) of this subsection, pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. §1604);

(5) "National Forest Lands" means those federal lands, as defined in clause (3) of this subsection, withdrawn from the public domain and managed by the Forest Service that are included within the following seventeen national forests in Oregon, Washington and California: the Deschutes, Gifford Pinchot, Klamath, Mendocino, Mt. Baker-Snoqualmie, Mt. Hood, Okanogan, Olympic, Rogue River, Shasta-Trinity, Siskiyou, Siuslaw, Six Rivers, Umpqua, Wenatchee, Willamette, and Winema;

(6) "Panel" means the Timber Economic Adjustment Advisory Panel established pursuant to section 405 of this Act;

(7) "Public Lands" means public domain lands on the federal lands, as defined in clause (3) of this subsection, managed by the Bureau of Land Management that are included within the following eight Bureau of Land Management administrative districts in Oregon and California: Coos Bay, Eugene, Lakeview, Medford, Roseburg, Salem, Susanville, and Ukiah;

(8) "Reserve" means the Old Growth Forest Reserve established pursuant to Title I of this Act; and

(9) "Secretaries" or "Secretary" means the Secretary of the Interior with respect to Public Lands and the Secretary of Agriculture with respect to National Forest Lands.

(b) Terms used in sections 202 through 217 of this Act have the same meaning they are accorded in the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §§1600 et seq.), whichever is applicable.

TITLE I—ESTABLISHING LONG TERM PROGRAM

SEC. 101. PURPOSES.

The purposes of this Title are to establish an Old Growth Forest Reserve on certain public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in Oregon, Washington, and Northern California; to designate areas of ecologically-significant old growth forest to the Reserve; to ensure the proper management of such areas in order to conserve the Northern Spotted Owl and protect other species associated with the old growth forest; to avoid or minimize any effects on other resources and the uses thereof, and the communities economically dependent on such resources, on those lands; and to provide for a period of stability in managing those lands.

SEC. 102. PLAN REVISIONS.

Not later than three full fiscal years from the date of enactment of this Act, the Secretaries shall adopt final revisions of Land Management Plans, or, where no Land Managment Plans exist, final new Land Management Plans, in accordance with the procedures and requirements of this Title and the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §§1600 et seq.), as both are amended by Title II of this Act: *Provided, however*, That, for the purpose of this Title, the "five fiscal years" referred to in section 207 of this Act shall be the three full fiscal years of the interim program established pursuant to Title III of this Act and two years each of which is deemed to have the average annual commodity output for the decade of 1980 through 1989.

SEC. 103. REGULATIONS; ESTABLISHMENT OF THE OLD GROWTH RESERVE.

Not later than fifteen months from the date of enactment of this Act, the Secretaries shall promulgate regulations to govern the preparation of the revised or new Land Management Plans and otherwise implement this Title, which regulations, at a minimum, shall—

(1) define "ecologically-significant old growth forest" as used in this Act;

(2) establish the Old Growth Forest Reserve to be comprised of areas of ecologically-significant old growth forest on Public Lands and National Forest Lands that are designated pursuant to Section 105 of this Act and on National Park and Wildlife Refuge System lands, and, upon petition of the relevant governor, lands owned by the States of California, Oregon, and Washington that are designated pursuant to Section 104 of this Act; and

(3) establish procedures and criteria for the identification and selection of areas of ecologically-significant old growth forest to be included in the Reserve pursuant to section 105 of this Act.

SEC. 104. INITIAL DESIGNATIONS TO THE OLD GROWTH RESERVE BY THE SECRETARY OF THE INTERIOR.

(a) Not later than eighteen months from the date of enactment of this Act, the Secretary of the Interior shall designate to the Reserve all areas of ecologically-significant old growth forest in units of the National Park System and National Wildlife Refuge System in Oregon, Washington, and Northern California.

(b) The Secretary of the Interior shall designate to the Reserve any area of ecologically-significant old growth forest on State lands in Oregon, Washington, or Northern California if such area is nominated for designation by the governor of the State and is managed under State law in a manner consistent with the requirements of section 111 of this Act.

SEC. 105. DESIGNATION OF AREAS TO THE OLD GROWTH RESERVE.

(a) The final revised or new Land Management Plans adopted pursuant to section 102 of this Act shall designate areas of ecologically-significant old growth forest on Public Lands and National Forest Lands to the Old Growth Forest Reserve established

by regulation pursuant to section 103(2) of this Act.

(b) The number, size, and types of areas of ecologically-significant old growth forest designated to the Reserve shall be those necessary to achieve the purposes of this Title as provided in section 101 of this Act.

(c) Areas of ecologically-significant old growth forest shall be selected from the Public Lands and National Forest Lands for designation to the Reserve in the following order of priority:

(1) first, areas of ecologically-significant old growth forest which are included within the National Wilderness Preservation System, National Wild and Scenic Rivers System, National Trails System, or are otherwise designated by Congress in a manner that excludes timber harvesting;

(2) second, areas of ecologically-significant old growth forest in which timber harvesting remains proscribed by previous planning or other administrative decision after completion of the review required in section 107 of this Act;

(3) third, any areas of ecologically-significant old growth forest which may be identified, or may meet criteria provided, in the recovery plan for the Northern Spotted Owl prepared pursuant to section 4(f) of the Endangered Species Act (16 U.S.C. §1533(f)) for management in a manner similar to that required in section 111 of this Act; and

(4) fourth, other areas of ecologically-significant old growth forest which are necessary to achieve the purposes of this Title as provided in section 101 of this Act, require management in accordance with section 111 of this Act, and otherwise meet criteria established by rule pursuant to section 103(3) of this Act.

(d) Preference in selecting areas of ecologically-significant old growth forest shall be accorded to—

(1) those areas which contain multiple non-commodity resource values associated with ecologically-significant old growth forest over those areas in which the number of such values is limited;

(2) those areas which contain non-commodity resource values associated with ecologically-significant old growth forest that have demonstrated significance over areas in which such values have limited or no significance;

(3) those areas which contain non-commodity resource values associated with ecologically-significant old growth forest that are not redundant to non-commodity values contained in areas which are outside of Public Lands and National Forest Lands are accorded protection under Federal or State law comparable to that provided by section 111 of this Act, including units of the National Park and Wildlife Refuge Systems and State park systems;

(4) those areas which have the least adverse impact on communities or economic enterprises economically dependent upon the Public Lands or National Forest Lands, in accordance with section 202 of this Act; and

(5) those areas which have the least impact on, and permit maintenance of the balance most similar to that which has existed historically among, all uses of each affected unit of Public Lands or National Forest Lands.

Sec. 106. PROTECTION OF THE NORTHERN SPOTTED OWL AND OTHER SPECIES.

(a) The final revised or new Land Management Plans adopted pursuant to section 102 of this Act shall provide protection for the Northern Spotted Owl and other species associated with old growth forest in accordance with this section.

(b) In preparing each revised or new Land Management Plan, the Secretary shall consider fully the recovery plan, and any economic analysis related thereto, prepared for the Northern Spotted Owl pursuant to section 4(f) of the Endangered Species Act (16 U.S.C. §1533(f)), and incorporate in the final revised or new Land Management Plan such portions of, or alternatives to, the recovery plan as the Secretary deems necessary to meet the obligations of the Bureau of Land Management or the Forest Service under the Endangered Species Act (16 U.S.C §§1531 et seq.) in the unit to which the Land Management Plan applies.

(c) In preparing each revised or new Land Management Plan, the Secretary shall consider any other species associated with old growth forest in the unit to which the Land Management Plan applies which the Secretary believes warrants special protection. Such consideration shall include a determination of the extent to which the designation of areas to the Reserve pursuant to section 105 of this Act, and the incorporation of portions of or alternatives to the Northern Spotted Owl recovery plan pursuant to this section, in such Land Management Plan provides such protection. The Secretary shall provide in writing in the decision to adopt the final revised or new Land Management Plan the basis of his determination and, if any other direction providing additional protection to such species is included in such Land Management Plan, an explanation of the necessity thereof and the effect thereof on other resources and their uses in the unit to which the Land Management Plan applies.

Sec. 107. REVIEWS OF ADMINISTRATIVE SET-ASIDES.

In preparing each revised or new Land Management Plan pursuant to section 102 of this Act, the Secretaries shall review and, where appropriate, revise all land allocations and other resource constraints previously applied to the unit to which the Land Management Plan applies to minimize, to the maximum extent feasible, the impact on pre-existing uses and levels of use of the unit resulting from establishment of the Reserve and the designation thereto of areas of ecologically-significant old growth forest.

Sec. 108. ENDANGERED SPECIES ACT COMPLIANCE.

(a) Prior to the adoption of each final revised or new Land Management Plan pursuant to section 102 of this Act, the Secretary shall submit the Land Management Plan for consultation pursuant to section 7(a)(2) of the Endangered Species Act (16 U.S.C. §1536(a)(2)). Consultation shall include the Land Management Plan and all actions, including timber sales, which may be undertaken under and consistent with the Land Management Plan during the term of the Land Management Plan. Thereafter, consultation shall be reinitiated only when the Land Management Plan is revised or significantly amended and shall include the revision or amendment and all actions which may be undertaken under and consistent with such revision or amendment during the term of such Land Management Plan, as revised or amended.

(b) If, during consultation on a Land Management Plan required by subsection (a) of this section, jeopardy of any listed species or adverse modification of any designated critical habitat is found under section 7(b) of the Endangered Species Act (16 U.S.C. §1536(b)), the Secretary responsible for the Land Management Plan shall consider any reasonable and prudent alternatives suggested during consultation that are consistent with and comply with the provisions of this Title; the Federal Land Policy and Management Act of 1976 or the Forest and Rangeland Renewable Resources Planning Act of 1974, as both are amended by Title II of this Act; and other applicable law. If the Secretary determines that no such reasonable and prudent alternative exists, the Secretary shall apply for review of the Land Management Plan pursuant to section 7(e)-(1) of the Endangered Species Act (16 U.S.C. §1536(e)-(1)).

Sec. 109. MAPS AND LEGAL DESCRIPTIONS.

The Secretaries shall prepare a map or set of maps of the areas of ecologically-significant old growth forest designated to the Reserve under section 105 of this Act. Such map or maps shall be on file for public inspection in the offices of the Director of the Bureau of Land Management and the Chief of the Forest Service and each office of the Bureau of Land Management and Forest Service responsible for administering any such area. Such maps shall be revised as made necessary by subsequent revisions of or significant amendments to the Land Management Plans.

SEC. 110. RELEASE.

(a) After adoption of the final revised or new Land Management Plans pursuant to section 102 of this Act, each Secretary shall not be required to review the designation of ecologically-significant old growth forest areas to the Reserve prior to the revision of such Land Management Plans, but shall conduct such review when such Land Management Plans are revised, which revision will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to that time the Secretary finds that conditions in the unit to which a Land Management Plan applies have significantly changed.

(b) Those areas of ecologically-significant old growth forest or other old growth forest areas not designated to the Reserve shall be managed for multiple use in accordance with the Land Management Plans pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) or section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604), and those areas need not be managed for the purpose of protecting their suitability for designation to the Reserve prior to or during subsequent revision of the final revised or new Land Management Plans following their adoption pursuant to section 102 of this Act.

(c) If Land Management Plans revised pursuant to subsection (b) of this section are implemented pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §§1600 et seq.), and other applicable law, areas of ecologically-significant old growth forest or other old growth forest areas not designated to the Reserve need not be managed for the purpose of protecting their suitability for designation to the Reserve prior to or during subsequent revision fo those Land Management Plans.

SEC. 111. MANAGEMENT OF THE OLD GROWTH RESERVE.

(a) Each area of ecologically-significant old growth forest designated to the Reserve shall be managed in accordance with direction provided in the applicable final revised or new Land Management Plan. Such direction shall ensure protection of those non-commodity resource values identified in the Land Management Plan as the values for which the area is designated to the Reserve, and shall comply with the requirements of the Federal Land Policy and Management

Act of 1976 (43 U.S.C. §§1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §§1600 et seq.), as both are amended by Title II of this Act; other applicable law; and this section.

(b) Effective upon adoption of the final revised or new Land Management Plan, any area of ecologically-significant old growth forest designated to the Reserve in such Land Management Plan is, subject to valid existing rights, withdrawn from disposition under the public land laws and location, entry, and patent under the mining laws of the United States, and closed to the operation of the mineral leasing laws of the United States and the Geothermal Steam Act of 1970.

(c) Except as prohibited or restricted by applicable law, roads, structures, and motorized and nonmotorized recreation and access may be permitted within areas of ecologically-significant old growth forest designated to the Reserve where consistent with the purposes of this Title as provided in section 101 of this Act.

(d) Except as prohibited or restricted by applicable law, the Secretary may permit hunting, trapping, and fishing on lands and waters within areas of ecologically-significant old growth forest designated to the Reserve in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, fish and wildlife management, public use and enjoyment, or protection of the Reserve. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(e) Timber harvesting on any area of ecologically-significant old growth forest designated to the Reserve shall be permitted—

(1) if it is necessary to protect such area or adjacent lands from insects or disease and life or property from imminent fire danger; or

(2) if it complies with the prescriptions and guidelines developed in the Old Growth Forest Research Program pursuant to section 308(b) of this Act and is not proscribed for such area in the final revised or new Land Management Plan applicable thereto.

SEC. 112. SUFFICIENCY.

Upon completion of the Endangered Species Act processes pursuant to section 108 of this Act and the adoption of a final revised or new Land Management Plan pursuant to section 102 of this Act, on the unit to which the Land Management Plan applies the responsibilities for the management, protection, and recovery of the Northern Spotted Owl and other species associated with old growth forests of the federal government and any person authorized by the federal government to conduct activities on such unit under the Endangered Species Act (16 U.S.C. §§1531 et seq.), the Act of July 3, 1918 (16 U.S.C. §§703 et seq.) (commonly known as the "Migratory Bird Treaty Act"), and the applicable wildlife-related provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§1701 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §§1600 et seq.) and are fully discharged until such Land Management Plan is revised or significantly amended. Upon completion of the Endangered Species Act processes pursuant to section 108 of this Act pertaining to any such revision or significant amendment and to each revision to or significant amendment of the Land Management Plan thereafter, the same responsibilities are fully discharged for the term of the Land Management Plan, as amended or revised.

SEC. 113. ACCESS TO NON-FEDERAL LAND

The granting of any easement or other form of access across federal land to private or other nonfederal land by the Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, and the construction and maintenance of such easement or access, shall not constitute an "agency action" under section 7, nor otherwise subject the agency or the recipient of the easement or access to section 7(a) or 9(a)(1), of the Endangered Species Act concerning any species listed pursuant to section 4 of that Act which is associated with old growth forest in Washington, Oregon, or Northern California.

TITLE II—ENSURING THE EFFECTIVENESS OF FEDERAL LAND PLANNING

SEC. 201. PURPOSES.

The purposes of this Title are to provide additional Congressional guidance on the implementation, amendment, and revision of plans for federal lands necessary to ensure that the final new or revised Land Management Plans, and the protection provided therein to the Old Growth Forest Reserve, Northern Spotted Owl, and other old growth associated species in Title I of this Act are implemented effectively; that the stability and predictability in the management of federal lands intended by the Federal Land Policy and Management Act of 1976 (43 U.S.C. §§1701 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. §§1600 et seq.), are achieved; and that the environmental impacts and community social and economic dislocation which result from instability and uncertainty in management of the federal lands are avoided.

PART A—AMENDING, REVISING, AND MONITORING PLANS

SEC. 202. ECONOMIC STABILITY.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by inserting at the end thereof the following new subsection (g):

"(g) In developing, maintaining, amending and revising land use plans pursuant to this section, the Secretary shall assure that such plans—

"(1) maintain to the maximum extent feasible the stability of any community or economic enterprise economically dependent upon public lands to which the plans apply, and shall conduct in the course of preparation of any plan, plan amendment, or plan revision undertaken after the date of enactment of this subsection an analysis for each such community or enterprise that: (i) examines the impacts of planning alternatives on the community, including its revenues and budget, the level of and quality of its public services, the employment and income of its residents, and its social conditions, and on the enterprise and its employees; (ii) explains how resource allocations for the planning alternatives would comport with or differ from historic community expectations; and (iii) describes how those impacts were considered in selecting a preferred alternative. The Secretary, in consultation with the Secretaries of Commerce and Labor, shall define by regulation the term 'community or economic enterprise economically dependent upon public lands' as used in this subsection; and".

(b) Section 6(e) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(e)) is amended by striking "wilderness; and" and inserting "wilderness;" in paragraph (1), striking "management." and inserting in lieu thereof "management;" in paragraph (2), and adding a new paragraph (3) as follows:

[(e) . . . In developing, maintaining, and revising plans for units of the national Forest System pursuant to this section, the Secretary shall assure that such plans—]

"(3) maintain to the maximum extent feasible the stability of any community or economic enterprise economically dependent upon a unit of the National Forest System, and shall prepare in the course of any plan amendment or revision undertaken after the date of enactment of this paragraph an analysis for each such community or enterprise that: (i) examines the impacts of planning alternatives on the community, including its revenues and budget, the level and quality of its public services, the employment and income of its residents, and its social conditions, and on the enterprise and its employees; (ii) explains how resource allocations for the planning alternatives would comport with or differ from historic community expectations; and (iii) describes how those impacts were considered in selecting a preferred alternative. The Secretary, in consultation with the Secretaries of Commerce and Labor, shall define by regulation the term 'community or economic enterprise economically dependent upon a unit of the National Forest System' as used in this paragraph; and".

SEC. 203. CONSIDERATION OF COMMODITY RESOURCES.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by adding at the end of the new subsection (g) provided by section 202(b) of this Act the following clause (2):

"(2) consider fully global demand for commodity resources located on the public lands to which such plans apply and the environmental implications or effects of satisfying such demand by supply of such resources from other domestic or foreign sources or substitution of other resources or products.".

(b) Section 6(e) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(e)) is amended by adding at the end thereof a new paragraph (4) as follows:

[(e) . . . In developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure that such plans—]

"(4) consider fully global demand for commodity resources located in the units of the National Forest System to which such plans apply and the environmental implications or effects of satisfying such demand by supply of such resources from other domestic or foreign sources or substitution of other resources or products."

SEC. 204. PLAN BALANCE AND OTHER REQUIREMENTS.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by adding to the end thereof the following new subsection (h):

(h)(1) Whenever a land use plan is amended or revised, the Secretary shall consider and discuss in decision and environmental analysis documentation accompanying the plan amendment or revision other land use or management changes that, in combination with the change for which the amendment or revision was initiated, would be appropriate

to maintain overall plan balance and meet other plan goals and outputs.

"(2) Any change in management of the public lands that is required by a court order or designation of a threatened or endangered species or other action under the Endangered Species Act (16 U.S.C. §§ 1351 et seq.), or that is justified on the basis of new information, which would not be consistent with an existing land use plan shall require amendment or revision of the plan and, except where the Secretary determines the court order or statute requires otherwise and publishes the determination in the Federal Register, shall not be taken until the plan amendment or revision is final."

(b) Section 6(f) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(f)) is amended by striking "section; and" and inserting in lieu thereof "section;" in paragraph (4), striking "section." and inserting in lieu thereof "section; and" in paragraph (5), and adding a new paragraph (6) as follows:

[(f) Plans developed in accordance with this section shall—]

"(6) be subject to the following additional problems concerning amendment and revision:

"(A) When a plan amendment or revision process is initiated pursuant to paragraph (4) or (5) of this subsection, the Secretary shall consider and discuss in decision and environmental analysis documentation accompanying the plan amendment or revision other land use or management changes that, in combination with the change for which the amendment or revision was initiated, would be appropriate to maintain overall plan balance and meet other plan goals and outputs.

"(B) Any change in management of a unit of the National Forest System that is required by a court order or designation of a threatened or endangered species or other action under the Endangered Species Act (16 U.S.C. §§1351 et seq.), or that is justified on the basis of new information, which would not be consistent with an existing plan shall require amendment or revision of the plan pursuant to paragraph (4) or (5) of this subsection and, except where the Secretary determines the court order or statute requires otherwise and publishes the determination in the Federal Register, shall not be taken until the plan amendment or revision is final.".

SEC. 205. FULLY ALLOCATED COSTS ANALYSIS.

Section 6(g) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(g)) is amended by striking "resource." and inserting in lieu thereof "resource;" in paragraph (3)(F)(v), and adding a new paragraph (4) as follows:

[(g) . . . The regulations shall include, but not be limited to—]

"(4) specifying that, in the presentation of alternative land management plans, plan amendments, or plan revisions, the Secretary shall analyze the fully allocated cost including foregone revenues, expressed as a user fee or cost-per-beneficiary, of each noncommodity output proposed by each alternative; and".

SEC. 206. MINIMUM MANAGEMENT REQUIREMENTS.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by adding at the end thereof the following new subsection (i):

"(i) A minimum decadal level of timber sale volume based on the requirements of subsection (g) of this section shall be established in each land use plan for the area of the public lands to which the plan applies. The Secretary shall offer, on a decadal basis, the full decadal minimum level of timber sale volume specified in the land use plan. Not less than 25 per centum of the decadal minimum level of timber sale volume shall be awarded in any three consecutive years during the term of the land use plan.".

(b) Section 6(g) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(g)) is amended by adding a new paragraph (5) as follows:

[(g) . . . The regulations shall include, but not be limited to—]

"(5) specifying the role, if any, of minimum management requirements in the planning process and providing procedures for the adoption thereof, including the following requirements:

"(A) A 'minimum management requirement' is any directive adopted at the regional or forest level that guides the development, analysis, approval, implementation, monitoring or evaluation of land management plans. The issuance of minimum management requirements is discretionary except where required by this Act.

"(B) The Secretary shall provide for public participation comparable to that required by subsection (d) of this section in the development of any minimum management requirement.

"(C) A minimum management requirement to achieve a level of timber sales based on goals developed pursuant to section 4, and the requirements of section (6)(e)(3) and (4), of this Act shall be established for each unit of the National Forest System in the applicable land and resource management plan.

"(D)(i) Where a particular land area is identified in a land and resource management plan as contributing to the minimum management requirement for timber sales, no management action shall preclude the achievement, on a decadal basis, of the minimum management requirement designated for that particular area.

"(ii) The Secretary shall offer, on a decadal basis, the full minimum management requirement for timber sales specified in each land and resource management plan. Not less than 25 per centum of the decadal minimum management requirement shall be awarded in any three consecutive years during the term of the plan.".

SEC. 207. PHASE-IN OF OUTPUT CHANGES.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by adding at the end thereof the following new subsection (j):

"(j) To maintain the stability of any community or economic enterprise economically dependent upon public lands, as defined by regulation pursuant to subsection (g) of this section, and to avoid the dislocation resulting from abrupt changes in the management of such public lands in the transition to a new land use plan, amendment thereto, or revision thereof, the Secretary shall, upon adoption of a new plan, amendment, or revision, phase in through four equal annual increments any decrease or increase in any commodity output under the plan, amendment, or revision greater than ten per centum per year in comparison to the average output of the commodity from the area to which the plan applies for the five consecutive fiscal years preceding the year in which the plan, amendment or revision is adopted (as measured by volume offered for lease or sale).".

(b) Section 6(j) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(j)) is amended by changing the period at the end thereof to a colon and adding the following:

Provided, That, to maintain the stability of any community or economic enterprise economically dependent upon a unit of the National Forest System, as defined by regulation pursuant to subsection (e)(3) of this section, and to avoid the dislocation resulting from abrupt changes in management of any such unit in the transition to a new land management plan, amendment thereto, or revision thereof, the Secretary shall, upon adoption of a new plan, amendment, or revision, phase in through four equal annual increments any decrease or increase in any commodity output under the plan, amendment, or revision greater than ten per centum per year in comparison to the average output of the commodity from the unit to which the plan applies for the five consecutive fiscal years preceding the year in which the plan, amendment, or revision is adopted (as measured by volume offered for lease or sale)."

SEC. 208. PLAN MONITORING AND MAINTENANCE.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by adding at the end thereof the following new subsection (k):

"(k) The Secretary shall certify in writing as part of each management decision to implement a land use plan developed, amended, or revised under this section that such decision contributes to or, at a minimum, does not preclude achievement of the goals and outputs in such plan. The Secretary shall monitor regularly management of and outputs from the area to which each land use plan applies to ensure that each such plan is not constructively changed through a pattern of implementing actions or failures to take implementing actions that is inconsistent with the plan. If the Secretary finds the plan has been so changed, the Secretary shall direct that corrective implementing actions be undertaken to restore plan consistency or that the plan be amended.".

(b) Section 6(i) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(i)) is amended by inserting "(1)" between "(i)" and "Resource" and adding a new paragraph (2) as follows:

"(2) The Secretary shall certify in writing as a part of the decision on each implementing action that such decision contributes to or, at a minimum, does not preclude achievement of the goals and outputs in the applicable land management plan. The Secretary shall monitor regularly forest management and forest goals and outputs to ensure that a land management plan is not constructively changed through a pattern of implementing actions or failures to take implementing actions that is inconsistent with the plan. If the Secretary finds the plan has been so changed, the Secretary shall direct that corrective implementing actions be undertaken to restore plan consistency or that the plan be amended.".

SEC. 209. CITIZEN PETITIONS FOR AMENDMENT OR REVISION.

(a) Section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1712) is amended by adding at the end thereof the following new subsection (1):

"(1) A person may petition the Secretary for an amendment or revision of any land use plan if the person alleges and relies on new information, law, or regulation as defined in this subsection. A person who wishes to challenge a plan or an action implementing a plan alleging new information, law, or regulation must petition the Secretary for an amendment or revision of the plan in lieu of

filing an administrative appeal of such plan or action. The petition shall be filed in accordance with regulations adopted by the Secretary, which shall require the Secretary to seek and consider the advice of the Secretary, as defined in section 3(15) of the Endangered Species Act (16 U.S.C. §1532(15)) if the petition concerns a species listed, or critical habitat designated, pursuant to section 4 of the Endangered Species Act (16 U.S.C. §1533). The Secretary shall accept or deny the petition in writing within 60 days of receipt. If the Secretary accepts the petition, the amendment or revision process shall begin on the date of the acceptance. If the Secretary rejects the petition, the petitioner may seek immediate judicial review unless the Secretary provides for further administrative review of decisions on petitions. For purposes of this subsection, 'new information' means information related to the plan or action that was not known to and considered by the Secretary in the preparation of the plan and 'law, or regulation' means any law or regulation not in effect when the plan was adopted.".

(b) Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (n) as follows:

"(n)(1) A person may petition the Secretary for an amendment or revision of any land and resource management plan or of any document that establishes a minimum management requirement either in units of the National Forest System within a Forest Service region or for a particular unit if he or she alleges and relies on new information, law, or regulation as defined in this subsection to support the amendment or revision. A person who wishes to challenge a plan or an action implementing a plan alleging new information, law, or regulation must petition the Secretary for an amendment or revision of the plan in lieu of filing an administrative appeal on such plan or action. A person who wishes to challenge a minimum management requirement document alleging new information, law, or regulation must first petition the Secretary for an amendment or revision of the document.

(2) The petition shall be filed in accordance with regulations adopted by the Secretary, which shall require the Secretary to seek and consider the advise of the Secretary, as defined in section 3(15) of the Endangered Species Act (16 U.S.C. §1532(15)), if the petition concerns a species listed, or a critical habitat designated, pursuant to section 4 of the Endangered Species Act (16 U.S.C. §1533). The Secretary shall accept or deny the petition in writing within 60 days of receipt. If the Secretary accepts the petition, the amendment or revision process shall begin on the date of the acceptance. If the Secretary rejects the petition, the petitioner may seek immediate judicial review in accordance with subsections (p) and (q) of this section unless the Secretary provides for further administrative review of the decisions on petitions.

(3) For purposes of this section , 'new information' means information related to the plan, action, or document that was not known to and considered by the Secretary in the preparation of the plan or document and 'law, or regulation' means any law or regulation not in effect when the plan or document was adopted.".

PART B—IMPLEMENTING PLANS

SEC. 210. ADMINISTRATIVE APPEALS AND PETITIONS.

Seciton 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (o) as follows:

"(o) Administrative appeal of a land and resource management plan, an implementing action under a land and resource management plan, or document adopted by the Secretary pursuant to this section shall be in accordance with rules promulgated by the Secretary, including the following additional provisions;

"(1) Standing to bring an administrative appeal shall be available only to persons who have submitted written or oral comment during the preparation of the plan, amendment, revision, document or action on the issue or issues for which administrative review is sought.

"(2) A person who wishes to challenge a land and resource management plan, implementing action, or document that establishes a minimum management requirement either in a unit of the National Forest System or within a Forest Service region alleging or relying on new information, law, or regulation must first petition the Secretary for an amendment or revision of the plan or document in accordance with subsection (n) of this section.

"(3) No administrative stay pending appeal or petition filed under this subsection shall extend beyond, or be imposed after, the conclusion of the applicable period for filing suit in subsections (p)(2), (q)(2), or (r)(2) of this section.

"(4) Failure by the Secretary to issue a final decision on appeal or petition by the prescribed regulatory deadline, not including any extensions thereto that may be granted by the Secretary, shall be deemed to be a denial of the appeal or petition for purposes of this section.".

SEC. 211. JUDICIAL REVIEW OF PLANS.

Section 6 of the Forest and Rangeland Renewable Resources Planning of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (p) as follows:

"(p) Suits to challenge a land and resource management plan, amendment thereof, or revision thereto, adopted by the Secretary pursuant to this section, or a decision by the Secretary not to amend or revise such a plan pursuant to subsection (n) of this section, shall be filed in the United States court of appeals for the circuit in which the unit of the National Forest System to which the plan applies is located. Such court shall have jurisdiction to hear and determine any suit brought as provided in this subsection, subject to the terms and restrictions of this subsection.

"(1) Standing to obtain review shall be available only to persons who have—

"(A) participated in the preparation of the plan, amendment, or revision, or petition for plan amendment or revision, through written or oral comment on the issue or issues for which judicial review is sought; and

"(B) exhausted their administrative remedies.

"(2) Any suit under this subsection must be filed not more than 90 days after the final decision of the Secretary on the relevant administration appeal of the plan, amendment, revision, or petition. The plan or any portion thereof, as finally adopted, shall not thereafter be reviewable as a part of any other action under this Act or any other provision of law or regulation in existence at the conclusion of such 90-day period.

"(3) A suit under this subsection shall not allege or rely upon new information, law, or regulation as defined in subsection (n) of this section unless the party has petitioned the Secretary pursuant to subsection (n) of this section, the Secretary has denied the petition, and the party has exhausted any administrative appeal rights concerning that denial.

"(4) The record upon review shall be limited to the administrative record compiled in accordance with this Act and such additional written evidence as the court shall permit.".

SEC. 212. JUDICIAL REVIEW OF MINIMUM MANAGEMENT REQUIREMENTS.

Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (q) as follows:

"(q) Issuance of any document that establishes a minimum management requirement either in units of the National Forest System within a Forest Service region or for a particular unit (other than a land and resource management plan) shall be considered a final agency action. Suits to challenge such document, or a decision by the Secretary not to amend or revise such document pursuant to subsection (n) of this section, shall be filed in the United States court of appeals for the circuit in which the units or unit to which the document applies is located. Such court shall have jurisdiction to hear and determine any suit brought as provided in this subsection, subject to the terms and restrictions of this subsection. Standing to obtain review shall be available only to persons who have—

"(A) participated in the preparation of such document through written or oral comment or the issue or issues for which judicial review is sought, if notice and opportunity for public comment was provided; and

"(B) exhausted their administrative remedies.

"(2) Any suit under this subsection must be filed not more than 60 days after the final decision of the Secretary on any administrative appeal of the document. The document, or any portion thereof, as finally adopted shall not thereafter be reviewable as part of any other action under this Act or any other provision of law or regulation in existence at the conclusion of such 60-day period.

"(3) A suit under this subsection shall not allege or rely upon new information, law, or regulation as defined in subsection (n) of this section unless the party has petitioned the Secretary pursuant to subsection (n) of this section, the Secretary has denied the petition, and the party has exhausted any administrative appeal rights concerning that denial.

"(4) The record upon review shall be limited to the administrative record compiled in accordance with this Act and such additional written evidence as the court shall permit.".

SEC. 213. JUDICIAL REVIEW OF PLAN IMPLEMENTING ACTIONS.

Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (r) as follows:

"(r) Suits to challenge an action implementing a land and resource management plan adopted, amended or revised by the Secretary pursuant to this section shall be filed in the United States district court for the district in which the implementing action will occur. Such court shall have jurisdiction to hear and determine any suit brought as provided in this subsection, subject to the terms and restrictions of this subsection. Standing to obtain review shall be available only to persons who have—

"(A) participated in the preparation of such implementing action through written or oral comment on the issue or issues for which judicial review is sought, if notice and

opportunity for public comment was provided; and

"(B) exhausted their administrative remedies.

"(2) Any suit under this subsection must be filed not more than 30 days after the final decision of the Secretary on any administrative appeal of the action.

"(3) A suit to challenge an implementing action which alleges or relies upon new information, law, or regulation as defined in subsection (n) of this section shall be brought under subsection (p) of this section after the party has petitioned the Secretary pursuant to subsection (n) of this section, the Secretary has denied the petition, and the party has exhausted any administrative appeal rights concerning the denial.

"(4) The record upon review shall be limited to the administrative record compiled in accordance with this Act and such additional written evidence as the court shall permit.

"(5) Any action found to be not inconsistent with the plan in implements is valid, unless it is found to violate a nondiscretionary provision of law other than this Act and the National Environmental Policy Act (42 U.S.C. §§4321 et seq.).".

SEC. 214. DEADLINES AND PROCEDURES.

Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (s) as follows:

"(s)(1) A suit governed by this section or any appeal of the decision on such suit shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases.

"(2) The court shall render its final decision and dissolve any restraining order or preliminary injunction relative to any suit governed by this section or appeal of decision on such suit within the number of days specified in clauses (A) through (C) of this paragraph from the date such suit or appeal is filed, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution:

"(A) A land and resource management plan that is the subject of subsection (p), 180 days.

"(B) A document that is the subject of subsection (q), 120 days.

"(C) An implementing action that is the subject of subsection (r), 60 days: *Provided, however*, That the period shall be 30 days in the case of an action to offer or award salvage timber or such other action that is determined by the Secretary to be an emergency action.".

SEC. 215. STATUS OF PLANS.

Section 6(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604(c)) is amended by inserting "(1)" between "(c)" and "The" and adding a new paragraph (2) as follows:

"(2) When a unit of the National Forest System is subject to a plan developed in accordance with this Act, such unit shall be managed under the most recent initial, amended, or revised version of that plan that has been adopted as final. If at any time a final version of a plan or portion thereof is enjoined by court order from operation, the management of the unit shall continue under the immediately previous final version of that plan or relevant portion thereof, which shall not be subject to challenge or injunction except as provided in this section.".

SEC. 216. TIERING OF ENVIRONMENTAL DOCUMENTATION.

Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1604) is amended by adding at the end thereof a new subsection (t) as follows:

"(t)(1) Where documentation pursuant to section 102(2) of the National Environment Policy Act of 1969 (42 U.S.C. §§4332(2)(C), is required on an action implementing a land and resource management plan, such documentation shall be tiered to the final environmental impact statement, as amended or supplemented, on the plan. The documentation on the action shall incorporate by reference the relevant analysis of the final environmental impact statement, including cumulative impact analysis, and shall focus on any site-specific or project-specific environmental consequences which are required to be analyzed and have not been analyzed, or which are substantially different from or greater than the general environmental consequences which have been analyzed, in the final environmental impact statement.

"(2) An environmental assessment, as defined by the Council on Environmental Quality, shall be the most comprehensive level of environmental documentation required for an action implementing a plan except when the Secretary, in his discretion in accordance with regulation, determines that the nature or scope of potential environmental consequencs of an implementing action is substantially different from or greater than the nature or scope of the consequences considered in the final environmental impact statement for the plan.".

SEC. 217. BUDGET DISCLOSURES.

Section 8(b) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1060(b)) is amended by inserting the following after the first sentence: "Commencing with the fiscal budget or the first full fiscal year following enactment of this sentence, such requests shall include as an appendix to the budget a statement of what funds would be required to achieve 100 per centum of annual outputs specified in, or otherwise implement fully, the land and resource management plan for each unit of the National Forest System.".

SEC. 218. REGULATIONS.

Not later than twelve months from the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall promulgate regulations to carry out the purposes and provisions of this Title.

TITLE III—PROVIDING AN INTERIM PROGRAM

SEC. 301. PURPOSES.

The purposes of this Title are to provide for a five-year basic and applied research program on old growth forest on certain public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in Oregon, Washington, and Northern California to better understand the values and processes of the old growth forest and to permit its active management to maintain and enhance these values and processes, and to ensure the protection of any areas of ecologically-significant old growth forest that might be considered or designation to the Old Growth Forest Reserve, the protection of the Northern Spotted Owl and adherence to the Endangered Species Act (16 U.S.C. §§1531 et seq.), and the provision of an adequate supply of timber, on these public domain lands during the interim period from the date of enactment of this Act until the Reserve is designated and the final new or revised Land Management Plans are adopted pursuant to Title I of this Act.

SEC. 302. DURATION OF THE INTERIM PROGRAM.

The interim program established pursuant to this Title shall be effective upon the date of enactment of this Act and shall terminate three full fiscal years from such date for all units of Public Lands and National Forest Lands to which apply final revised or new Land Management Plans adopted pursuant to section 102. The interim program shall continue to apply thereafter to any unit for which no applicable final revised our new Land Management Plan has been adopted until the end of the fiscal year in which such adoption occurs. If any final revised or new Land Management Plan is challenged by administrative appeal or litigation, the unit to which such Land Mangement Plan applies shall revert to management under the interim program until the end of the fiscal year in which any and all such appeals and litigation are exhausted.

SEC. 303. SUSPENSION OF CERTAIN PLAN ELEMENTS.

In order to provide the protection for the areas of old growth forest required by section 305 of this Act and ensure the offering of timber sales required by section 304 of this Act, all elements of any plans for the management of Public Lands and National Forest Lands (i) proscribing timber harvesting outside such areas, or (ii) permitting timber harvesting, road construction, or mineral or geothermal leasing inside such areas, shall be suspended during the duration of the interim program established pursuant to this Title.

SEC. 304. INTERIM TIMBER SALES PROGRAMS.

(a) Subject only to the provisions of this Title and notwithstanding any provision of law or order of a court to the contrary, for each full fiscal year in which the interim program established pursuant to this Title is in effect:

(1) the Secretary of the Interior shall offer for sale at least —— board feet from federal lands managed by the Bureau of Land Management in Oregon, Washington and California, of which at least —— board feet shall be offered from the Public Lands;

(2) the Secretary of Agriculture shall offer for sale at least —— board feet per year from federal lands managed by the Forest Service in Regions 5 and 6 (Oregon, Washington and California), of which at least —— board feet per year shall be offered from the National Forest Lands;

(3) the secretaries shall allocate the sales volumes for each fiscal year established in clauses (1) and (2) of this section among each national forest and Bureau of Land Management administrative district at least seven months prior to the beginning of such fiscal year;

(4) for any portion of a fiscal year prior to the first full fiscal year after enactment of this Act, the sales volume required to be offered by this section shall be the product of the relevant volume in clause (1) or (2) of this section times the fraction of the fiscal year represented by the portion thereof during which the interim program is in effect; and

(5) for any Bureau of Land Management administrative district or national forest which remains subject to the interim program after three full fiscal years from the date of enactment of this Act, the annual sales volume thereafter until the interim program is no longer applicable shall be the volume allocated to that forest or district in the third full fiscal year.

(b) For purpose of subsection (a) of this section, the timber sale level for any annual interim timber sale program which may un-

dergo review pursuant to section 7(e)-(1) of the Endangered Species Act (16 U.S.C. §1536(e)-(1)) in accordance with section 306(b) of this Act shall be the level established by or resulting from that review in lieu of the level provided for that program in subsection (a).

SEC. 305. INTERIM OLD GROWTH FOREST PROTECTION.

(a) No timber sale may be offered, road constructed, or mineral or geothermal lease sold by either Secretary on any Public Lands and National Forest Lands subject to the interim program established pursuant to this Title III——

(1) which are located within unfragmented areas of old growth forest containing more than —— acres each of Public Lands or National Forest Lands within the habitat conservation areas identified in Appendix Q of the May 1990 report of the Scientific Committee to Address the Conservation of the Northern Spotted Owl specified in section 318(b)(6)(B) of Public Law 101-121 (103 Stat. 747); or

(2) which are located within a —— radius of any active nest site of the Northern Spotted Owl.

(b) The lands subject to this section shall be identified by the Secretaries, after an opportunity for public comment, on a map or maps on file for public inspection in the offices of the Director of the Bureau of Land Management and the Chief of the Forest Service and each office of the Bureau of Land Management and Forest Service responsible for administering the Public Lands and National Forest Lands.

SEC. 306. NATIONAL ENVIRONMENTAL POLICY ACT AND ENDANGERED SPECIES ACT COMPLIANCE.

(a) For each of the first three full fiscal years after enactment of this Act, each Secretary shall prepare an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. §§4322(2)(C)) on the annual interim timber sales program under the Secretary's jurisdiction established by Section 304(1) and (2) of this Act, and shall submit such program for consultation with the Fish and Wildlife Service pursuant to section 7 of the Endangered Species Act (16 U.S.C. §1536), no later than six months prior to the beginning of the fiscal year. Not later than six months prior to the beginning of each fiscal year thereafter, each Secretary shall prepare an environmental impact statement on, and submit for consultation, any annual interim timber sales program under the Secretary's jurisdiction required by section 304(5) of this Act.

(b) If, during consultation on an annual interim timber sales program required by subsection (a) of this section, jeopardy of any listed species or adverse modification of any designated critical habitat is found under section 7(b) of the Endangered Species Act (16 U.S.C. §1536(b)), the Secretary responsible for the program shall consider any reasonable and prudent alternatives suggested in the consultation that are consistent with the provisions of this Title and that offer the sales volume required for the program in section 304 of this Act. If the Secretary determines that no such reasonable and prudent alternative exists, the Secretary shall apply for review of the program pursuant to section 7(e)-(1) of the Endangered Species Act (16 U.S.C. §1536(e)-(1)).

SEC. 307. JUDICIAL REVIEW.

Nothwithstanding any other provision of law to the contrary:

(1) Any action taken or decision made by a federal agency pursuant to this Title (other than an action or decision defined as or considered to be proposed or draft under the Administrative Procedure Act, Federal Land Policy and Management Act of 1976, Forest and Rangeland Renewable Resources Planning Act of 1974, National Environmental Policy Act, or other applicable law) shall be deemed to be a final agency action or decision and shall not be subject to any administrative appeal or administrative stay.

(2) A suit challenging any such action or decision must be filed in the United States Court of Appeals for the Ninth Circuit not later than 30 days after the date of such action or decision. Such court shall have jurisdiction to hear and determine any suit brought in accordance with this section.

(3) No temporary restraining order or preliminary injunction may be issued in a suit governed by this section after 60 days from the date such suit is filed. If a temporary restraining order or preliminary injuction is issued within such 60-day period, the court shall render its final decision and dissolve any remaining preliminary injunction on or before the final day of such period.

(4) The grounds for any litigation challenging an annual interim timber sales program or any portion thereof pursuant to this Title shall be limited solely to compliance with the provisions of this Title.

SEC. 308. OLD GROWTH FOREST RESEARCH PROGRAM.

(a) Not later than six months from the date of enactment of this Act, the Secretaries shall establish an Old Growth Forest Research Program, which shall include (but need not be limited to) each of the following components:

(1) basic research on ecosystems of, processes in, and species associated with old growth forest on Public Lands and National Forest Lands;

(2) the development and testing of ecologically-sensitive forest management practices at the stand and landscape levels on Public Lands and National Forest Lands;

(3) the development and testing of particular timber harvesting methods which may be employed in, and be consonant with maintenance of the non-commodity values of, the ecologically-significant old growth forest areas to be designated to the Old Growth Forest Reserve;

(4) determination of methods of supplying the economy, and particularly communities dependent on resources of the Public Lands and National Forest Lands, with such resources on a sustained basis; and

(5) development of techniques for regenerating old growth forest on Public Lands and National Forest Lands.

(b) Not later than thirty months from the date of enactment of this Act, the Secretaries shall, taking into account work performed in the Old Growth Forest Research Program, prepare and publish in the Federal Register prescriptions and guidelines for timber harvesting in ecologically-significant old growth forest areas to be designated to the Reserve, including techniques associated with New Forestry, which maintain or enhance the non-commodity resource values associated with such areas.

(c) The Old Growth Forest Research Program shall terminate at the end of five full fiscal years from the date of enactment of this Act.

TITLE IV—ECONOMIC ADJUSTMENT

SEC. 401. PURPOSES.

The purposes of this Title are to develop an organizational structure and a program to provide grants and benefit payments to, and promote economic diversification and stability for, communities which and workers who are economically dependent on the Public Lands and National Forest Lands are adversely impacted by timber supply which is declining as set forth in the Findings of this Act and may decline further in response to the interim and long term programs established by this Act.

SEC. 402. SPECIAL ECONOMIC ADJUSTMENT FUND.

(a) Effective for six full fiscal years after the date of enactment of this Act, —— percentum of the federal portion of all moneys received each fiscal year from the sale of timber and other forest products from the federal lands shall be deposited into the Treasury of the United States and shall constitute a special fund which shall be made available without further appropriation to the Timber Readjustment Commission established pursuant to section 403 of this Act for grants and benefit payments pursuant to section 407 of this Act and for the operations of the Commission and the Timber Readjustment Advisory Panel established pursuant to section 405 of this Act.

(b) For purposes of subsection (a) of this section the term "moneys received"—

(1) has the same meaning given such term under the Act of May 23, 1908 (16 U.S.C. §500) and section 13 of the Act of March 1, 1911 (16 U.S.C. §500); and

(2) means—

(A) moneys deposited into the Oregon and California land-grant fund pursuant to the Act of August 28, 1937 (Chapter 876, 50 Stat. 874; 43 U.S.C. §1181a et seq.);

(B) moneys deposited into the Coos Bay Wagon Road grant fund pursuant to the Act of May 24, 1939 (Chapter 144, 54 Stat. 753; 43 Stat. 1181f-1 et seq.); and

(C) moneys received from the disposal of timber and other forest products pursuant to the Act of July 31, 1947 (30 U.S.C. §601 et seq.).

(c) Nothing in this section shall be construed as modifying or altering payments to States under the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. §500), the Act of August 28, 1937 (43 U.S.C. §1181f et seq.), and the Act of May 24, 1939 (43 U.S.C. 1181f-1 et seq.).

SEC. 403. TIMBER ECONOMIC ADJUSTMENT COMMISSION.

There is hereby established the three-member Timber Economic Adjustment Commission to perform the functions prescribed in section 407 of this Act. Within sixty days of the date of enactment of this Act, the governors of California, Oregon, and Washington shall each appoint a commissioner to serve on the Commission. Any vacancy on the Commission shall be filled in the same manner as the original appointment was made. The chair of the Commission shall be elected annually from among the commissioners by majority vote thereof.

SEC. 404. ADMINISTRATIVE AUTHORITY.

(a) The Commission shall have the authority to appoint, fix compensation for, and assign and delegate duties to an Executive Director and such other employees, and procure such temporary and intermittent services, as the Commission deems necessary to fulfill its functions pursuant to this Title.

(b) The Commission shall adopt such internal rules of procedure as it deems necessary. All Commission meetings shall be open to the public, but may be closed temporarily for discussion of personnel and budgetary matters. Notice of Commission meetings shall be

published in newspapers of general circulation in California, Oregon, and Washington.

(c) Upon the request of the Commission, Federal agencies are authorized to provide technical assistance on a nonreimbursable basis to the Commission to assist it in fulfilling its functions pursuant to this section. The Commission is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal, State, and other agencies with or without reimbursement. Each federal agency is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Commission.

SEC. 405. TIMBER ECONOMIC ADJUSTMENT ADVISORY PANEL.

In performing its functions pursuant to section 407 of this Act, the Commission shall consult with and consider the recommendations of the nine-member Timber Economic Adjustment Advisory Panel. Each Governor shall appoint three members to the Panel: one from the forest products industry, one from organized labor, and one from the general public. The term of each member of the Panel shall be one year, subject to reappointment. The chair of the Panel shall be elected from among its members by majority vote thereof.

SEC. 406. COMPENSATION AND EXPENSES.

(a) Commissioners who are not otherwise employed may be compensated at a rate fixed by the President but not in excess of the maximum rate of pay for grade level IV of the Executive Schedule under section 5316 of Title 5 of the United States Code.

(b) The members of the Commission and the Panel while away from their homes or regular places of business in performance of services for the Commission or Panel, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government Service are allowed expenses under section 5703(b) of title 5 of the United States Code.

SEC. 407. PURPOSE OF ECONOMIC ADJUSTMENT GRANTS AND BENEFIT PAYMENTS.

The Commission shall distribute from the special fund established in section 402 of this Act monies in the form of grants or benefit payments to communities which or workers who meet the eligibility requirements of section 408 of this Act. The grants and benefit payments shall be provided for, but not be limited to, the following purposes:

(1) to assist any eligible community to achieve economic diversity and diminish dependency on forest products from old growth forest on Public Lands and National Forest Lands;

(2) to provide short-term and longer term retraining and adjustment assistance to any eligible worker;

(3) to supplement unemployment insurance benefits and extend income maintenance payments for any eligible worker whose eligibility for unemployment insurance benefits is exhausted and who is enrolled in a training or education program which the Commission determines to be bona fide;

(4) to provide base level health care insurance coverage for an eligible worker, and his or her family members, who is enrolled in a training or education program which the Commission determines to be bona fide; and

(5) to defray job search expenses and relocation expenses for any eligible worker who the Commission determines cannot reasonably be expected to secure employment comparable to his or her previous employment in the commuting area in which the worker resides.

SEC. 408. ELIGIBILITY FOR ECONOMIC ADJUSTMENT GRANTS OR BENEFITS PAYMENTS.

To be eligible for a grant or benefit payment pursuant to section 405 of this Act—

(1) a communtiy must—

(A) be a "community economically dependent on public lands," as defined pursuant to section 202(a) of this Act, which unit must be a unit of the Public Lands, as defined in section 3(a)(7) of this Act, or a "community economically dependent on a unit of the National Forest System," as defined pursuant to section 202(b) of this Act, which unit must be a unit of the National Forest Lands, as defined in section 3(a)(5) of this Act; and

(B) have associated with it a wood products plant which closed or reduced its work force by —— percent within two years before, and remains closed or continues with such reduction in force upon, the date of enactment of this Act, or closes or reduces its work force by —— percent after the date of enactment of this Act and remains in such condition for —— months after the date of closure or reduction in work force; and

(2) a worker must—

(A) have been in employment related to wood products or timber harvesting and have been terminated or laid off from such employment within two years before, and be unemployed on, the date of enactment of this Act, or be terminated or laid off from such employment after the date of enactment of this act and be unlikely to return to such employment within —— months thereafter; or

(B) have been employed or self-employed in an occupation not directly related to wood products or timber harvesting in a community as defined in clause (1) of this section, have been terminated from such employment after the date of enactment of this Act, and be unlikely to return to such employment within——months thereafter.

SEC. 409. NOTICE OF SECRETARIES.

The Secretaries shall—

(1) provide timely information to the Commission on any federal action with respect to managing the Public Lands and National Forest Lands which may have a substantial local or regional impact on employment;

(2) where feasible, identify the location of the employment which will be affected by such federal action, and

(3) provide the Commission such other information concerning such federal action as is available to the Secretaries and as the Commission may require.

SEC. 410. TERMINATION OF COMMISSION AND PANEL; COMMISSION REPORT.

The Commission and Panel shall terminate six full fiscal years from the date of enactment of this Act. No later than six months prior to termination of the Commission, the Commission shall submit in writing to the Congress and the governors of California, Oregon, and Washington a report on the accomplishments of the Commission, the economic conditions of communities and employment in the region in which Public Lands and National Forest Lands are located, and any recommendations the Commission may have concerning such conditions.

TITLE V—MISCELLANEOUS

SEC. 501. O & C LANDS.

Notwithstanding any provision of this Act except section 402, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, the latter Acts shall prevail.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

These are hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

FEDERAL LANDS AND FAMILIES PROTECTION ACT OF 1991 SECTION-BY-SECTION SUMMARY AND ANALYSIS

Sec. 2. Findings. This section contains 17 findings concerning certain public domain lands managed by the Bureau of Land Management ("BLM") and lands withdrawn from the public domain managed by the Forest Service in Northern California, Oregon, and Washington that include areas of old growth forest and habitat for the northern spotted owl. The findings state the old growth and habitat lands contain both rare and irreplaceable ecological and species values warranting protection and extraordinary economic values sustaining employment, families and dependent communities in the region and contributing to housing construction and other sectors of the national economy. They also note that the intense competing pressures to preserve or make economic use of those lands have severely disrupted the ability of the BLM and Forest Service to plan and manage them, that additional Congressional direction is required to ensure protection of ecologically-significant old growth and old growth-associated species on those lands, and that an economic adjustment program is needed to minimize social and economic disruption from such old growth and species protection efforts. The findings conclude that additional Congressional guidance, missing from the agencies' planning statutes, is needed to ensure that the old growth and species protection efforts specifically, and BLM and Forest Service land management plans generally, are implemented.

Sec. 3. Definitions: This section contains 9 definitions. Three of those terms are used in this summary:

"Public and National Forest Lands" includes public domain lands in the 8 BLM administrative districts and lands withdrawn from the public domain in the 17 named national forests in Oregon, Washington, and California which include northern spotted owl habitat and significant old growth.

"Secretary" means the Secretary of the Interior if BLM lands are concerned and the Secretary of Agriculture if Forest Service lands are concerned.

"Congressional Committees" means the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and the Committee on Energy and Natural Resources and the Commitee on Agriculture, Nutrition, and Forestry and of the United States Senate.

TITLE I—ESTABLISHING LONG TERM PROGRAM

This title establishes the long term BLM and Forest Service program to protect old growth forest, the northern spotted owl, and old growth-associated species on Public and National Forest Lands by: (i) requiring identification and protection of areas of ecologically-significant old growth forest in an Old Growth Reserve ("Reserve") through revisions in the applicable BLM and Forest Service land management plans; (ii) by applying procedures and requirements of the Endangered Species Act ("ESA") to the plan revision process; and (iii) providing a measure of stability and predictability to commodity production from the Public and National Forest Lands once the old growth and species protection is accomplished and the plan revision process is completed.

Sec. 101. Purposes: This section sets forth the purposes of Title I, which are presented in the above description of this Title.

Sec. 102. Plan Revisions: This section requires that the long term program, in the form of revisions to the BLM and Forest Service land management plans applicable to the Public and National Forest Lands, be completed and effective by the end of 3 full fiscal years after enactment. It also has a technical provision discussed in the summary of section 207.

By establishing the Reserve through plan revisions (rather than permanent Congressional designations to a new system similar to the National Park and Wilderness Preservation Systems) and by providing 3 years to accomplish the task, the legislation will: (i) ensure that the long term program is not simply an overlay on existing land management plans and that, instead, existing plan decisions which may be superseded by the long term program's new protections are fully reconsidered; (ii) allow the opportunity to finish work required by the Endangered Species Act on critical habitat designation and the recovery plan for the northern spotted owl and have that work incorporated in the long term program's plan revisions; (iii) permit periodic consideration in subsequent plan revisions (normally every 10 to 15 years) whether the ecosystem-based boundaries of the Reserve are still correct or should be altered due to fire, disease, or new information; and (iv) ensure the continued viability of the method chosen by Congress in 1976 in the Federal Land Policy and Management Act ("FLPMA") and National Forest Management Act ("NFMA") for allocating and protecting resources on BLM and Forest Service lands.

Sec. 103. Regulations; Establishment of the Old-Growth Reserve: This section requires the publication of BLM and Forest Service regulations to guide establishment of the old growth program. Of particular importance are uniform regulations: (i) defining "ecologically significant old growth forest" for purposes of identifying each area for the Reserve (and avoiding any confusion which might result from the various definitions presently used by the two agencies, knowledgeable academics, and concerned environmental organizations); (ii) officially establishing the Reserve; and (iii) providing procedures and criteria for identification and selection of the Reserve areas. The regulations must be promulgated within 15 months after enactment.

Sec 104. Initial Designations to the Old Growth Reserve by the Secretary of the Interior: With provisions similar to those in the Wild and Scenic Rivers Act, this section broadens the Reserve beyond Public and National Forest Lands to include other federal and state lands. The Secretary of the Interior is directed to designate to the Reserve all ecologically-significant old growth forest areas in National Parks and National Wildlife Refuges in Oregon, Washington, and Northern California. Additionally, the Governors of those three States can nominate qualifying land areas to the Reserve.

Sec. 105. Designation of Areas to the Old Growth Reserve: This section provides Congressional criteria which the BLM and Forest Service must apply, during the land management plan revision process, in selecting ecologically-significant old growth forest areas for inclusion in the Reserve. Not all ecologically-significant old growth forest must be placed in the Reserve. Instead, this section provides that the number, size and type of areas selected for the Reserve must be those necessary to meet the purposes of Title I set out in section 101.

This section provides a list of priorities and preferences for selecting Reserve areas. The list of priorities is based on management considerations; it ensures that the areas which already have a degree protection—by statute or by administrative discretion—are selected before areas which are managed for multiple-use and contain and contribute important commodity and non-commodity resources other than old growth forest and old growth-associated species. The list of preferences is based on scientific considerations; it ensures that those areas which are richest in multiple ecosystem values and which do not duplicate other potential Reserve areas are selected over areas with fewer, lesser, or redundant values. The final two preferences are for areas that have the least impact on the historic balance and mix of uses of, and the communities economically dependent on, the Public and National Forest Lands.

Sec. 106. Protection of the Northern Spotted Owl and Other Species: The selection of the richest and best old growth areas for the Reserve improves the likelihood, but does not necessarily ensure, that the northern spotted owl and other old growth-associated species are adequately protected. Creation of the Reserve should not excuse the long term program from the procedures and requirements of the Endangered Species Act. This section requires that both the proper protection for those species is provided and compliance with the ESA occurs. First, it establishes a statutory requirement in this legislation for the protection of the northern spotted owl and old growth-associated species. Second, it requires the BLM and Forest Service planners to fully consider the northern spotted owl recovery plan now being prepared by the U.S. Fish and Wildlife Service as required by section 4(f) of the ESA and incorporate relevant parts of that plan in the long term program's land management plan revisions. Third, it requires the BLM and Forest Service to consider any other old growth-associated species which may need special protection and incorporate the necessary protective measures for those species in the plan revisions as well.

Sec. 107. Reviews of Administrative Set-Asides: The long term program will result in the elimination or reduction of timber harvesting from significant old growth areas of the Public and National Forest Lands. To ensure that no opportunity is lost to find alternative sources of fiber on those lands, this section directs the BLM and Forest Service, in conducting the long term program's revisions of land management plans, to reconsider administrative constraints on resource uses imposed by previous planning decisions. The purpose of these reviews is to minimize the impact of establishment of the Reserve and other protections in the long term program on pre-existing uses and levels of use in each unit of the Public and National Forest Lands.

Sec. 108. Endangered Species Act Compliance: As noted in the discussion of section 105, establishment of the long term program and its protection of ecologically-significant old growth forest and old growth-associated species should not excuse the BLM or Forest Service from compliance with the Endangered Species Act. This section is intended to provide for such compliance. It requires that the two agencies submit their plan revisions for consultation with the Fish and Wildlife Service under section 7(a)(2) of the ESA and that the consultation cover each plan revision and all actions, including timber sales, which may be undertaken under and consistent with the plan revision. Once this consultation is completed, no further consultation would occur on the plan revision or actions pursuant to the revision unless and until the plan is revised again or is significantly amended. Consultation would proceed as required by the ESA with: the Fish and Wildlife Service issuing a "no jeopardy" biological opinion; or, the agency issuing a "jeopardy" opinion and offering a "reasonable and prudent alternative" to the revision with which the BLM or Forest Service concurs; or, if no concurrence is possible, the BLM or Forest Service seeking an exemption with "reasonable mitigation and enhancement measures" under section 7 (e)-(l) of the ESA.

Sec. 109. Maps and Legal Descriptions: This section directs that, once the plan revisions are complete, the BLM and Forest Service prepare maps and legal descriptions of the areas of ecologically-significant old growth forest which the plan revisions have designated to the Reserve, and make those maps and descriptions available to the public.

Sec. 110. Release: This section borrows virtually verbatim the so-called "soft release" boiler-plate language included in virtually all wilderness bills enacted by Congress. It provides that the decisions on whether to include specific areas in the Reserve are made in the plan revisions and will not be reconsidered until the next round of plan revisions, which ordinarily occurs ten years later. Further, this section provides that areas not designated to the Reserve in the plan revisions are to be managed for multiple use and need not be managed to protect their suitability to be considered for designation to the Reserve in later plan revisions.

Sec. 111. Management of Old Growth Reserve: To a large extent the manner in which each area designated to the Reserve will be managed will be determined during the plan revision process and in the decision documents on the revision. This section constrains those decisions by establishing certain "bottom-line" uniform requirements of Congress for management of all Reserve areas. Subject to valid existing rights, further acquisition of mineral and mining rights in Reserve areas is barred. Roads, structures, motorized and nonmotorized recreation and access, and hunting may be permitted in the Reserve areas.

Timber harvesting, too, may be allowed but only in two limited circumstances. First, it can occur if it is necessary to protect the Reserve area or adjacent lands from insects or disease or to protect life or property from imminent fire damage. Second, it can be permitted if it can be conducted to maintain or enhance the ecosystem values for which the particular Reserve area was designated and in accordance with standards and guidelines for New Forestry established by the two agencies' Old Growth Research Program established under section 308(b). In either case, harvesting will not occur in any Reserve area unless the applicable plan revision determines it to be appropriate and allows it in that area. Even then, the revision can set silvicultural and environmental conditions that are more stringent than the Research Program's standards and guidelines.

Sec. 112. Sufficiency: This section addresses the need for stability and predictability in implementing plan revisions. It provides that stability and predictability only after the ecologically-significant old growth forest, the northern spotted owl, and other old growth-associated species have been ac-

corded protection in the plan revisions, and after those revisions have undergone, pursuant to section 107, all the procedures required by the ESA. Once the revisions are complete and the ESA requirements have been satisfied, this section discharges the agency (BLM or Forest Service) responsible for the land to which the revision applies and any person authorized by that agency to conduct activities on that land from any additional responsibilities for management or protection of the owl or other species under four specific statutes. Those statutes are the ESA, the Migratory Bird Treaty Act, FLPMA and NFMA.

This declaration of sufficiency lasts only as long as the revision is good—that is, until the revised plan is significantly amended or revised again. Then that amendment or revision, and each amendment or revision thereafter, would have to proceed again through the ESA procedures as required in section 107 before this section's sufficiency declaration would apply again. The sufficiency provided by this section is only temporary because significant amendments could occur at any time and plan revisions normally occur every ten years, but earlier if the agency determines changed conditions warrant an earlier revision. Finally, to ensure prompt amendments or revisions can be obtained from a possibly recalcitrant agency, section 209 of this legislation creates a wholly new procedure (analogous to citizen suit provisions in several environmental laws) for individual citizens to petition the Secretary of Agriculture or the Interior at any time for a plan revision and, if the affected Secretary denies the petition, to challenge that decision in court.

Sec. 113. Access to Non-Federal Land: This section ensures that the granting, construction or maintenance of access across Federal lands to non-Federal lands will not subject either the granting agency or the grantee to the conservation and consultation requirements and "takings" prohibitions of sections 7 and 9 of the Endangered Species Act for any old growth-associated species.

TITLE II—ENSURING THE EFFECTIVENESS OF FEDERAL LAND PLANNING

The long term program of Title I promises protection for the Old Growth Reserve, the northern spotted owl, and other old growth-associated species in the revisions of the BLM and Forest Service land management plans. This can be achieved only if those plan revisions are implemented, which is far from guaranteed. Indeed, BLM and Forest Service land management plans outside of Oregon, Washington, and Northern California have suffered implementation problems for a variety of reasons, including lengthy appeals and litigation, failure to monitor plan implementation and amend plans as required, adoption of policies separate from and in conflict with plans, etc. Contributing to the failure of plan implementation is the absence of any Congressional guidance to the agencies on how to implement plans. Both planning statutes—NFMA and FLPMA (as supplemented by contemporaneous and subsequent enactments, including the Coal Leasing Amendments Act of 1976, the Surface Mining Act of 1977, and Public Rangelands Improvement Act of 1978)—focus on the procedures for preparing, and the contents to be included in, the plans and are virtually silent on implementing, amending or revising them. This Title amends the two statutes to provide missing Congressional guidance.

Sec. 201. Purposes: This section states the purposes of Title II, including: (i) providing Congressional guidance on plan implementation, amendment, and revision to ensure that the long term program's revised plans and the protection they accord to the Reserve, the northern spotted owl, and other old growth-associated species are implemented effectively; (ii) achieving stability and predictability in the management of other BLM and Forest Service lands; and (iii) avoiding the environmental, social and economic injuries which result from unstable and uncertain federal land management.

Part A—Amending, revision, and monitoring plans

The objects of Part A are to establish standards and procedures for amending and revising land management plans; assure timely, responsive, and balanced plan amendments and revision; and encourage better plan implementation by requiring regular monitoring and accountability.

Sec. 202. Economic Stability: This section directs the BLM and Forest Service to maintain to the maximum extent feasible the stability of communities and economic enterprises economically dependent upon BLM and Forest Service lands when developing land management plans, plan amendments, and plan revisions. It requires that the effects on employment, revenues, and public services in those communities and economic enterprises be considered by each agency in the various plan, amendment, or revision alternatives. Economically dependent communities and enterprises are to be defined by regulation by the Secretaries of the Interior and Agriculture, in consultation with the Secretaries of Commerce and Labor.

Sec. 203. Consideration of Commodity Resources: Similarly, this section directs the two agencies to consider in developing, amending, or revising plans the global demand for the commodity resources of their lands and the environmental impacts of obtaining such resources from other domestic or foreign sources (e.g., Canadian or Brazilian fiber) or using substitute resources (e.g., plastics).

Sec. 204. Plan Balance and Other Requirements: To avoid too narrowly focused plan amendments or revisions, this section directs the BLM and Forest Service in preparing any amendment or revision, to consider all changes in the plan beyond the specific change sought or intended which are needed to retain continued overall plan balance and meet other plan goals and outputs. This section also directs that any changes in land management that are required by court order, a species' listing or other action under the ESA, or new information, must be accomplished only through amendment or revision of the applicable plans. This is to ensure that all available alternatives to implement the requirements of the ESA or court order or to respond to the new information, and the environmental impacts associated with each alternative, are considered as required by the FLPMA, NFMA, and NEPA when plans are amended or revised. An exception to this plan amendment or revision requirement is provided when the Forest Service or BLM determines that the court order or statute requires immediate action.

Sec. 205. Fully Allocated Costs Analysis: To ensure that the costs of all activities on Forest Service lands are given due consideration in the preparation of plans, amendments or revisions, this section directs the Forest Service to analyze the full cost, expressed as user fees or cost-per-beneficiary, of all non-commodity outputs, as well as commodity outputs, in each plan alternative considered.

Sec. 206. Minimum Management Requirements: The Forest Service relies heavily on minimum managements ("MMRs")—established not only in land management plans but also in Regional Guides and other documents—to govern management activities. Yet, the agency has applied these MMRs only to non-commodity resources and not provided any assurance by regulation or otherwise of public participation, environmental analysis, and other prerequisites of a proper administrative record will be followed in adopting the MMRs. This section requires that, in preparing the documents which set MMRs, the Forest Service must provide public participation (notice and hearing) opportunities that are comparable to the opportunities already required by the NFMA and Forest Service regulations during preparation of plans, plan amendments, and plan revisions. It also mandates that on MMR similar to the MMRs established for other resources be set for timber sale levels in each BLM and Forest Service plan. Further, this section prohibits actions in particular land areas identified as contributing to the MMR for timber sales that would preclude achievement of the MMR for that area over ten years (the normal life span of a plan). Finally, this section requires that the full MMR for timber sales be offered on a decadal basis and, to ensure a relatively stable and predictable timber sale program and avoid a demonstrated tendency by the agencies to frequently postpone sales to the end of the ten year period, directs that at least 25 percent of the decadal MMR be awarded every three consecutive years.

Sec. 207. Phase-In of Output Changes: One of the cardinal principles of proper planning is that it should not impose swift, disruptive change. Yet that can happen whenever a new BLM or Forest Service land management plan is prepared or an existing plan is amended or revised if significantly different output levels are adopted and fully applied on the first day of the new plan, amendment or revision. This section strives to avoid the dislocation (particularly to communities economically dependent on resources of the BLM and Forest Service lands), resulting from abrupt changes in land management during the transition to a new plan, amendment, or revision.

This section provides for the phase-in over a 4-year period of any significant increase or decrease in annual outputs (10 percent over or under the average annual output for the previous 5 years) dictated by the plan, amendment, or revision. Section 102 and a special provision for phasing in output changes for the plan revisions required by the long term program. As output levels on lands subject to the long term program have dropped dramatically since the listing of the northern spotted owl under the ESA—to the point that there may be no meaningful timber sale program in fiscal year 1991—section 102 sets the 5-year base for determining the phase-in to straddle the listing date in order to average together pre- and post-listing sales volumes.

Sec. 208. Plan Monitoring and Maintenance: Plan monitoring may be the single most important action to ensure plan implementation, but only if it prompts corrective action. This section mandates regular monitoring of the BLM and Forest Service plans to ensure that each plan has not been constructively amended or rendered obsolete by a pattern of implementing actions or inaction that is inconsistent with the plan. If the monitoring discloses that the plan is no longer being followed, the agency is required

either to take corrective implementing actions or to initiate plan amendments. This section also requires the BLM and Forest Service to certify in the decision on each action implementing a plan that the decision does not preclude achievement of the plan's goals and outputs.

Sec. 209. Citizen Petitions For Amendment or Revision: In the FLPMA and NFMA, the agencies are required to revise any land management plan if conditions on the lands to which the plan applies have changed significantly. Certainly, this same precept should hold for plan amendments. Yet, for whatever reason—cost in dollars and manpower, bureaucratic inertia, etc.—the agency officials seem reluctant to undertake either plan amendments or revisions. This section would remedy this problem by establishing a process for citizens to petition for plan amendments or revisions (analogous to the citizen suit provisions in several environmental laws).

This section authorizes any person to petition the BLM or Forest Service to amend or revise any plan or other document establishing MMRs on the basis of new information, laws, or regulations. To avoid repetitious challenges to plan implementing actions on the basis of new information, laws or regulations, anyone who wishes to challenge such an action on that basis must file a petition on the plan in lieu of an administrative appeal on the action. The agency must accept or deny the petition in 60 days (with the advice of the Fish and Wildlife Service if the petition concerns a species listed under the ESA). If the petition is denied, the petitioner may seek immediate judicial review.

Part B—Implementing plans

The object of Part B is to ensure better implementation of Forest Service land management plans by expediting administrative and judicial review procedures.

Sec. 210. Administrative Appeals and Petitions: This section governs administrative appeals of Forest Service plans and plan implementing actions. It sets a standing requirement for appeal: the appellant must have participated, and raised the issue or issues to be appealed, during the preparation of the plan or action. This requirement is consonant with general case law under the Administrative Procedure Act and a recent federal court decision directly on point in the Idaho Panhandle Forests Plan litigation. It ensures that appellants cannot gain standing simply by submitting a non-substantive, cursory, pro forma letter or testimony during preparation of the plan or action, which gives the agency no notice of, or opportunity to correct, the infirmity perceived by the appellant in a timely manner.

This section also requires that the appeal of any plan, document setting MMRs, or plan implementing action that is based on new information developed since the preparation of the plan may not be taken until the prospective appellant has petitioned the agency for a plan amendment or revision pursuant to section 209 and the agency have had an opportunity to accept or deny the petition. To prevent the agency from sitting on administrative appeals or petitions, this section deems appeals and petitions denied if they are not decided by the regulatory deadline. The appellants can then proceed to court without delay. Finally, the section bars administrative stays beyond the deadlines for filing litigation provided in sections 211 through 213.

Sec. 211. Judicial Review of Plans.

Sec. 212. Judicial Review of Minimum Management Requirements.

Sec. 213. Judicial Review of Plan Implementing Actions: TO ensure expeditious judicial review and avoid lengthy plan implementation paralysis during the course of litigation, these three sections establish the following deadlines for filing suit after a final administrative appeal decision:

90 days for litigation over plans (including plan amendments or revisions) (§211):

60 days for litigation over documents which set MMRs (§212): and

30 days for litigation over plan implementing actions. (§213).

Further, these sections:

Provide that judicial challenges to plans and documents establishing MMRs will be heard in the federal court of appeals for the circuit where the national forest to which the plan or document applies is located (§211 and 212) and judicial challenges to plan implementing actions will be heard in the federal district court for the district in which the implementing action will occur (§213);

Limit the record on review to the agency's administrative record, plus any additional written information the court permits;

Establish the same standing requirement for litigation contained in section 210 for administrative appeals and for the same reasons; and

Provide that the grounds for challenging an implementing action are inconsistency with the plan which the action is intended to implement or violation of a nondiscretionary provision of any law other than the NFMA (§213). This last requirement reflects a position taken by the Western Governors' Association (Resolution 86-021) in 1986 and again in 1989.

Sec. 214. Deadlines and Procedures: This section provides that lawsuits over plans, documents establishing MMRs, and implementing actions are to be scheduled promptly and provided precedence over other docket matters, except criminal cases. Further, it establishes time frames for the courts to render final decisions, and for the lifting of any preliminary injunctions, in lawsuits over plans (180 days), documents establishing MMRs (120 days), and implementing actions (60 days; 30 days for salvage sales of emergency actions), unless the time is extended in order to satisfy requirements of the Constitution.

Sec. 215. Status of Plants: This section provides that, in the event a land management plan is enjoined, its predecessor plan automatically takes effect until the enjoined plan is reinstated.

Sec. 216. Tiering of Environmental Documentation: This section requires the Forest Service to tier documents under the National Environmental Policy Act so that each NEPA document on a plan implementing action references applicable analysis in the environmental impact statement ("EIS") prepared for the plan and focuses on issues not previously analyzed in that plan-level EIS. This requirement is fully consonant with guidance from the Council on Environmental Quality and judicial precedent. Congress has already directed the Forest Service in the NFMA to develop rules on how it will apply NEPA to the land management planning process. This section would provide further, more explicit Congressional direction to ensure timely decisionmaking without unnecessarily costly, time-consuming, and duplicative analysis.

Sec. 217. Budget Disclosures: This section requires that the President's budget submission include a statement of the funding totals necessary to achieve 100 percent of all outputs specified in, or otherwise implement fully, each Forest Service plan.

Sec. 218. Regulations: This section directs the BLM and Forest Service to promulgate regulations to implement Title II within one year of enactment.

TITLE III—PROVIDING AN INTERIM PROGRAM

This title establishes a 3-year interim program to protect ecologically-significant old growth forest and the northern spotted owl, and to ensure maintenance of a timber sale program, on Public and National Forest Lands while the long term program provided by Title I is being prepared.

Sec. 301. Purposes: This section states that purposes of the interim program as expressed directly above, and also includes the establishment of an Old Growth Research Program to better understand old growth ecosystem processes and values and to permit active management to maintain and enhance those processes and values.

Sec. 302. Duration of the Interim Program: This section directs that the interim program will last for three full fiscal years after enactment, and thereafter in any particular area of the Public and National Forest Lands for which the plan revision required by the long term program is either not completed or is being challenged in administrative appeal or litigation.

Sec. 303. Suspension of Certain Plan Elements: To ensure that the effectiveness of the Congressional-mandated interim program is not compromised by existing BLM and Forest Service plans containing administrative decisions that were made potentially obsolete by the listing of the northern spotted owl under the ESA, this section suspends elements of the plans proscribing timber harvesting outside, and permitting timber harvesting, road construction, or mineral leasing, inside, areas of old growth forest protected by section 305.

Sec. 304. Interim Timber Sales Program: This section directs the preparation and offering of annual timber sales programs by the BLM and Forest Service on Public and National Forest Lands not identified and protected by section 305. These annual timber sale programs would operate during the interim period and be subject only to the provisions of Title III. For now, the actual volumes of the two agencies' annual timber sales programs are not assigned so that the agencies can be consulted on realistic numbers to include in the legislation based on the amount of old growth forest accorded interim protection under section 305. The section provides for the allocation of the numbers ultimately assigned to the programs among the various BLM administrative districts and national forests. It also makes clear that the assigned numbers do not apply if an exemption is a program under section 7 (e)-(1) of the ESA and section 306 of this legislation.

Sec. 305. Interim Old Growth Forest Protection: This section provides protection for ecologically-significant old growth forest for the life of the interim program. The protection includes a prohibition against timber sales, road construction, and mineral leasing. The lands to be protected include unfragmented areas of old growth forest of a certain size in habitat conservation areas identified by the Scientific Committee to Address the Conservation of the Owl (the "Thomas Committee") and lands within a certain radius of active northern spotted owl nest sites. The sizes of the unfragmented areas and nest site radii are left blank for the same reason the volumes of timber sales are left blank in section 304: the sizes should be set only after soliciting expert agencies' advice.

Sec. 306. National Environmental Policy Act and Endangered Species Act Compliance: This section ensures that the requirements of the NEPA and ESA are adhered to in the interim program and sets deadlines for preparation of environmental impact statements and conducting ESA consultation on each of the BLM and Forest Service annual interim timber sales programs. It ensures that the northern spotted owl will receive full protection through the ESA consultation process while the recovery plan and critical habitat designation processes unfold. This section provides that, if a jeopardy opinion is rendered in consultation on a particular program, the Fish and Wildlife Service suggests reasonable and prudent alternatives involving the sales volume assigned to that program in section 304. If, however, an exemption is sought for the program under the ESA, section 304 makes clear that the exemption may be considered and granted unencumbered by the assigned volume.

Sec. 307. Judicial Review: The interim program cannot provide as much certainty for the annual interim timber sales programs as it does for protection of old growth forest and the northern spotted owl unless it proscribes litigation challenges of those programs and of individual sales. No attempt is made, however, in this legislation to bar judicial access.

To the contrary, this section encourages expedited judicial review during the interim program. It provides that agency decisions on the annual interim timber sales programs and individual timber sales are final agency actions, not subject to further administrative review or administrative stays. This means opponents do not have to file administrative appeals, but, instead, can seek immediate judicial relief. To ensure that litigation is expedited, this section also provides that any lawsuit must be filed within 30 days of the challenged decision, that the U.S. Court of Appeals will hear the case, and that any preliminary injunction issued shall have a maximum term of 60 days.

Sec. 308. Old Growth Forest Research Program: This section requires the Secretaries of the Interior and Agriculture to establish a five-year Old Growth Research Program within six months of enactment. The Program is to include Basic research on ecosystem values and processes and applied research on methods of timber harvesting to maintain or enhance those ecosystem values and processes. This section also requires that, within 2½ years of enactment, the two Secretaries study the work of the Research Program and prepare prescriptions and guidelines to govern timber harvesting in ecologically-significant old growth forest areas to be designated to the Reserve, if harvesting is authorized in the applicable plan revisions under the long term program. These prescriptions and guidelines, which may include techniques associated with New Forestry, are to ensure that any harvesting permitted in such areas will maintain or enhance the areas' ecosystem values.

TITLE IV—ECONOMIC ADJUSTMENT

The long term and interim programs and the old growth forest and species protection they provide will result in significant adverse economic and social effects among employees, families, and communities economically dependent on the Public and National Forest Lands. The objective of this Title is to develop a 6-year program to provide health, retraining, and other benefits payments to dislocated workers and grants to promote economic diversification and stability for dependent communities.

Sec. 401. Purposes: This section states the purposes of Title IV, which are discussed above in the description of the Title.

Sec. 402. Special Economic Adjustment Fund: This section provides for the funding of the economic adjustment program. It requires that, for the 6 full fiscal years after enactment, a certain percentage of the federal portions of all revenues received under various statutes from timber sales on BLM and Forest Service lands must be deposited into a special fund in the Treasury to be used to implement Title IV. The percentage is left blank and will be filled in at a later time in the legislative process when the effects of the long term and interim programs, and the attendant funding needs they will produce, can be determined.

Sec. 403. Timber Economic Adjustment Commission: This section provides the decisionmaking body for the economic adjustment program. To best respond to regional concerns—involving problems that are specific to rural areas in a discrete region involving portions of 3 states—this section establishes a 3-member Timber Economic Adjustment Commission that is also regionally based. The section requires that each governor in the 3 States—California, Oregon, and Washington—appoint a commissioner. The chair is to be elected annually by the 3 commissioners.

Sec. 404. Administrative Authority: This section provides certain administrative authority to the Commission concerning contracting for services, adoption of internal rules (including open meetings and meeting notices), and provision of federal agency technical assistance, equipment, and services.

Sec. 405. Timber Economic Adjustment Advisory Panel: To ensure that regional expertise is available, this section establishes a 9-member advisory panel—the Timber Economic Adjustment Advisory Panel—to counsel the Commission. Each governor is directed to appoint 3 members to the Advisory Panel: one from the forest products industry, one from organized labor, and one from the general public.

Sec. 406. Compensation and Expenses: This section provides for salaries for Commissioners and travel expenses for both Commissioners and Advisory Panel members.

Sec. 407. Purpose of Economic Adjustment Grants and Benefit Payments: This section directs the Commission to make grants to communities which, and benefit payments to workers who, meet the eligibility requirements of section 408. It states the following purposes for the grants and benefit payments:

Assist eligible communities to achieve economic diversity and diminish dependency on forest products from old growth forest on National Forest Lands and Public Lands;

Provide short term and longer term retraining and adjustment assistance to eligible workers;

Supplement unemployment insurance benefits and extend income maintenance payments for eligible workers whose eligibility for unemployment insurance benefits is exhausted and who are enrolled in Commission-certified training or education programs;

Provide base level health care insurance coverage for the families of eligible workers who are enrolled in those training or education programs; and

Defray job search expenses and relocation expenses for eligible workers who have exhausted employment opportunities in their communities.

Sec. 408. Eligiblity for Economic Adjustment Grants or Benefits Payments: This section provides the requirements for dependent communities and dislocated workers to be eligible for the economic adjustment grants and benefit payments. The community's eligibility is based on a percentage reduction in work force in an associated mill or other wood products facility, and the worker's eligibility is based on loss of employment for a minimum period and unlikely return to his or her former job.

Sec. 409. Notice of Secretaries: So as to give the Commission early warning, this section requires the Secretaries of the Interior and Agriculture to inform the Commission of the likely impacts on the local or regional economy of land management actions they intend to take on the Public and National Forest Lands.

Sec. 410. Termination of Commission and Panel; Commission Report: This section sunsets the economic adjustment program at the end of 6 full fiscal years from enactment and requires a report from the Commission on the economic conditions of communities and employment in the region that includes the Public and National Forest Lands.

TITLE V—MISCELLANEOUS

Sec. 501. O&C Lands: This section ensures that this legislation will not amend by implication the O&C Lands Act.

Sec. 502. Authorization of Appropriations: This section authorizes appropriations to implement this legislation.

GRASSROOTS GROUPS IN SUPPORT OF THE FEDERAL LANDS AND FAMILIES ACT

John Shoemaker, Executive Vice President, National Wood, Window & Door, Assn., Des Plaines, IL.

Kevin Cain, Vice President, Colorado Timber Industries Assn., Cortez, CO.

Stuart Hardy, Manager, Food, Energy and Natural Resources, U.S. Chamber of Commerce, Washington, DC.

Valerie Johnson, President, Oregon Lands Coalition, Tigard, OR.

John McMillan, Executive Director, Alabama Forestry Assn., Montgomery, AL.

Buck Vandersteen, Executive Director, LA Forestry Assn., Alexandria, LA.

Conrad Rupert, President, Black Hills Forest Resource Alliance, Rapid City, SD.

Ken Christgen, Exec. Director, Missouri Forest Products Assn., Jefferson City, MO.

Jim Geisinger, Executive Vice President, Northwest Forestry Assn., Portland, OR.

Mike Miller, Executive Vice President, Associated Oregon Loggers, Springfield, OR.

Steve Bennett, Chairman, Appalachian Forest Management Group, Covington, VA.

Gary Donnelly, Executive Vice President, National Lumber Builders & Material, Dealers Assn.

Greg Miller, Executive Vice President, Southern Oregon Timber Industries Assn., Medford, OR.

William Robison, President, American Plywood Assn., Tacoma, WA.

Tom McDonnell, American Sheep Industries Assn., Denver, CO.

James Lee, Executive Director, Kentucky Forest Industries Assn., Frankfort, KY.

Bernard Tomasko, Executive Vice President, Wood Moulding and Millwork, Producers Assn., Portland, OR.

James Riley, Executive Vice President, Intermountain Forest Industries, Assn., Coeur d'Alene, ID.

Rich Lewis, Vice President, American Pulpwood Assn., Washington, DC.

Don Brunell, President, Assn. of Washington, Business, Olympia, WA.

John Healy, Executive Vice President, National Wooden Pallet and Container Association, Washington, DC.

Ron Cornell, Executive Director, Ohio Forestry Assn., Worthington, OH.

Pamela Neal, Executive Director, Public Lands Council, Washington, DC.

Y. Leon Favereau, President, Multiple Use Land Assn., Bethel, ME.

Jim Gundy, Executive Vice President, Appalachian Hardwood Manufacturing Inc., High Point, NC.

Ernie Stebbings, Executive Manager, National Hardwood Lumber Assn., Memphis, TN.

P. Ford Waterman, President, Michigan Assn. of Timbermen, Newberry, MI.

Beryl G. Toler, Chairman, Michigan Forest Resource Alliance, Manistee, MI.

Mark Rey, Executive Director, American Forest Resource Alliance, Washington, DC.

George Mitchell, Executive Director, Northeastern Loggers Assn., Old Forge, NY.

Pamela Neal, Director of Public Lands, National Cattlemens Assn., Washington, DC.

J. William Peterson, Director of Government Affairs, Construction Industry Manufacturers, Assn., Washington, DC.

Bill Dennison, President, Timber Assn. of California, Sacramento, CA.

W. Carroll Lamb, Executive Vice President, Florida Forestry Assn., Tallahassee, FL.

Kathy Kvarda, Coordinator, Alliance for Resources and Environment, Sacramento, CA.

Holly Swanson, Director, Citizens Information Network, Medford, OR.

Ron Hufford, Executive Director, Texas Forestry Assn., Lufkin, TX.

Ed Ehlers, Executive Director, Associated California Loggers, Sacramento, CA.

Don Purcell, President, Portable Power Manufacturers Assn., Bethesda, MD.

Rolf Glerum, Executive Director, Pacific Rim Trade Assn., Portland, OR.

Charles S. Cushman, Executive Director, National Inholders Assn., Battle Ground, WA.

Myron Ebell, Washington Representative, Multiple Use Land Alliance, Washington, DC.

Cathy Nordine, President, Lake States Women in Timber, Land O'Lakes, WI

Chris Boschler, President, Timber Employees Assn. for Responsible Solution, Oregon City, OR.

Beryl Toler, Chairman, Michigan Forest Resource Alliance, Manistee, MI.

Ray Crane, Correspondence Sec., Tahema Alliance for Resources and Environment, Red Bluff, CA.

Troy Reinhart, Executive Director, Douglas Timber Operators, Roseburg, OR.

Larry Wiseman, President, American Forest Council, Washington, DC.

Bill Jacobs, Executive Director, Washington Forest Production Assn., Olympia, WA.

Deborah Baker, Executive Director, Southern Timber Purchasers Council, Atlanta, GA.

Larry Duysen, Chairman, TAKE CARE.

Bob Slocum, Executive Vice President, North Carolina Forestry Assn., Raleigh, NC.

Don Finney, Executive Director, Alaska Loggers Assn., Ketchikan, AK.

Robert H. McKellar, President, Oregon Forest Products Transportation Assn., Salem, OR.

Bob Scott, President, South Carolina Forestry Assn., Columbia, SC.

Don Allen, Executive Vice President, Montana Wood Products Assn., Helena, MT.

Bruce Barker, Assistant Vice President, Minnesota Forest Industries Assn., Duluth, MN.

Wayne Brandt, Vice President, Minnesota Timber Producers Assn., Duluth, MN.

Marilyn Parry, President, Oregon Women in Timber, LaGrande, OR.

Donald C. Chapman, General Chairman, Shasta Alliance for Resource and Environment, Redding, CA.

Tom Hirons, President, Communities For a Great Oregon, Mill City, OR.

• Mr. HATFIELD. I rise to join Senator PACKWOOD, as a cosponsor of S. 1156, the Public Domain Forests and Families Protection Act of 1991, and to share some of my thoughts on the very serious issues this legislation seeks to address.

Eight months ago, I stood on this floor during our debate on an amendment designed to eliminate $100 million from the national forest road construction budget and tried to give my colleagues a better understanding of the effect that Federal decisionmaking has on the people who live and work in resource-dependent communities.

In Oregon, we have over 70 such communities. These places are not just words on a map—they are homes to over 500,000 Oregonians who hold 200,000 jobs directly and indirectly related to the health of a single industry—forest products. These people generate over $2 billion for Oregon's economy—and their communities represent businesses, schools, farms, hopes, and dreams.

In short, Mr. President, these resource-dependent communities represent the lifeblood of Oregon's rural economy—and one form of the diversity which makes the Pacific Northwest a growing, vibrant place to live.

During the past 5 years, however, the Pacific Northwest has changed from what some regard as utopia into a social battlefield. Concern about our global environment has been channeled into actions which affect our lives at home.

A perception has been created that, somehow, Oregon and Washington forests have been mowed down—that literally thousands upon thousands of acres of clearcuts have ravaged the region.

While people can discuss and debate the forest practices which occur on these lands, the fact is that Oregon today has more standing forests than it did 50 years ago. Are these forests different than they were 50 years ago? Yes, without question.

Nearly one-half of our national forest land base—over 8 million acres—has been withdrawn from timber production either predominantly or completely. There are 2.1 million acres of wilderness area alone. More than 6 million more acres are allocated in national scenic areas, national recreation areas, wild and scenic river corridors, research natural areas, and other such special management designations.

And yet, despite all of this, we are still able to produce 20 percent of the Nation's softwood supply—year in and year out.

The battle we face today is over the lands not already protected or withdrawn. But let me be very clear: its not as if over 8 million acres of national forest land will be clearcut in the next decade, because we harvest less than 1 percent per year of the remaining available forest land base.

In 1984, when we finished the Omnibus Oregon Wilderness Act, the Congress released the lands considered for wilderness from further consideration as wilderness. The Congress intended for those lands to be evaluated for their multiple use values in the forest planning process, and for some of those released lands to be placed into timber production.

Instead, just the opposite has happened. Because of strategies designed to secure outside the legislative process that which could not be achieved legislatively, we are now at the point where 11.6 million acres of national forest and private land have been recommended by the U.S. Fish and Wildlife Service for withdrawal for a single species: the northern spotted owl.

The Endangered Species Act has been the primary tool of choice for this lock-up strategy and it has been very effective indeed.

In just 3 years, we have moved from the best biology suggesting a series of spotted owl habitat areas [SOHA's] equaling nearly 2 million acres of land—7.3 million acres of withdrawals in large habitat conservation areas [HCA's] to today's even larger critical habitat areas [CHA's] totaling 11.6 million acres.

I shudder to think what tomorrow's so-called best biology will tell us.

Mr. President, I do not propose that we turn our backs on the Endangered Species Act; in fact, I helped write it. Instead, I believe sound, responsible, and defensible resource management can occur under the Endangered Species Act as it is now written.

But, we are, unfortunately, treading new ground. For the first time, we have applied the ESA to an entire region of the country. The western half of two entire States—Oregon and Washington—and the northwestern section of another—California—plus the southwestern section of the Canadian province of British Columbia are recommended for withdrawal to meet the needs of one animal.

Regrettably, there is no book we can turn to in the library which tells us how to resolve this problem. We must begin to reestablish rational management without divine guidance—indeed, without historic precedence at all.

Senator PACKWOOD has thoroughly captured the substance of this bill in the materials he has submitted for the record, and I will not recount them here. Instead, I simply want to com-

ment on the principles on his legislation—and the process.

The Forests and Families Protection Act attempts to establish a process that will lead to the protection of ecologically significant old growth forests while simultaneously establishing forest planning and management process changes which will provide some predictability for our resource-dependent communities.

This bill is the product of thousands of hours of testimony, discussions, debate, fact-gathering, and lots and lots of just plain hard work. It reflects a clear understanding of the realities facing our communities and their people—a clear understanding of what our forests truly are on the ground—and the biological realities of the world we live in today.

It recognizes the need to work within the tenets of the Endangered Species Act to coordinate protection of the spotted owl with the larger question of the overall stewardship of our forest ecosystems.

Mr. President, based upon conversations I have had with other Senators and other Members of Congress, I realize this is—politically speaking, at least—not a perfect bill. Like all legislative proposals, it will be subject to the twists and turns of the legislative process. Undoubtedly, the final product will look a bit different than this proposal today. And it may be that yet other proposals will emerge in the coming weeks. I will give those proposals, should they come forth, the closest and most objective scrutiny possible. I am willing to entertain any good faith suggestions that will lead my region out of the procedural and legal straitjacket we now collectively are in.

But I urge my colleagues to think carefully about the full implications of what is happening in the Pacific Northwest.

The initial reaction will be for the Nation's forest products markets to seek materials from wherever they may be available. If materials can't be obtained from the Pacific Northwest, they will turn to the South, to the Great Lakes, to Canada, to South America, or to other parts of the world.

The implications are clear: we will be transferring the harvest of timber from Oregon and Washington to regions of the country with no forest practices acts to guide their actions. We will be turning to Canada, which has no formal forest practices laws to guide its foresters. We will turn to South America or to Asia, where they not only do not have forest practices standards, but also practice deforestation, the literal destruction of tens of thousands of acres of tropical rain forest every year.

I do not think that is what any of us wants to see.

In October 1989, I joined my friends and supporters in Silverton, OR, to announce my intention to run for a fifth term in the U.S. Senate. One of the primary reasons I made the decision to run again was to assist in securing a long-term resolution to this national forest management crisis.

In short, my intention is to legislate, not pontificate. The time for windy speeches and flowery rhetoric is at an end. This proposal begins the effort to achieve that goal, and I ask my colleagues to join with us in securing passage of a bill that brings peace to our forests and allows our people to return to their private lives.●

Mr. GORTON. Mr. President, I speak today as an original cosponsor of the Federal Lands and Families Protection Act of 1991. This bill represents a thoughtful balance between the needs of working families in small, Northwest communities and the need to protect the spotted owl and other old-growth dependent species.

On both sides of the equation, this legislation provides certainty. For Northwest communities, which have been victimized by repeated judicial decisions and Fish and Wildlife designations, this legislation provides certainty in the form of minimum harvest levels. For those who believe that the last old-growth tree is about to be harvested, this bill provides certainty by preserving even more old growth than is already protected in national parks and wilderness areas.

Mr. President, this bill is about certainty.

Working families in the Northwest have been torn apart. Since the listing of the Northern Spotted Owl as a threatened species, last spring alone, more than 7,000 timber industry jobs have been lost. But the heaviest blows are the most recent. The U.S. Fish and Wildlife Service has proposed designating almost 12 million acres as the owl's critical habitat. That is a land mass the size of New Jersey, Massachusetts, Delaware, and Rhode Island combined.

This most recent set of owl set-asides could cost as many as 40,000 jobs in the Northwest. And the Federal district court judge has just enjoined almost all Federal timber sales in the Northwest because of perceived Forest Service planning errors. The judge has found the Forest Service guilty of negligence and has sentenced dozens of timber communities to death and the families to living in destitution to punish the Forest Service.

For several years, Congress has turned its back on the families of timber-dependent communities and some in Congress have pointed the finger of blame at the administration.

Mr. President, the burden is on Congress to find a solution and this legislation is introduced today as an effort to face squarely the needs of those people and communities and to offer them some relief.

The Fish and Wildlife Service-Federal Court combination illustrates vividly the need for prompt action on this bill.

Many claim that the last stand of old growth on Forest Service land will soon be logged. That simply is not true; 1.6 million acres of old growth in wilderness areas and national parks and 1.4 million acres of old growth that is unavailable for timber harvest based on current forest plans is already set aside.

Nevertheless, this bill directs the Forest Service and BLM to reserve those additional portions of the forests' old growth that are ecologically significant. We recognize, however, that if left to their current planning practices, the Forest Service and BLM would continue to be the subjects of endless judicial and administrative appeals. We have therefore proposed significant amendments to the Federal land planning statutes to ensure the implementation of enforcement of the forest plans and the prompt and efficient resolution of judicial and administrative appeals.

In order to protect the Northern Spotted Owl, this legislation will require the Forest Service and BLM to establish, after public comment, interim Habitat Conservation Areas. For the long term, the two agencies would be required to incorporate the spotted owl recovery plan and the final critical habitat designation into the plan revision process and consult with Fish and Wildlife on each plan revision.

If consultation with Fish and Wildlife results in a finding of jeopardy or adverse modification to critical habitat and the particular agency, either the Forest Service or BLM, is unable to agree on a reasonable alternative to the plan revision, the revision would be automatically submitted to the Endangered Species Committee. The resulting plan revisions would be deemed sufficient under the Endangered Species Act.

In exchange for old-growth and species protection, I don't believe that timber families are asking too much when they ask for certain minimum harvest levels. The national environmental organizations demand certainty for their interests. Meanwhile, working families who rely on a supply of timber from Federal forests have been paying for those demands with job losses, uncertainty for the future, and frustration. Those families need a return of certainty and stability to their lives. Minimum harvest levels are what they deserve and this legislation finally provides them with that relief.

This day marks the beginning of a debate in which all interested parties are now joined. This legislation represents a remarkable coalition of labor and management, two interests all to rarely found on the same side of an issue. I would hate to miss this oppor-

tunity to capitalize on such a powerful coalition. Together, labor and management realize the need to sustain a timber supply. Without this bill, the hope of sustaining working families and communities in the Northwest stands little chance. With it, that hope stands at least on equal ground with the hope of protecting the spotted owl and other old-growth dependent species.

This bill offers the opportunity to place human and community values on an equal plane with species values.

I thank the current cosponsors of this bill: Senators HATFIELD, HEFLIN, BREAUX, SHELBY, and MURKOWSKI. I encourage all Members of this body to look this bill over very thoroughly and I hope that more of you will consider supporting it.

By Mr. DASCHLE:

S. 1157. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax; to the Committee on Finance.

CREDITS AGAINST THE ALTERNATIVE MINIMUM TAX

Mr. DASCHLE. Mr. President, a successful national energy policy requires that we shift our reliance away from finite fossil fuels toward the infinite supply of renewable alternative technologies. To that end, earlier this year I introduced S. 141, which would extend for 5 years the business energy tax credits set forth in section 46 to the Internal Revenue Code for investment in solar and geothermal energy facilities. Those credits are scheduled to expire at the end of this year. Today I am introducing legislation that would permit the credits to be taken against the alternative minimum tax, for those businesses subject to its provisions. These energy credits represent a small but important contribution to developing a broader, more sensible, and more reliable national energy strategy.

The promotion of renewable energy sources is more important now than ever before. If recent events in the Persian Gulf have demonstrated anything, it is that we cannot continue to ignore our increasing dependence on imported oil. The world's oil supply is going to run out. Nothing can change that. However, to the extent that we foster and encourage the development of solar and geothermal technologies, we can reduce our reliance on imported oil.

Moreover, the need to slow the detrimental effects on our environment of traditional sources of energy is as important as energy supply and security. Renewable energy sources are the answer to this need. I have often spoken on the merits of alcohol fuels in this regard. Solar and geothermal energy have similar potential for the environment. For example, in the solar mode of operation, solar technology has no combustion-related emissions at all. Even when using backup fossil fuel to assure reliability, present generation solar technology produces far less carbon dioxide than natural gas, the cleanest fossil fuel alternative. Geothermal plants also emit substantially less carbon dioxide than gas, oil, or coal-fired plants for the same electrical output.

Recent investment in solar and geothermal technologies is just beginning to yield potential return in the form of energy security and an improved environment. These technologies are not yet at the point, however, where they are commercially viable. The tax credits provide the margin needed to keep renewable projects in operation. It would be counterproductive not to extend the credits at this time, in view of our national investment to date and our desire to lessen our dependence on imported oil.

Similarly, it makes no sense that the credits currently may not be taken against the alternative minimum tax. This undercuts the effectiveness of the credit, since, in many cases, the credit earned when a solar or geothermal facility is placed in service cannot now be used because the business entity is subject to the alternative minimum tax. The legislation I am introducing today would address this anomaly and allow the credit against the alternative minimum tax as well.

I will be working in the weeks and months ahead in support of these pieces of legislation, as well as a variety of other tax incentive measures relating to renewable energy sources and conservation. Some of my colleagues have introduced similar measures. I hope we can all work together to achieve our common goals. No less than our children's and grandchildren's future is at stake.

Mr. President, I ask unanimous consent that the text of both S. 141 and the measure I am introducing today be printed in the RECORD.

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

S. 141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SOLAR AND GEOTHERMAL ENERGY CREDITS.

Section 48(a)(2)(B) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking "1991" and inserting "1996".

S. 1157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES RELATING TO ENERGY CREDIT.

(a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR ENERGY CREDIT—

"(A) IN GENERAL.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) RULES FOR APPLICATION OF ENERGY CREDIT.—

"(i) IN GENERAL.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (A) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) ENERGY CREDIT.—For purposes of this paragraph, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a)."

(2) Paragraph (2) of section 55(c) of such Code is amended to read as follows:

"(2) CROSS REFERENCES.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provision allowing energy credit against the tax imposed by this section, see section 38(c)(3)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

By Ms. MIKULSKI:

S. 1158. A bill to amend title 38, United States Code, to provide for the payment, on a interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if the claims of such persons for such benefits are not resolved by the Secretary of Veterans Affairs within specified time periods, to provide for the provision of interim rehabilitative and counseling services, and for other purposes; to the Committee on Veterans' Administration.

VETERANS CLAIM ADMINISTRATIVE EQUITY ACT OF 1991

Ms. MIKULSKI. Mr. President, today I am introducing legislation designed to deal with the growing backlog of pending claims at the Department of Veterans Affairs, and to address the appalling quality of service our veterans are receiving at VA.

Veterans are being forced to wait more than 6 months in many cases to get a disability claim decided by VA. VA has an average monthly backlog of about 390,000 claims. This is simply unacceptable.

It's time veterans get the services they were promised and that they so highly deserve. Veterans are living testament to the principles that have

kept this country strong and free. When we think of our veterans, we think of everything that is good about this country—patriotism, courage, loyalty, duty, and honor. Now we need to live up to our responsibility of ensuring that the promises made to veterans are promises kept.

That's why I'm introducing a bill today which is intended to get VA off the dime and force them to address this issue.

What my bill will do, is require VA to make interim payments to a veteran whose claim for compensation, pensions or disability payments is not decided within 180 days—VA's own standard. It also requires VA to contract for vocational rehabilitation and counseling services for a veteran if VA does not provide care within 60 days of application.

For too long, those in the VA's bureaucracy have argued that the problem is inadequate funding. More funding, for more staff, which leads to more bureaucracy, redtape, and a mounting backlog of claims.

As chair of the Appropriations Subcommittee which funds the Department of Veterans Affairs, I have increased the Veterans Benefits Administration's budget by 17 percent since I took over the subcommittee in 1989. And still the delays and backlogs continue.

Mr. President, on Monday we will be observing Memorial Day. A day when we honor and pay tribute to those who have served our country and made it safe for democracy. But yellow ribbons and parades are not enough—we need to take action where action is needed! It is not unreasonable for veterans to expect a decision on a claim within 6 months. I hope I can count on your support.

By Mr. GORE (for himself, Mr. KASTEN, Mr. DODD, Mr. AKAKA, Mr. ADAMS, Mr. HEFLIN, Mr. MOYNIHAN, Mr. WELLSTONE, Mr. PELL, Mr. BUMPERS, Ms. MIKULSKI, Mr. GORTON, Mr. BRYAN, Mr. RIEGLE, Mr. KENNEDY, Mr. DASCHLE, and Mr. CHAFEE):

S. 1159. A bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States; to the Committee on Commerce, Science, and Transportation.

TROPICAL FOREST CONSUMER INFORMATION AND PROTECTION ACT

• Mr. GORE. Mr. President, I rise today to introduce legislation that gives consumers the opportunity to make a positive and powerful contribution to the sustainable management of tropical rain forests. This bill calls on the Secretary of Commerce to make available to the public information on tropical forest logging practices, and to require tropical wood products to bear a label indicating the country of origin of the wood used to produce them. I am joined in this initiative by 16 of my distinguished collegues.

Every day, some 140,000 acres of tropical rain forest are torn down. As these trees fall to the chain saw, the damage is felt locally and globally.

Over one-half of the species on this planet live in rain forests. But every day, rampant deforestation drives as many as 50 species to extinction. Some scientists have compared this rate of destruction to the mass extinctions that led to the demise of the dinosaurs some 65 million years ago.

The plants and animals of the forests are valuable not only because of their beauty; many are also potentially potent therapeutic agents. In fact, there is a 1-in-5 chance that the medicine we purchase at the drug store is produced from raw materials harvested from rain forest plants, and 70 percent of the plants known to possess cancer-fighting properties come from the lowland tropics.

Rain forests also play a significant and complex role in the global climate. The Amazonian rain forest is the source of 20 percent of all river water that flows into the world's oceans, and rain forest trees are sinks for tons of the carbon dioxide that industrial civilization pours into the atmosphere. In addition, trees play a vital role in continuing the cycle of water from the air to the Earth; the loss of trees rapidly leads to desertification and severe soil erosion. Within 3 to 4 years after forests are burned or cut down, the area becomes a wasteland, unable to support life.

This destruction is unnecessary. Forests can be managed sustainably. Indeed, forest tracts that have been used to produce commodities such as fruit and rubber, in addition to wood products, have generated six times as much revenue as those used for wood alone. Moreover, in Java, centuries-old plantations of teak are managed in an environmentally responsible manner. The same is true of some rubber wood forests in Malaysia that have been cared for by indigenous people and harvested with minimal impact.

Mr. President, I believe we can make a difference. The United States imports a significant amount of tropical wood, about one-third—in value terms—of the world's trade. We therefore have a tremendous opportunity to encourage sustainable forestry practices. To do so, however, we need to provide consumers with the information they need to make sound purchasing decisions.

This legislation is an important first step. I look forward to working with my colleagues to secure its passage.•

By Mr. D'AMATO (for himself and Mr. SPECTER):

S. 1160. A bill to amend and extend programs under the Urban Mass Transportation Act of 1964; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL MASS TRANSPORTATION ACT

• Mr. D'AMATO. Mr. President, I rise today to introduce a bill which reauthorizes the Federal mass transportation program for the next 5 years. I am joined by my colleague, Senator SPECTER. This legislation represents what I believe is an important framework for the committee's reauthorization work.

As ranking member of the Banking Subcommittee on Housing and Urban Affairs, I will work on a bipartisan basis with the chairman to reauthorize the transit program which expires on September 30. As we have documented throughout the subcommittee hearing process, transit needs have never been greater.

Times are tough everywhere. Fiscal pressures are forcing service cuts and fare increases across this Nation. While revenue is falling, the responsibilities of our rail and bus systems are growing.

Federal spending on transit is an investment in our Nation and our people. It strengthens our infrastructure, creates jobs, and moves people, goods, and services. And now more than ever, it is time to recognize transit's vital role in attaining national energy, economic, and environmental goals.

The New York-New Jersey-Connecticut region carries over one-third of our Nation's riders. Federal investment in this region has helped to address critical congestion and pollution problems, reduce our dependence on imported oil, and increase productivity. As the financial and commercial center of this Nation, Federal investment there is Federal investment nationwide.

Since 1982, the MTA alone has spent $16 billion on capital improvement projects. This has generated $19.5 billion in economic activities throughout New York State. It also produced 207,350 person years of employment and some 14,800 jobs annually in New York State. This money has stimulated billions of dollars in economic activity around the country. For example, the MTA has spent over $245 million with firms in California, $243 million in Connecticut, $599 million in New Jersey, $143 million in Illinois, and many millions more in Pennsylvania, Texas, Ohio, Michigan, Alabama, South Carolina, Delaware, Virginia, New Mexico, and even in Washington, DC.

I ask my colleagues to recognize the vital national economic contributions that are made by an investment in these transportation programs.

This legislation does not represent major changes in the current program structure. It highlights predictability by relying on more formula and less discretionary funding. It also begins to spend down the trust fund in a responsible manner. It increases funding for rural areas and for the elderly and

handicapped program. It also includes the President's planning and research proposal which will increase attention on research and technology development with coordination of the private sector, the academic community, and State and local governments.

The Federal Mass Transportation Act of 1991 is funded by a combination of funds from the mass transit account of the highway trust fund as well as general revenue funds. This approach will allow us to make improvements to our Nation's transportation systems with the user fees collected for such purposes. This legislation will responsibly draw down the growing surplus in the mass transit account while ensuring that an adequate balance remains in the account to meet future transportation needs. Additionally, this bill would use $1.8 billion in general funds to augment the trust fund dollars.

Mr. President, I submit that the continued use of general funds to support mass transit is reasonable. Use of these funds is just, because it enables us to assist our Nation's rural and urban transit operators in meeting the costly and complex social, environmental, and other national goals imposed on transit by other congressional action, such as the Americans With Disabilities Act and the Clean Air Act.

In this legislation we are overhauling the transportation planning process to coordinate with Clean Air Act amendments and to be more creative in meeting mobility problems through congestion management, increased emphasis on energy conservation, and greater local coordination.

This bill places greater emphasis on past congressional efforts to restore our older urban rail systems by providing Federal formula funds for rail modernization projects. This approach will enable our older rail systems to develop improvement plans based on reliable Federal funding levels. In addition, these funds will be made available on a formula basis that takes into account both the size and ridership of our Nation's urban systems.

While this bill amends the process by which new starts rail systems may qualify for Federal funding, I remained concerned that the process used by UMTA is too cumbersome and time consuming. It frustrates local decision-making and delays greatly needed improvements. In light of the obvious need to move expeditiously to provide transit improvements in nonattainment areas and to address the need to efficiently and effectively use flexible transportation dollars, I feel very strongly that we must work to revise and streamline the present policies and procedures for new systems. I look forward to working with the committee chairman on these changes.

This bill draws upon many elements of the administration's proposal for surface transportation programs (S. 610), including further streamlining of the section 9 Block Grant Program. More than two-thirds of all the funding in this bill is distributed through section 9 to all 50 States on a formula basis. This bill does not, however, accommodate the administration's proposal to eliminate the use of Federal funds for operating expenses and does not incorporate its proposal to double the required local funding match. While I encourage these localities which are able to overmatch Federal transit funds to do so, I cannot support the proposal to require greater local funding levels.

It is important to note that despite our best efforts over the last 10 years, the value of Federal outlays for mass transit has declined by 50 percent. Like other vital programs, the failure of the Federal transit programs to keep pace with inflation and routine maintenance and service needs has resulted in the transfer of major financial investment in mass transit from the Federal to the local level. A continuing and sizable Federal partnership in financing transit projects is justified by the role that public transportation plays in both our urban and our rural areas. America's economic health and well-being is dependent on the economic health of its cities and rural areas.

Mr. President, this legislation would also provide for further pursuit of ways to improve safety on our transit systems. I am still not satisfied with the level of safety found in some of our transit systems, be it in terms of crimes committed against transit riders or in terms of inadequate equipment or operating procedures which potentially jeopardize transit riders. This bill would require the Secretary of Transportation to make recommendations to Congress on the need for legislative or administrative action necessary to pursue the elimination of hazards that pose the potential for death or injury to transit users.

Mr. President, I look forward to working with the chairman and the committee on these and other important issues.

Mr. President, I ask unanimous consent that the text of my bill be printed in its entirety at the conclusion of my remarks as well as the statement by Gov. Mario Cuomo and the Metropolitan Transportation Authority.

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

S. 1160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Mass Transportation Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Redesignation of UMTA.
Sec. 4. Commute-to-work benefits.
Sec. 5. Capital grant or loan program.
Sec. 6. Discretionary grants—elderly and handicapped.
Sec. 7. Multiyear funding authority.
Sec. 8. Criteria for new starts.
Sec. 9. Allocations.
Sec. 10. Planning.
Sec. 11. Formula grant program apportionments.
Sec. 12. Distribution of funds.
Sec. 13. Certifications.
Sec. 14. Program of projects.
Sec. 15. Associated capital maintenance items.
Sec. 16. Revenue retention.
Sec. 17. Flexible use.
Sec. 18. Operating assistance for new urbanized areas.
Sec. 19. Grandfather designated recipients.
Sec. 20. Discretionary transfer of apportionment.
Sec. 21. Delegation of environmental assessment responsibility.
Sec. 22. Research and training grants.
Sec. 23. Rulemaking.
Sec. 24. Transfer of facilities and equipment.
Sec. 25. Vehicle lease.
Sec. 26. Limitation on administration.
Sec. 27. Authorizations.
Sec. 28. Interstate transfer.
Sec. 29. Rural program.
Sec. 30. 16(b) program.
Sec. 31. Program authorizations.
Sec. 32. Safety authority.
Sec. 33. Planning and research.
Sec. 34. Multiyear contract for Queens Extension Project.
Sec. 35. World University Games.
Sec. 36. Cross-County Metro.
Sec. 37. Technical accounting provisions.
Sec. 38. Stage II LRT rehabilitation in Allegheny County.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 2(a) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601(a)) 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 the following: "; and"; and

(3) by adding at the end the following:

"(4) that national goals for improved air quality, energy conservation and independence, international competitiveness, and mobility for elderly, disabled, and economically disadvantaged persons depend upon significant contributions by the public transportation sector.".

(b) PURPOSE.—Section 2(b) of the Urban Mass Transportation Act of 1964 (50 U.S.C. App. 1601(b)) 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 the following:

"(4) to provide assistance to State and local governments and their instrumentalities in their efforts to implement programs and promote policies that are supportive of national goals and Federal mandates especially those relating to improved air quality, energy conservation and independence, international competitiveness, and mobility for elderly, disabled, and economically disadvantaged persons.".

SEC. 3. REDESIGNATION OF UMTA.

(a) IN GENERAL.—The Urban Mass Transportation Administration is hereby redesignated as the "Federal Transit Administration".

(b) CONFORMING AMENDMENTS.—Titles 5 and 49, United States Code, are amended by deleting "Urban Mass Transportation" wherever it appears and inserting in lieu thereof "Federal Transit Administration".

(c) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Administration" is amended by deleting "Urban Mass Transportation Administration" and inserting in lieu thereof "Federal Transit Administration".

SEC. 4. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy treatment of commute-to-work benefits is inequitable with that of drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives including the need to conserve energy, reduce reliance on energy imports, lessen congestion and clean up our Nation's air;

(3) commute-to-work benefits can be looked to as part of the solution to our national objectives;

(4) current Federal law only allows employers to provide up to $15 a month in employee benefits for transit or vanpools;

(5) the current "cliff provision" unduly punishes ambitious employer provided benefit programs by treating the entire benefit as taxable income;

(6) the economic benefits of employer participation in a commute-to-work program are many, and they include a low cost employee fringe benefit, a recruitment and retention tool for lower wage jobs, relief of parking problems and costs to provide parking and use as an incentive tool to reward employees for arriving to work on time; and

(7) legislation has been introduced with bipartisan support in both the House of Representatives and the Senate that supports equitable treatment of employer-provided commute to work benefits.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of commute-to-work benefits. Such a Federal policy "levels the playing field" between transportation modes and is consistent with the important national policy objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 5. CAPITAL GRANT OR LOAN PROGRAM.

The heading of section 3 of the Urban Mass Transportation Act of 1964 (50 U.S.C. App. 1602) is amended by striking "DISCRETIONARY" and inserting in lieu thereof "CAPITAL".

SEC. 6. DISCRETIONARY GRANTS—ELDERLY AND HANDICAPPED.

Section 3(a)(1) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1602(a)(1) is amended by striking the period at the end of subparagraph (E) and inserting the following: "; and

"(F) mass transportation services which are planned, designed, and carried out to meet the special needs of elderly and handicapped persons, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under this section.".

SEC. 7. MULTIYEAR FUNDING AUTHORITY.

Section 3(a)(4) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1602(a)(4)) is amended—

(1) by inserting after the fourth sentence the following: "The Secretary's participation may include the allowable Federal participation in the defined project as provided by this Act, to include the costs (inclusive of debt service), to retire any long-term debt issued by the applicant to finance the project, including debt incurred by the applicant to complete the project for which a letter of intent or full funding contract has been issued by the Secretary when such debt is incurred due to the lack of funds being made available in appropriations Acts in accordance with the approved project budget. The Secretary is to determine the allowable cost of such debt service based on reasonable costs available to the applicant rather than on any calculation of inflation impact on the project cost.";

(2) in the seventh and ninth sentences, by inserting "or full funding contract" after "letter";

(3) in the seventh sentence—

(A) by striking "shall" and inserting "may"; and

(B) by striking the comma after "Act" in the seventh sentence and inserting in lieu thereof "not to exceed, in the aggregate, more than 10 percent of the projected unobligated balance of the Mass Transit Account of the Highway Trust Fund as of October 1, 1996,";

(4) in the ninth sentence, by inserting "and full funding contracts" after "all outstanding letters of intent"; and

(5) in the tenth sentence, by inserting "and full funding contracts executed" after "by new letters issued".

SEC. 8. CRITERIA FOR NEW STARTS.

Section 3(i) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1602 (i)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(2) by striking "No grant" and inserting the following: "(1) DETERMINATIONS.—No grant";

(3) by striking "and" at the end of subparagraph (B), as redesignated;

(4) by striking the period at the end of subparagraph (C), as redesignated and all that follows and inserting the following: "; and

"(D) is based upon a thorough assessment of the feasibility of using a variety of innovative financing mechanisms in connection with the construction and operation of the project, as well as for its long-range finance plan for meeting overall system capital and operating costs including—

"(i) benefit assessment districts,

"(ii) private developer cost sharing arrangements,

"(iii) public-private joint development arrangements,

"(iv) possible private asset ownership, and

"(v) other such techniques.

"(vi) Notwithstanding the criteria of this subparagraph, the Secretary is authorized to make grants for the development of corridors to support fixed guideway systems. Such grants may be used for bus service improvements, unique marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements such as dedicated bus and high occupancy vehicle lanes and construction of park and ride lots, and any other improvements that the Secretary may determine would result in increased transit usage in the corridor.

"(2) CONSIDERATIONS.—In making a grant or loan under this section, the Secretary—

"(A) shall consider the direct and indirect costs of a highway project with capacity comparable to that to be provided by proposed transit alternative;

"(B) shall include factors to measure economic development, congestion relief, improved mobility, air quality impacts, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall issue guidelines that set forth the means by which the Secretary will evaluate cost-effectiveness, results of alternatives analysis, and degree of local financial commitment. The Secretary shall not prohibit the simultaneous evaluation of new fixed guideway projects or projects to extend any fixed guideway in more than one corridor in a metropolitan area if each corridor is found to contain at least one potential project meeting the minimum criteria established by the Secretary for a project to enter into the prescribed process for alternatives analysis and preliminary engineering. Such cost-effectiveness evaluations shall be adjusted to reflect differences throughout the Nation in local land costs, construction costs, and operating costs. A new fixed guideway system or extension of any fixed guideway system shall not be subject to an alternatives analysis if the project (i) is located within a nonattainment area as defined by the Clean Air Act and is contained within a State Implementation Plan, or (ii) is financed with funds provided under the Federal Highway Act.

"(3) SECRETARY'S DETERMINATIONS.—The Secretary shall determine—

"(A) whether a proposed project is cost-effective based on a summary of the findings provided for in this section; and

"(B) that a proposed project is supported by an acceptable degree of local financial commitment only if—

"(i) the amount of local funding provided to the project is equal to or more than the amount required by law;

"(ii) the proposed financial plan provides for the availability of contingency funds which are adequate to cover unanticipated cost overruns;

"(iii) each proposed local source of capital and operating funding is stable, reliable and available within the proposed project timetable; and

"(iv) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(4) LOCAL FUNDING.— In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(A) existing grant commitments;

"(B) the degree to which funding sources are dedicated to the purposes proposed; and

"(C) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(5) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding contract.".

SEC. 9. ALLOCATIONS.

Section 3(k) of the Urban Mass Transportation Assistance Act of 1964 (49 U.S.C. App. 1602(k)(1)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, and 1996—

"(A) 41.25 percent shall be available for rail modernization;

"(B) 41.25 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 17.5 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities."; and

(2) by adding at the end the following:

"(3) NEW CONSTRUCTION AND BUS PURCHASE.—15 percent of the amounts that are available for the purposes described in subparagraphs (B) and (C) of paragraph (1) shall be available for projects described in such subparagraphs, as determined by the Secretary.

"(4) OLD RAIL SERVICE.—Of the amounts available under subparagraph (A) of paragraph (1), $455,000,000 shall be made available in each of fiscal years 1992 through 1996 to those urbanized areas that have received grants under this section for rail modernization projects in at least 12 of the Federal fiscal years in which the Secretary has made funding available for such projects, so that each urbanized area receives no less in each of fiscal years 1992, through 1996 than the 7-year average of funds received by each such urbanized area in fiscal years 1984 through 1990.

"(5) REMAINDER.—Of the remaining funds available under subparagraph (A) of paragraph (1), all amounts up to $535,000,000 shall be made available to all urbanized areas with fixed guideway facilities except those urbanized areas as described under paragraph (6). All funds available under subparagraph (A) of paragraph (3) in excess of $535,000,000 shall be made available to all urbanized areas with fixed guideway facilities.

"(6) APPORTIONMENT.—Funds made available under paragraph (5) shall be apportioned on the basis of a formula under which each urbanized area or part thereof will be entitled to receive the sum of the following:

"(A) 60 percent of such funds multiplied by the ratio which the number of fixed guideway revenue vehicle miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway revenue vehicle miles attributable to all such urbanized areas; and

"(B) 40 percent so made available multiplied by the ratio which the number of fixed guideway route miles attributable to the urbanized area, as determined by the Secretary, bears to the total number of all fixed guideway route miles attributable to all such urbanized areas.

"(7) AVAILABLE USES.—Sums apportioned under paragraph (6) shall only be available for the purposes under subsection (a)(1)(B) of this section, and shall be made available for obligation by the recipient for a period of 3 years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under paragraph (6) for the succeeding fiscal year not later than 30 days after the end of such period.

"(8) DEFINITION.—As used in this section, the term 'rail modernization' means a project to replace, renovate or refurbish facilities and equipment which are functionally or economically obsolete with new components, subsystems, or entire units, as necessary, to achieve original levels of service, safety, capacity or reliability commensurate with standards established by the applicant.".

SEC. 10. PLANNING.

Section 8 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607) is amended to read as follows:

"SEC. 8. METROPOLITAN PLANNING.

"(a) IN GENERAL.—

"(1) NATIONAL INTEREST.—It is in the national interest to encourage and promote the development of transportation systems embracing a variety of modes of transportation in a manner that will serve the States and local communities efficiently and effectively.

"(2) COOPERATION WITH STATE AND LOCAL BODIES.—To accomplish the objective described in paragraph (1), the Secretary shall cooperate with State and local officials in urbanized areas in the development of transportation plans and programs, and shall formulate with due consideration to comprehensive long-range land use plans, development objectives, overall social, economic, environmental, system performance, historic and neighborhood preservation, and energy conservation goals and objectives and with their probable effect on the future development of the area.

"(3) DEVELOPMENT PROCESS.—The process for developing plans and programs shall be coordinated with the process for the development of the transportation measures of the State Implementation Plan required by the Clean Air Act. The transportation planning process at a minimum shall cover the existing urbanized area and the area expected to become urbanized within the forecast period, and may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area (MSA/CMSA) at the discretion of the Governor and the affected units of local government. Such coverage of the planning process provided by this section may be especially warranted to assist urbanized areas in complying with the requirements of the Clean Air Act.

"(b) PLANNING FOR URBANIZED AREAS.—

"(1) CONTINUING PROCESS.—In urbanized areas with a population of 50,000 or more persons, transportation plans and programs shall be based on a continuing transportation planning process carried out by a metropolitan transportation organization in cooperation with the State and transit operators, and shall be comprehensive to the degree appropriate based on the complexity of transportation problems, including transportation related air quality problems, in the affected areas.

"(2) COMPREHENSIVE PLANNING.—The process shall—

"(A) consider all modes of transportation, including intermodal connectivity, and the balance between future development and transportation needs, including opportunities for corridor preservation;

"(B) include the development of—

"(i) a transportation improvement program, and

"(ii) long-term financial plans (to include consideration of innovative financing mechanisms) for regional urban mass transit improvements and the revenue available from current and potential sources to implement such improvements;

"(C) include an analysis of areawide multimodal congestion management techniques, demand management techniques, participation of private enterprise, and the use of transportation management associations appropriate for the size of the area and the complexity of transportation problems in the area, including air quality problems;

"(D) address air quality considerations;

"(E) in nonattainment areas for transportation related pollutants, be coordinated with the process for development of the transportation element of the State Implementation Plan required by the Clean Air Act; and

"(F) include an evaluation of the costs and impacts of proposed actions on mobility and air quality.

"(3) CONGESTION MANAGEMENT STRATEGIES.—No highway project in urbanized areas of 200,000 or more persons that, by reconstruction or new construction, significantly increases the vehicle carrying capacity of a transportation corridor shall be approved by the Secretary unless the project is consistent with the congestion management strategies developed for the area.

"(c) METROPOLITAN PLANNING ORGANIZATION.—A metropolitan planning organization shall be designated in each urbanized area by agreement among the units of general purpose local government and the Governor to carry out the transportation planning process required by this section. Those agencies currently designated as metropolitan planning organizations shall remain so designated unless, absent State law to the contrary, at least 75 percent of the units of general purpose local governments representing at least 90 percent of the population of an urbanized area and in cooperation with the Governor, redesignate any representative organization as the metropolitan planning organization.

"(d) TRANSPORTATION IMPROVEMENT PLAN.—The metropolitan planning organization, in cooperation with the State and transit operators, shall develop a transportation improvement program in accordance with subsection (b) that includes all projects proposed for funding within the study area under this Act.

"(e) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into working agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation facilities and equipment.

"(2) CRITERIA.—A grant, contract, or working agreement under this section shall be made in accordance with criteria established by the Secretary.".

SEC. 11. FORMULA GRANT PROGRAM APPORTIONMENTS.

Section 9(a) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(a)) is amended by striking "from the general fund of the Treasury under section 21(a) of this Act" each place it appears and inserting "under section 21(d)".

SEC. 12. DISTRIBUTION OF FUNDS.

Section 9(b) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1607a(b)) is amended—

(1) by inserting before the period at the end of paragraph (2)(B) the following: ", and in the case of routes where multiple tracks or lanes are in use in the same direction, shall

include all such tracks or lanes in the computation of total fixed guideway route miles"; and

(2) by adding after paragraph (3) the following new paragraph:

"(4) In the interest of supporting the National Energy Strategy, designated recipients under this section which are able to demonstrate energy or operating efficiencies by using less equipment while providing revenue service to the same number of riders without a reduction in the frequency of service and which certify such energy and operating efficiencies to the Secretary shall have their apportionment for any fiscal year made with regard to paragraph (2)(B) based on the fixed guideway revenue vehicle miles reported under section 15 as that level reported to the Secretary for the 1990 reporting year or the current reporting year, whichever is greater.".

SEC. 13. CERTIFICATIONS.

Section 9(e)(3) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(e)(3)) is amended—

(1) in subparagraph (B), by inserting "including domestic and offshore safe harbor lease transactions" after "otherwise,";

(2) in subparagraph (C), by inserting "(excluding track, signal and communications and other wayside equipment)" after "equipment,"; and

(3) by adding at the end the following:

"Such certifications shall be submitted on a one-time basis as part of a fiscal year grant application. The Secretary shall publish a list of all certifications required under this paragraph for any fiscal year in conjunction with subsection (q).".

SEC. 14. PROGRAM OF PROJECTS.

Section 9(f)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C App. 1607a(f)(2)) is amended by inserting ", the sum of which may, for local planning purposes, exceed the annual apportionments to an urbanized area under subsections (a)(1) and (a)(2), and subsections (a)(1), and (a)(2) of section 9A" after "projects".

SEC. 15. ASSOCIATED CAPITAL MAINTENANCE ITEMS.

Section 9(j) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(j)) is amended—

(1) in the last sentence of paragraph (1), by striking "materials and" each place it appears and inserting "materials, and supplies (not including fuel and lubricants)"; and

(2) in paragraph (2), by inserting ", and supplies (not including fuel and lubricants)" after "materials" each place it appears.

SEC. 16. REVENUE RETENTION.

Section 9(j) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(j)) is amended by adding at the end the following:

"(3) Net income received from the use, lease, or sale of airspace or adjacent property acquired as a result of a project funded under this section or section 3(a)(1), including property found to be incidental or surplus upon project completion, or such income derived from the disposal of fungible items such as gravel, rail ties, or rail and excluding rolling stock, which have been fully depreciated over their useful lives shall be totally retained by the recipient for projects eligible under this section or section 3(a)(1) of this Act. The Secretary may not (A) award any grant or make any loan under this Act on the condition that such net income must be used to finance a part of any project for which funding is sought under this Act, or to reimburse the United States for grants or loans made pursuant to this Act, or (B) use such net income in any calculation of net project cost under section 4(a).".

SEC. 17. FLEXIBLE USE.

Section 9(j) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(j)) is amended by adding at the end the following:

"(4) Up to 15 percent of funds made available to urbanized areas under this section may be used to finance the construction of projects designed to meet capacity expansion needs, to improve the movement or use of mass transit and shared ride programs, or to facilitate the development of intermodal facilities. No grant shall be provided under this paragraph unless the designated recipient certifies that basic transit maintenance needs have been addressed in the metropolitan planning process, and projects have been programmed in the transportation improvement program to meet such needs.".

SEC. 18. OPERATING ASSISTANCE FOR NEW URBANIZED AREAS.

Section 9(k)(2)(A) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(k)(2)(A)) is amended in the second sentence by inserting ", based on the full authorization as provided in section 21(d)," after "apportionment".

SEC. 19. GRANDFATHER DESIGNATED RECIPIENTS.

Section 9(m) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(m)) is amended by adding at the end the following:

"(3) Any entity acting as a designated recipient of funds provided by this section in urbanized areas with populations of less than 200,000 persons prior to the date of enactment of this paragraph shall continue to be authorized to receive and dispense such funds upon enactment of this paragraph.".

SEC. 20. DISCRETIONARY TRANSFER OF APPORTIONMENT.

Section 9(n)(1) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a(n)(1) is amended—

(1) by inserting "16(b) or" before "18(a)" in the first sentence; and

(2) by adding at the end the following: "The Governor may transfer an amount of the State's apportionment under section 16(b) to supplement funds apportioned to the State under section 18(a) or subsection (d).".

SEC. 21. DELEGATION OF ENVIRONMENTAL ASSESSMENT RESPONSIBILITY.

Section 9 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607a) is amended by adding at the end the following:

"(r) NATIONAL ENVIRONMENTAL POLICY ACT.—

"(1) DELEGATION.—In lieu of the Federal environmental review procedures otherwise applicable under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (hereafter referred to as 'NEPA'), the Secretary may provide by regulation for the approval of projects by recipients of assistance under this section who assume all the responsibilities for environmental review, decisionmaking, and action pursuant to NEPA, and other provisions of law that would apply to the Secretary if the projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this paragraph after consultation with the Council on Environmental Quality.

"(2) CERTIFICATION.—Recipients of assistance described in paragraph (1) shall submit a one-time certification under the regulations authorized by paragraph (1). Such certification shall—

"(A) be in a form acceptable to the Secretary;

"(B) be executed by the chief executive officer or other officer of the recipient of assistance under this section qualified under the regulations referred to in paragraph (1);

"(C) specify that the recipient of assistance under this section will carry out fully its responsibilities as described in paragraph (1);

"(D) specify that the certifying officer consents to assume the status of a responsible Federal official, as defined in NEPA, subject to regulations issued by the Secretary, insofar as the provisions of NEPA apply under the regulations authorized under paragraph (1), and is authorized and consents on behalf of the recipient of assistance under this section and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities; and

"(E) include an agreement that the Secretary's acceptance of any certification shall be deemed to satisfy the Secretary's responsibilities under NEPA, as the regulations of the Secretary specify, insofar as those responsibilities relate to the approval of projects under this section.

"(3) COMPLIANCE.—If the Secretary determines that a recipient has failed to comply substantially with any provision of this subsection or any certification made under paragraph (2), the Secretary shall notify the recipient that, if it fails to take corrective action within 60 days from the receipt of notification, the Secretary will withhold future payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.".

SEC. 22. RESEARCH AND TRAINING GRANTS.

Section 11 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1607c) is amended—

(1) in the third sentence of subsection (a), by inserting "safety," after "engineering,"; and

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

"(c) NATIONAL COOPERATIVE TRANSIT RESEARCH CENTER.—

"(1) GRANTS FOR ESTABLISHMENT AND OPERATION.—In addition to grants authorized by subsections (a) and (b), the Secretary shall make grants to the National Cooperative Transit Research Center.

"(2) RESPONSIBILITIES.—The responsibilities of the Center shall include, the conduct of research concerning short-term operating problems experienced by public transportation service providers receiving assistance under this Act.".

SEC. 23. RULEMAKING.

Section 12(i) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1608(i)) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary may not use any other method to propose or implement rules governing activities under this Act except as provided under this subsection.".

SEC. 24. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1608) is amended by adding at the end the following new subsection:

"(k) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient determines that facilities and equipment acquired with assistance under this Act are no longer needed for their original purposes, the Secretary may authorize the transfer of such assets to any public body to be used for a public purpose, with no further obligation to the Federal Government, the Secretary determines that—

"(A) the transfer is subject to the condition that any such facilities (including land) or equipment remain in public use for a period of not less than 5 years after the date of the transfer;

"(B) there are no purposes eligible for assistance under this Act for which the asset should be used;

"(C) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(D) in the case of facilities (including land), through an appropriate screening or survey process, there is no interest in acquiring the asset for Federal use.

"(2) DOCUMENTATION.—If the Secretary finds that a transfer is warranted under this subsection, the Secretary shall set forth in writing the rationale for the decision that the transfer is appropriate under paragraph (1).

"(3) RELATION TO OTHER PROVISIONS.—The provisions of this subsection shall be in addition to and not in lieu of any other provision of law governing the use and disposition of facilities and equipment under an assistance agreement.".

SEC. 25. VEHICLE LEASE.

Section 16(b) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1612(b)) is amended by adding at the end the following: "The Secretary shall, within 120 days following the date of enactment of the Federal Mass Transportation Act of 1991, promulgate regulations to allow vehicles purchased under this subsection to be leased to public transit operators.".

SEC. 26. LIMITATION ON ADMINISTRATION.

Section 18(f) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1614(f)) is amended by adding at the end the following: "A State may not impose further terms or conditions in administering this section.".

SEC. 27. AUTHORIZATIONS.

Section 21 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

(2) by inserting after subsection (c) the following:

"(d)(1) CAPITAL AND OPERATING ASSISTANCE.—There are authorized to be appropriated to carry out the provisions of sections 3, 4(i), 6, 8, 9, 11(a), 12(a), 16(b), 18, 20, and 21(e)—

"(A) $4,452,500,000 for fiscal year 1992;

"(B) $4,622,000,000 for fiscal year 1993;

"(C) $4,797,000,000 for fiscal year 1994;

"(D) $4,980,000,000 for fiscal year 1995; and

"(E) $5,169,000,000 for fiscal year 1996; to remain available until expended.

"(2) FUNDING.—Of the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund—

"(A) $2,582,817,000 for fiscal year 1992;

"(B) $2,752,317,000 for fiscal year 1993;

"(C) $2,927,317,000 for fiscal year 1994;

"(D) $3,110,317,000 for fiscal year 1995; and

"(E) $3,299,317,000 for fiscal year 1996; to remain available until expended.".

SEC. 28. INTERSTATE TRANSFER.

Section 21(e) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617(e)), as redesignated, is amended to read as follows:

"(e) INTERSTATE TRANSFER.—For substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, there shall be available from the sums authorized in subsection (d)(1) $160,500,000 for each of fiscal years 1992, and 1993.".

SEC. 29. RURAL PROGRAM.

Section 21(f) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617(f)), as redesignated, is amended to read as follows:

"(f) RURAL PROGRAM.—For each of fiscal years 1992 through 1996, 2.93 percent of the aggregate funds made available for sections 9 and 18 under subsection (d)(1) of this section shall be available to carry out section 18. The total amount of funding made available from subsection (d)(1) under the preceding sentence shall be not less than—

"(1) $120,000,000 in fiscal year 1992;

"(2) $140,000,000 in fiscal year 1993;

"(3) $160,000,000 in fiscal year 1994;

"(4) $180,000,000 in fiscal year 1995; and

"(5) $200,000,000 in fiscal year 1996.".

SEC. 30. 16(b) PROGRAM.

Section 21(h) of the Urban Mass Transportation Act of 1964 (49 US.C. App. 1617(h)), as redesignated, is amended to read as follows:

"(h) SECTION 16(b).—From the funds made available under subsection (d)(1) of this section, there are authorized to be appropriated—

"(1) $60,000,000 in fiscal year 1992;

"(2) $66,000,000 in fiscal year 1993;

"(3) $73,000,000 in fiscal year 1994;

"(4) $80,000,000 in fiscal year 1995; and

"(5) $88,000,000 in fiscal year 1996.".

SEC. 31. PROGRAM AUTHORIZATIONS.

Section 21 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617) is amended by adding at the end the following new subsections:

"(k) SECTIONS 4(i), 6, 8, 10, 11, 18(h), and 20.—

"(1) RESEARCH, PLANNING, AND TRAINING.—From the funds made available under subsection (d)(1), there shall be available for the purposes of sections 4(i), 6, 8, 10, 11, 18(h), and 20—

"(A) $90,000,000 for fiscal year 1992;

"(B) $100,000,000 for fiscal year 1993;

"(C) $110,000,000 for fiscal year 1994;

"(D) $120,000,000 for fiscal year 1995; and

"(E) $130,000,000 for fiscal year 1996.

"(l) ADMINISTRATIVE EXPENSES.—From the funds made available under subsection (d)(1), the following sums shall be made available to carry out section 12(a):

"(1) $45,000,000 for fiscal year 1992;

"(2) $50,000,000 for fiscal year 1993;

"(3) $55,000,000 for fiscal year 1994;

"(4) $60,000,000 for fiscal year 1995;

"(5) $65,000,000 for fiscal year 1996.

SEC. 32. SAFETY AUTHORITY.

Section 22 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1618) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—The Secretary shall, within 180 days of enactment of this subsection, make a report to Congress to include—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths or injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting corrective actions,

"(B) an estimate of the capital and operating costs to take such actions, and

"(C) minimum standards for establishing and implementing safety program plans by recipients of funds under this Act.".

SEC. 33. PLANNING AND RESEARCH.

The Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601 et seq.) is amended by adding at the end the following new section:

"SEC. 26. PLANNING AND RESEARCH.

"(a) NATIONAL PROGRAM.—

"(1) FUNDS SET ASIDE.—Of the funds made available under section 21(b)(1), one-third shall be available to the Secretary for grants or contracts for the purposes of sections 4(i), 6, 8, 10, 11, 18(h), or 20 of this Act as the Secretary deems appropriate.

"(2) USE OF FEES.—Notwithstanding any other provision of law, the Secretary is authorized to charge and retain fees, tuition, or related amounts resulting from conferences, seminars, training sessions and the like funded under this subsection, and any such amounts may be used for the purposes of this subsection. The Secretary shall determine what constitutes a necessary expense for the conduct of activities under this subsection.

"(3) DEMONSTRATION INITIATIVES.—Of the amounts available under subsection (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements and provisions as the Secretary deems appropriate for the purposes of this paragraph.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) The Secretary shall develop guidelines for cost sharing in technology development projects funded under the section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market

risk, and anticipated supplier benefits and pay back periods.

"(5) SUPPLEMENTAL USE OF FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (b)(1), as the Secretary deems appropriate.

"(6) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (b)(1), the Secretary shall establish a Federal share consistent with that benefit.

"(b) STATE AND LOCAL PROGRAM.—Of the funds made available under section 21(b)(1), two-thirds shall be available for State and local programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—Sixteen and one-half percent of that amount shall be available for transit cooperative research program to be administered as follows:

"(A) The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) The Secretary may make grants to, and enter into cooperative agreements with the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE AND LOCAL PLANNING AND RESEARCH.—The remaining 83.5 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 4(i), 6, 8, 10, 11, 18(h), and 20.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than one-half of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—

"(i) Of the funds made available to each State under this subsection, 25 percent shall be available for State programs to carry out the objectives of this subsection. A State may authorize a portion of its funds made available under paragraph (1) or clause (ii) of this paragraph, as the State deems appropriate. Of the funds made available under this subsection, at least 33⅓ percent shall be used for purposes of section 18(h).

"(ii) Of the funds made available to each State under subsection (b), 75 percent shall be, by a formula developed by each State in cooperation with local elected officials acting through the metropolitan planning organization and approved by the Secretary which considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act, made available by the State to metropolitan planning organizations designated as being responsible together with the State for carrying out the objectives of this section.

"(C) FEDERAL SHARE PAYABLE.—The Federal share payable for a project under paragraph (2) shall be 80 percent except—

"(i) where the Secretary determines that it is in the Federal interest not to require a State or local match; and

"(ii) 100 percent for funds used for the purposes of section 18(g).

"(c) HOLD HARMLESS.—The amounts made available under this section shall be adjusted as follows:

"(1) The amount made available under subsection (a) shall be reduced and the amount made available under subsection (b)(2) shall be increased so that the aggregate amount provided to the States for allocation to metropolitan planning organizations under subsection (b)(2)(B)(ii) is no less than the aggregate amount provided to metropolitan planning organizations by administrative formula under section 8 of this Act in fiscal year 1991.

"(2) The amount apportioned to each State by formula under subsection (b) shall be adjusted so that the aggregate amount apportioned to each State to be made available to metropolitan planning organizations under subsection (b)(2)(B)(ii) is no less than the aggregate amount provided to metropolitan planning organizations in the State by administrative formula under section 8 of this Act in fiscal year 1991.

"(3) Of the funds allocated to a State under subsection (b), a larger amount than provided for under subsection (b)(2)(B)(i) may be available for State programs to the extent that the amount otherwise available to the State for State programs is less than the amount made available to the State by administrative formula under section 8 of this Act in fiscal year 1991 and under section 18(h) of this Act in fiscal year 1991. The aggregate amount made available by the State to metropolitan planning organizations under subsection (b)(2)(B)(ii) shall in no event be less than the aggregate amount made available to metropolitan planning organizations in that State by administrative formula under section 8 of this Act in fiscal year 1991.".

SEC. 34. MULTIYEAR CONTRACT FOR QUEENS LOCAL EXPRESS EXTENSION PROJECT.

The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section.

"(a) FEDERAL SHARE.—The Secretary shall negotiate and execute a letter of intent and a full funding agreement to provide the Federal share of the cost of construction of the Queens Local/Express Connection in New York City in the amount of $306,100,000.

"(b) PAYMENT.—The letter of intent and the full funding agreement shall provide that the Federal share of the cost of such project shall be paid by the Secretary from amounts provided under section 3 of the Urban Mass Transportation Act of 1964 for construction of new fixed guideway systems and extensions to fixed guideway systems, as follows: not to exceed $12,000,000 in fiscal year 1992, $17,700,000 in fiscal year 1993, $77,800,000 in fiscal year 1994, $76,800,000 in fiscal year 1995, and $121,800,000 in fiscal year 1996.".

SEC. 35. WORLD UNIVERSITY GAMES.

The Secretary shall provide Federal funds from amounts provided under sections 3, 9, and 21 of the Urban Mass Transportation Act of 1964 to the State of New York, as the designating recipient for the purposes of this section to carry out projects to meet the transportation needs associated with the staging of the 1993 World University Games in the State of New York. The Secretary shall, if requested, temporarily waive the provisions of sections 3(e), 3(f), 9(e)(1), and 9(k)(2) of the Urban Mass Transportation Act of 1964. The Secretary shall ensure that all projects financed under this section are planned and executed by the State of New York in consultation with the World University Games Buffalo 1993 Organizing Committee, the Niagara Frontier Transportation Committee, and the Niagara Frontier Transportation Authority.

SEC. 36. CROSS-COUNTY METRO.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall, in cooperation with Southeastern Pennsylvania Transportation Authority (SEPTA), determine the required process under the National Environmental Policy Act of 1969 (NEPA) for assessing the environmental impacts of the Cross County Metro project from Morrisville to Downingtown, Pennsylvania.

(b) DOCUMENT PREPARATION.—Within 10 days of making the determination required under subsection (a), the Secretary shall commence the preparation of any documents required under NEPA.

(c) FULL FUNDING AGREEMENT.—Within 90 days of a finding by the Secretary that the project has complied with the requirements of NEPA, the Secretary shall enter into a Full Funding Grant Agreement with SEPTA for the construction of the project. The agreement will provide for payment to SEPTA of the Federal share of eligible project costs from amounts provided under section 3 of the Urban Mass Transportation Act of 1964 for construction of new fixed guideway systems and extensions of fixed guideway systems. This contract shall be entered into notwithstanding the alternatives analysis requirements of section 3(i) of the Urban Mass Transportation Act of 1964.

SEC. 37. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated under section 6, 10, 11, or 18 of the Urban Mass Transportation Act of 1964, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, before October 1, 1983, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 38. STAGE II LRT REHABILITATION IN ALLEGHENY COUNTY.

Not later than 3 months following the enactment of this Act, the Secretary shall begin preparation of a multiyear funding contract for the rehabilitation of the Drake/Library and Overbrook trolley lines in Allegheny County, Pennsylvania. Following this action the Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the status of completion of this agreement. This contract shall authorize a Federal share for such project in the amount of $225,000,000 and shall provide that the Federal share of the cost shall be paid by the Secretary from amounts provided under section 3 of the Urban Mass Transportation Act of 1964 for rail modernization projects as follows:

(1) Not to exceed $15,000,000 in fiscal year 1992.

(2) Not to exceed $75,000,000 in fiscal year 1993.

(3) Not to exceed $75,000,000 in fiscal year 1994.

(4) Not to exceed $45,000,000 in fiscal year 1995.

(5) Not to exceed $15,000,000 in fiscal year 1996.

STATEMENT BY GOV. MARIO M. CUOMO

I applaud Senator Al D'Amato for his leadership in developing comprehensive legislation reauthorizing federal mass transportation programs. The five-year bill he introduced today continues the Federal commitment to public transportation while reaffirming the national goals of improving

air quality, easing traffic congestion, and enhancing our energy independence.

Senator D'AMATO has resisted the temptation to weaken existing effective federal transit programs. These programs work, and appropriately allocate funds to transit systems based on their needs.

When combined with the highway portion of the surface transportation reauthorization, this proposal provides the funding and flexibility to meet our basic transportation needs.

I am particularly pleased that Senator D'Amato's transit bill, like the highway bill advanced by Senator Pat Moynihan, recognizes that sound Federal transportation policy does not mean passing greater financial responsibility onto states or local governments. Unlike the Bush Administration's surface transportation proposal, the bills introduced by New York's two Senators properly refrain from mandating even greater state matching requirements. State and local governments outspend the Federal Government for virtually every mode of transportation. We will continue our substantial support, and welcome the increased Federal contribution provided by Senators D'Amato and Moynihan.

The D'Amato bill also differs with the Administration plan by increasing significantly Federal mass transit funding. It proposes about $24 billion over five years, while the Bush Administration recommended just $16 billion—which represented no increase over current funding levels, and in fact was a decline in real terms.

Enactment of this important legislation makes good sense not only from a national perspective, but from a New York perspective as well. It will provide New York with about $4.8 billion over the next five years—about $1.4 billion more than our share under the Administration plan. Of critical importance is the preservation of operating assistance for cities with populations over one million, which the Administration had sought to eliminate. In addition, we are assured of receiving our full share of the Westway trade-in.

The D'Amato bill doubles the amount of Federal funding available to rural transit systems, which will help assure continued transit service in small communities such as Jamestown, Watertown, Oneonta, and Ithaca. It also doubles the Federal funds for the purchase of buses and vans that will increase the mobility of our elderly and disabled citizens.

I commend Senator D'Amato for his continued commitment to our nation's transportation systems. As the ranking Republican member of the Senate Banking subcommittee with jurisdiction over transit programs, and as the ranking Republican in the Transportation Appropriations Subcommittee, he will play a critical role this year in national transportation policy.

I offer my assistance and that of my Administration in working for the enactment of this important legislation as well as the companion highway bill.

MTA CHAIRMAN APPLAUDS SENATOR D'AMATO'S TRANSIT BILL

Metropolitan Transportation Authority Chairman Peter E. Stangl praised transit legislation introduced today by Senator Alfonse M. D'Amato, which would dramatically increase funding for the MTA and transit systems in the New York metropolitan area.

Stangl said, "This $4.45 billion proposal is a bold step aimed squarely at changing the step-child status that transit has had to endure in the recent past from the federal government.

"By increasing national transit funding by $1.2 billion over current levels, the proposal recognizes the key role transit must play in helping the nation meet the goals of the Clean Air Act and the National Energy Strategy. It will also go a long way toward helping us address the needs of our disabled passengers as we continue to improve the accessibility of our system in accordance with last year's Americans with Disabilities Act.

"The transit investment envisioned by the bill will also help reduce the traffic congestion that adds billions of dollars to the cost of doing business in not only urban America, but in suburban areas as well.

"As far as the MTA is concerned, the proposal not only protects the $93 million we receive annually in federal operating assistance, it substantially increases the federal capital dollars that are desperately needed to fund the third phase of our proposed $11.5 billion Capital Program. This third phase of that ongoing program, which will restore our entire system to a state of good repair by the year 2012, must be approved by the State Legislature in Albany by the end of this year.

"We are truly fortunate to have Senator D'Amato in Washington as a national mass transit advocate. He has continually championed the cause of the five million New Yorkers who use MTA services daily. This bill continues and expands that tradition.

"When this transit portion of the Surface Transportation Act is coupled with Senator Moynihan's recently introduced highway portion, New York and the nation come up with a winning combination. It is my sincere hope that the entire Congress will embrace both proposals. Together they chart a new course for an enlightened transportation policy as we head toward the year 2000."•

Mr. SPECTER. Mr. President, I am pleased to join my distinguished colleague Senator D'AMATO in introducing what I believe to be an appropriate starting block for this year's consideration of mass transit reauthorization legislation.

I wish to commend the Senator from New York for his efforts in working with this Senator to develop legislation which, I believe, is a very well balanced, thoughtful piece of important legislation for our States and the Nation.

I had the opportunity to testify before the Housing and Urban Affairs Subcommittee on April 16, 1991, regarding the importance of Federal funding for Pennsylvania's 30 rural and urban transit authorities. It became clear to me from those discussions that transit needs have become a priority to many who recognize its many benefits. A strong system is essential to the economic vitallity of communities, both rural and urban, throughout the United States. Moreover, expanded use of public transportation would help alleviate the critical problems of urban congestion, air quality, and energy dependence on foreign oil.

As we are all aware, Federal transit assistance over the past decade has deteriorated precipitously from $4.6 billion in fiscal year 1981 to $3.2 billion in fiscal year 1991. This reduction in funding represents a 50-percent decrease in real dollars.

While Federal assistance to transit has dwindled, the highway trust fund has developed an ever increasing large uncommitted balance. The trust fund was designed to provide infrastructure improvements and, therefore, should be used for that purpose. Specifically, the transit account of the transportation trust fund has a cash balance of $7.2 billion. This misuse of the trust fund is intolerable while our cities and rural transit systems are facing a decaying infrastructure that threatens those local economies.

The bill Senator D'AMATO and I are presenting today to the U.S. Senate provides additional funding for public transit in an effort to ensure a strong investment in our public transportation systems nationwide. It is my hope that the additional funds provided by this bill will be taken from the huge surplus of the transit account.

Mr. President, a recently released study by the Urban Institute, along with Cambridge Systematic and the Pennsylvania Economy League, analyzed the return on investment for the funds invested in the Southeastern Pennsylvania Transportation Authority. The study found that for every $1 invested in rehabilitation in SEPTA returns $9 to the economy. This high level of return of the public's investment is indicative of the value of this transit system to the region's economy.

Mr. President, public transportation is a vital public service for citizens living in America today. Low income individuals, those with physical disabilities, individuals denied licensing or access to an automobile, rely on public transit for their daily lives. Particularly in cities with urban centers, public transportation frequently provides the only form of motorized travel for many of these people. The bill we are introducing today will help to ensure that these vital services are maintained into the future.

Further, the bill is designed to ensure adequate funding for our Nation's cities with existing systems, while allowing for the expansion of new systems nationwide. In addition to assistance to urban areas, the bill is balanced to guarantee that rural systems and the elderly and handicapped receive the support they deserve.

The bill is designed to work well with the highway provisions currently being crafted by the Environment and Public Works Committee. It is my hope that the bill that will be reported by the Banking Committee will complement the bill from the Environment and Public Works Committee. In order for the Nation to be in a position to best use its limited resources, we must have a transportation system which fully utilizes all forms of transportation.

Mr. President, years of patchwork maintenance due to reductions in Federal transit funding now threatens to curtail the availability of public transportation when it is most needed. For the development of additional support from our Nation's transit systems and local communities, I believe it is imperative that the Federal Government demonstrate that it will be a meaningful participant in the partnership to advance this vital form of transportation for Americans.

I urge my colleagues to join Senator D'AMATO and me in recognizing the importance of public transportation and the importance of investment in our Nation's infrastructure. By increasing the investment in infrastructure, we can help ensure the transportation needs for citizens are met, while raising private sector productivity and enhancing our Nation's competitiveness in the world marketplace.

By Mr. GARN:

S. 1161. A bill to prevent the unreasonable use of tied aid partially untied aid credits, to authorize appropriations for tied aid credit programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

TIED AID CREDIT REDUCTION ACT OF 1991

• Mr. GARN. Mr. President, I rise today to introduce legislation intended to provide U.S. negotiators with the tools to strictly limit the use of export subsidies to support exports to commercially viable projects in the developing world. Negotiations are reaching a critical stage in the Organization for Economic Cooperation and Development, or OECD, to restrict the use of so-called tied aid credits. While I hope for a solid agreement that will limit tied aid, this issue has been with us for quite a few years and appears to be here to stay. We must be equipped to continue to deal with it.

In layman's terms, "tied aid credits" are a combination of foreign aid grants and export credits that are extended to developing countries and must be used to import goods from the donor country. In theory, heavily subsidized credit could be justified for development projects in the poorest of countries that could not attract market-rate financing. In practice, many of our international trade competitors have used tied aid credits to gain unfair advantage in the bidding process for commercially viable contracts in attractive export markets. The use of tied aid credits to finance profitable, commercial projects alters the playing field and is a significant disadvantage to U.S. businesses.

It is clear that in some of the countries in East Asia, the markets for telecommunications, transport, power and construction projects have been spoiled by heavy subsidies from foreign governments. Commercially oriented tied aid credits not only distort the market for highly profitable and important projects in the wealthier developing countries, but also deprive poorer countries of much needed aid.

For many years, the U.S. approach to foreign aid has been to support humanitarian projects in developing countries, rather than industrial projects with linkages to U.S. business. A number of my Senate colleagues are suggesting that we move away from this exclusive policy and begin to focus more on the funding of capital projects in developing countries. While I look forward to discussion of that issue, a shift in aid priorities is not the purpose of this bill. This bill is about combating an unfair trade practice that is being aggressively pursued by our principal trade competitors.

I continue to support the administration's efforts against the use of commercially oriented tied aid credits. I believe that we are making some progress in developing an international arrangement through the OECD to restrict this unfair and unreasonable practice. But we would be naive to think that other countries will give up what has been a very lucrative habit overnight. It will take time for an arrangement to enter into force. Once in place, the arrangement will have to be policed—and the OECD has no enforcement mechanism. Even if the terms of the arrangement are rational and reasonable, some participants will find ways to circumvent it.

Although negotiating an equitable and disciplined set of rules to govern the use of tied aid credits is our goal, we must be prepared to fight back against the continued use of tied aid by our competitors. We must to recognize that this is a long term concern that requires a long term financial commitment.

For these reasons, the bill I am introducing will make permanent the authority of the warchest that was originally established for this purpose in 1986. The bill will toughen the rules for using the warchest and it will add an important new element to our overall strategy by defining the use of tied aid credits to fund commercially viable projects as an unreasonable and unfair trade practice sanctionable under the Trade Act of 1974.

In effect, this would create a two-pronged U.S. strategy to combat the use of commercially-oriented tied aid credits. In the event that another country chooses to fund what is clearly a commercially viable project with no compelling aid or foreign policy justification, the United States could combat that action by either matching the financing offer, or moving to impose trade penalties. I realize that this two-pronged approach places us in the position of, at times, engaging in the very practice that we have labelled as unfair. But our actions are defensive and we have to keep in mind that we are dealing with exports to countries whose business is critical to our own balance of trade. The future of our economy is closely tied to our ability to compete in these foreign markets.

Mr. President, I believe that this bill will strengthen our position on the unreasonable use of tied aid credits for commercial projects and give a clear signal to our international competitors that we will not turn a blind eye on their attempts to unfairly disadvantage U.S. businesses. Most importantly, I believe that this bill is an important factor in protecting our international competitiveness.

I urge my colleagues to join me in supporting the Tied Aid Credit Reduction Act of 1991. I ask unanimous consent that the full text of the bill be printed in the RECORD following my statement.•

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

S. 1161

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 "Tied Aid Credit Reduction Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) expansion of United States exports to developing countries is essential if the United States is to maintain strong export growth and eliminate its $100,000,000,000 annual balance of payments deficit;

(2) export expansion in developing countries is limited by a lack of competitive export credit, due to—

(A) the reluctance of commercial banks to increase exposure to countries that have experienced repayment difficulties; and

(B) the extensive use of aid budgets by major trade competitors to finance or subsidize commercial exports through the use of tied aid credits;

(3) the Congress created a tied aid credit "warchest" at the Export-Import Bank in 1986—

(A) to support negotiations in the Organization for Economic Cooperation and Development intended to restrict the use of tied aid credits for commercially viable projects; and

(B) to provide leverage in the negotiations by financing United States tied aid credit offers in competition with those from abroad;

(4) agreement was reached in 1987 to increase the minimum grant element of tied aid credits in hopes of reducing their use, supported by the United States' use of warchest authority;

(5) because the resulting increase in cost has not reduced the use of tied aid credits, but has instead produced a shift of aid resources toward higher income countries to support export subsidies, the United States has now embarked on a new round of negotiations in the Organization for Economic Cooperation and Development to limit use of tied aid credits;

(6) negotiations to reduce the use of tied aid credits have been underway for more than a year, supported by the use of United States warchest authority, but have as yet produced no meaningful results;

(7) the process of establishing practices within the Organization for Economic Co-

operation and Development to eliminate the unreasonable use of tied aid credits for commercially viable projects is likely to continue throughout the foreseeable future;

(8) the United States will have to continue to combat the unreasonable use of tied aid credits through its use of warchest authority and appropriate trade remedies; and

(9) the authority in the Export-Import Bank charter to finance tied aid credits should be strengthened and extended beyond its current expiration date.

SEC. 3. TIED AID CREDITS.

(A) IN GENERAL.—Section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. App. 635i-3) is amended—

(1) by striking "predacious" each place it appears and inserting "predatory"; and

(2) in subsection (a), by striking paragraph (5) and inserting the following:

"(5) there should be established and maintained a tied aid credit program—

"(A) to target the export markets of countries that, in the Bank's judgment, make extensive, unreasonable use of tied aid or partially untied aid credits for commercial advantage in order to support development of an international arrangement to eliminate such use of tied aid and partially untied aid credits; and

"(B) to monitor observance of any such arrangement by extending tied aid credits to match those of other countries made in violation of the terms of the agreement, or other unreasonable use of tied aid, as determined by the Bank.";

(3) in subsection (b)(1)—

(A) by inserting "and maintain" after "shall establish"; and

(B) by striking subparagraph (B)(ii) and inserting the following:

"(ii) fails to observe provisions of international arrangements to restrict or eliminate the use of such credits for commercial purposes or otherwise provides such credits in an unreasonable manner; or";

(3) in subsection (c)(2), by striking "through the fiscal year 1992";

(4) by striking subsection (e) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 1993 and 1994, $200,000,000. Such sums shall remain available until expended."; and

(5) in subsection (g)(2)(E), by striking "in negotiations to establish" and inserting "in consultations to develop and maintain".

SEC. 4. RESPONSE TO UNREASONABLE USE OF TIED AID CREDITS.

Section 301(d)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ", or"; and

(3) by adding at the end the following:

"(iv) constitutes an unreasonable use of tied aid or partially tied aid credits to subsidize exports, as determined by the Export-Import Bank, consistent with the purposes of section 15 of the Export-Import Bank Act of 1945.".●

By Mr. PELL:

S. 1162. A bill to strengthen the ties between the United States and central and Eastern European countries through the improvement in such countries of education for competent and responsible citizenship in a constitutional democracy; to the Committee on Labor and Human Resources.

INTERNATIONAL CONSTITUTIONAL DEMOCRACY ACT

● Mr. PELL. Mr. President, over the past 2 years, we have witnessed remarkable events in country after country in central and Eastern Europe. The walls of communism came tumbling down, and democracy flourishes where hope for freedom had been extinguished for more than half a century.

In Hungary, Czechoslovakia, East Germany, Poland, Romania, and Bulgaria, people literally broke the shackles of totalitarianism that had enslaved them for decades. In their struggle for freedom, they looked to the United States. Our democratic system of government was their beacon of hope. They looked to the establishment of democracy as the way out of repression.

We all share the joy of the political, spiritual, and intellectual regeneration that has taken place in those countries. Our joy, however, must be tempered by our knowledge of the massive challenges they face. Their economies are in disarray, often unable to satisfy the demands and aspirations of their people.

The demise of the dictatorships has not—and indeed cannot—produce overnight the sweeping changes for which the people of these countries yearn.

I am deeply concerned that the United States is not doing enough to assist these fledgling democracies, particularly in the area of civic education. While economic assistance is imperative, so is help in understanding the principles and practices of democracy.

Often we forget that we have had almost 400 years to learn the principles and develop the practices of constitutional government. From the establishment of the colonies in the early part of the 17th century to the present time, we have been developing political practices and institutions to deal with our society's problems.

Unfortunately, our memories are often short. We tend to forget the length and breadth of our experience. And, we also tend to forget our failures, as well as the successes, in our long history of experimentation with the challenges of democracy.

It is inevitable that the newly liberated democracies will occasionally stumble as they seek to repair the ravages of decades of totalitarian rule and economic mismanagement. It is critical, therefore, that the United States lend a helping hand to these struggling countries.

We need, for example, to make available information on exemplary programs in civic education, and to help the nations of central and Eastern Europe adapt and implement them within their own borders.

We need to provide exchanges among educators, students, and government leaders to give citizens from central and Eastern European nations the opportunity to observe firsthand how some of our programs in civic education actually work.

At the same time, we need to have Americans learn about the civic education programs that are in place in those nations. It is important to recognize that we can learn from their very different civic experience, just as they can benefit from ours.

We need to translate materials, information, and even basic documents on U.S. constitutional government into the relevant languages of these countries. And, just as important, we need to translate and adapt curricula materials for use in central and Eastern European schools so that the materials will actually be of help.

If democracy is to become an established fact of life in these countries, our help is imperative. What better way to push that along than through a modest, but important, educational initiative of this nature.

I am introducing this legislation with the intention that it be considered within the context of the reauthorization of the office of educational research and improvement. The problem the legislation addresses is a pressing and critical one, and I believe it imperative that we give the legislation our thoughtful deliberation and consideration at the earliest possible moment.

Mr. President, I ask unanimous consent that the full text of the legislation be printed in the RECORD following my remarks.

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

S. 1162

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 "International Constitutional Democracy Act of 1991".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The firm establishment of constitutional democracies in other countries and particularly in Central and Eastern Europe is of paramount importance to the United States and the world community.

(2) Constitutional democracy, more than any other form of government, presupposes and depends upon an enlightened and responsible citizenry, and while some students of politics may claim that the creation of the right institutions and the formal organization of a constitutional government are adequate for the establishment of a constitutional democracy, it has long been recognized that such governments ultimately must rest on the character of their citizens and the individuals such governments select to serve in public office.

(3) The development of an enlightened and responsible citizenry should be one of the principal goals of schools in a constitutional democracy in order to develop among each generation the knowledge, skills, and traits of character essential for the preservation

and improvement of constitutional democracy.

(4) The emerging constitutional democracies in Central and Eastern Europe and elsewhere have not enjoyed the full benefits to be derived from the American experience of almost four hundred years of evolution of democratic institutions.

(5) Educational leaders of emerging constitutional democracies and the educational programs of such democracies can benefit from an understanding of the American experience, the fundamental documents and writings of the American experience, exemplary civic education programs, and the exchange of ideas and experiences with United States educators.

(6) Exchanges of ideas and experiences between United States educators and educators of emerging constitutional democracies will benefit United States education.

(7) The Federal Government has a leadership role in promoting the establishment and maintenance of constitutional democracies in Central and Eastern Europe and other nations through the establishment of a series of targeted initiatives that—

(A) make available to such nations the most exemplary educational programs developed in the United States which are designed to foster among youth the knowledge, skills, and traits of character required for the preservation and improvement of United States constitutional democracy;

(B) provide assistance to such nations in the adaptation and implementation of United States educational programs in forms appropriate for the culture and traditions of such nations;

(C) provide a means for the continued exchange of ideas and experiences among United States educational leaders and educational leaders of emerging constitutional democracies; and

(D) provide a means for students in United States educational institutions to benefit from the ideas and experiences of the people of emerging constitutional democracies.

SEC. 3. DEFINITION.

As used in this Act, the term "Secretary" means the Secretary of Education.

SEC. 4. GENERAL AUTHORITY.

(a) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—The Secretary, through the Office of Educational Research and Improvement, shall carry out an international education program entitled "The International Civic Education Exchange Program" that shall—

(A) make available to educators from Central and Eastern European countries exemplary programs in civic education developed in the United States;

(B) assist such countries in the adaptation and implementation of such programs;

(C) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies; and

(D) provide a means for the exchange of ideas and experiences in civic education among leaders of participating nations.

(2) CONTRACTUAL AUTHORITY.—The Secretary is authorized to contract with an independent nonprofit educational organization to carry out the provisions of this section. Such organizations shall be experienced in—

(A) the development and national implementation of curricular programs in civic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies and in private schools throughout the nation with the cooperation and assistance of national professional educational organizations and private sector organizations;

(B) the development and implementation of cooperative university and school based in service training programs for teachers of grades kindergarten through 12 using scholars from such relevant disciplines as political science, political philosophy, history, and law;

(C) the development of model curricular frameworks in civic education;

(D) the administration of international seminars on the goals and objectives of civic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, scholars in related disciplines, and educational policymakers; and

(E) the evaluation of civic education programs.

(b) PROGRAM CONTENT.—The international education program described in this section shall—

(1) provide European participants with—

(A) seminars on the basic principles of United States constitutional democracy, including seminars on the major governmental institutions in the United States and visits to such institutions;

(B) visits to school systems, institutions of higher learning, and non-profit organizations conducting exemplary programs in civic education in the United States;

(C) home stays in United States communities;

(D) translations and adaptions of United States civic education curricular programs for students and teachers into forms useful in Central and Eastern European schools; and

(E) translation of basic documents of United States constitutional government for use in Central and Eastern European nations, such as *The Federalist*, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory and constitutional law; and

(2) provide United States participants with—

(A) seminars on the histories and governments of participating Central and Eastern European nations;

(B) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civic education in the Central and Eastern European nations;

(C) home stays in Central and Eastern European communities;

(D) assistance from educators and scholars in Central and Eastern European nations in the development of curricular materials on the history and government of such nations that are useful in United States classrooms; and

(E) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in European nations; and

(3) assist European and American participants in participating in international conferences on civic education for educational leaders, scholars in related disciplines, and educational policymakers.

(c) SPECIAL RULE.—All printed materials and programs provided to foreign nations under this Act shall bare the logo and text used by the Marshall Plan after World War II, that is, clasped hands with the inscription "A gift from the American people to the people of (insert name of country)".

(d) PROGRAM PARTICIPANTS.—The primary participants in the international education program assisted under this Act shall be leading civic educators, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and participating Central and Eastern European nations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, and 1996 to carry out the provisions of this Act.●

By Mr. THURMOND (by request):

S. 1163. A bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States; to the Committee on the Judiciary.

COOPERATIVE PRODUCTION ACT OF 1991

Mr. THURMOND. Mr. President, I am pleased to be able to introduce, at the request of the administration, the Cooperative Production Act of 1991. This proposed legislation amends the National Cooperative Research Act of 1984 [NCRA], and expands the provisions of that act to include not only research and development, but also manufacturing.

Mr. President, as many of my colleagues are aware, I have been a longtime proponent of the need to amend the NCRA to include production. Earlier this year, Senator LEAHY, Senator BIDEN, and I, introduced S. 479, legislation very similar to the administration's proposal which I am now introducing. Although there are differences between the two bills, these differences are not significant. It is my expectation that we will take the best from both bills and fashion legislation that will satisfy all concerns.

As I noted in my statement on S. 479, the amendments which have been proposed to the NCRA, will enable American businesses to respond more effectively to the competitive challenges that face them in international markets. American firms cannot afford to settle for less than the most advanced means of manufacturing and production if they are to be successful in this challenge. Although costly, substantial investments must be made in state-of-the-art facilities. Joint manufacturing ventures will ease such investment burdens, and may provide just the answer for firms which cannot make the needed investments in new production technology, but do not want to merge their entire operations to achieve the benefits such ventures provide.

Mr. President, proposals to amend the NCRA to include production have always received bipartisan support, and it is my hope that this will be equally true for the Cooperative Production Act of 1991. I urge the Senate to act quickly, and to pass this much needed legislation.

By Mr. HATCH (for himself, Mr. McCAIN, Mr. DURENBERGER, and Mrs. KASSEBAUM):

S. 1164. A bill to authorize the Secretary of Health and Human Services to impose debarments and other penalties for illegal activities involving the approval of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Labor and Human Resources.

GENERIC DRUG ENFORCEMENT ACT

• Mr. HATCH. Mr. President, I am pleased to introduce the Generic Drug Enforcement Act of 1991. My colleagues, Senators McCAIN, DURENBERGER, and KASSEBAUM are joining me as original cosponsors. This legislation is a companion bill to one introduced in the House by my friend and colleague, Chairman JOHN DINGELL. This legislation would give the Department of Health and Human Services and its Food and Drug Administration urgently needed authority to take quick and effective action against individuals and companies who could threaten the safety of our Nation's generic drugs.

This bill has three distinct purposes: the cleanup of the troubled generic drug industry; the restoration of American consumer confidence in generic drugs; and the creation of a strong deterrent for future misconduct.

Various congressional investigations have uncovered significant corruption in the Food and Drug Administration's generic drug approval process. Subsequent probes of the U.S. Attorney in Baltimore and the FDA discovered extensive evidence of irregularities in the process. Consequently, several FDA employees, generic drug companies, and drug company executives have entered guilty pleas based on criminal misconduct associated with this activity.

This bill is needed to restore the confidence of the American people in generic drugs and to ensure that the Food and Drug Administration has the authority to remove from the marketplace those individuals and companies who bribe regulators, falsify applications, or otherwise subvert the streamlined generic drug approval process. There are many good manufacturers of generic drugs who are being harmed by a few. Those few have reduced many people's confidence in generic drugs and in the generic drug process. This legislation should restore American's confidence in the integrity of the generic drug approval process.

The generic drug provisions of the bill address the need for a safe and reliable generic drug industry by requiring or permitting the Secretary of the Department of Health and Human Services to debar from future generic drug approvals for periods ranging upwards from 1 year, those firms and individuals convicted or seriously implicated in bribery, fraud, false statements, or other crimes that undermine the FDA approval process.

It also permits the Secretary to suspend sales of existing generic drugs from companies engaging in such crimes until they show that their other applications are not tainted.

Due process for both companies and individuals is explicitly provided. Existing remedies such as the authority of the Secretary to temporarily withhold new approvals from suspect companies and to withdraw permanently generic drug applications tainted by fraud are codified.

While there may be some opposition, I expect support from a majority of honest generic firms who recognize the importance of cleaning up this industry once and for all.

The American people need reliable generic drugs. Our individual budgets and those of State, local and Federal Government are desperate for the relief such medicines provide from the rising cost of drugs. Only when the bad actors, individuals and, in a few cases, firms, exit the industry can Americans feel comfortable with low cost generic alternatives to prescription medications.

As I stated earlier, a companion bill is being introduced today in the House of Representatives by the Honorable JOHN DINGELL, chairman of the House Energy and Commerce Committee along with 40 other Members of his committee.

I intend to do all I can to move this bill through the Senate, and I urge my colleagues to cosponsor and support this legislation.

I ask unanimous consent that the bill and its section by section 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. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; FINDINGS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Generic Drug Enforcement Act of 1991".

(b) REFERENCE.—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 Federal Food, Drug, and Cosmetic Act.

(c) FINDINGS.—The Congress finds that—

(1) there is substantial evidence that significant irregularities occurred in the Food and Drug Administration's process of approving drugs under abbreviated drug applications (referred to in this subsection as the generic drug approval process), including guilty pleas by several Food and Drug Administration employees, generic drug companies, and drug company executives based on criminal misconduct associated with the generic drug approval process,

(2) there is a need to establish procedures designed to restore and ensure the integrity of the generic drug approval process, including barring from the process those who have been convicted of corrupting the process and staying approvals when the process may have been corrupted,

(3) it is important for the safety and health of the general public to permit the suspension of distribution of generic drugs where approval of such drugs has been tainted,

(4) it is imperative to restore public confidence in the generic drug approval process by mandating the withdrawal of any generic drug approval corruptly obtained,

(5) in order to deter future misconduct, civil penalties for actions corrupting the generic drug approval process are necessary,

(6) additional standby capacity for criminal investigations of violations of the Federal Food, Drug, and Cosmetic Act may be needed, and

(7) the current requirement that a hearing be held before a criminal violation of the Federal Food, Drug, and Cosmetic Act is reported to the United States attorney for institution of criminal prosecution is cumbersome and unnecessary.

(d) TABLE OF CONTENTS.—

Sec. 1. Short title; reference; findings; table of contents.
Sec. 2. Authority to deny review and approval of applications.
"Sec. 306. Debarment, temporary denial of approval, and suspension.
"(a) Mandatory debarment.
"(b) Permissive debarment.
"(c) Debarment period and considerations.
"(d) Termination of debarment.
"(e) Publication and list of debarred persons.
"(f) Temporary denial of approval.
"(g) Suspension authority.
"(h) Termination of suspension.
"(i) Procedure.
"(j) Judicial review.
"(k) Applicability.".
Sec. 3. Certifications.
Sec. 4. Civil penalties.
"Sec. 307. Civil penalties.
"(a) In general.
"(b) Procedure.
"(c) Judicial review.
"(d) Informants.".
Sec. 5. Authority to withdraw approval of applications.
"Sec. 308. Authority to withdraw approval of applications.
"(a) In general.
"(b) Procedure.
"(c) Applicability.
"(d) Judicial review.".
Sec. 6. Inspector General.
Sec. 7. Information.
Sec. 8. Definitions.
Sec. 9. Effect on other laws.
Sec. 10. Repeal.

SEC. 2. AUTHORITY TO DENY REVIEW AND APPROVAL OF APPLICATIONS.

Sections 306 and 307 (21 U.S.C. 336, 337) are redesignated as sections 309 and 310, respectively, and the following is inserted after section 305:

"DEBARMENT, TEMPORARY DENIAL OF APPROVAL, AND SUSPENSION

"SEC. 306. (a) MANDATORY DEBARMENT.—If a person has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of any abbreviated drug application, the Secretary shall debar such person from submitting any abbreviated drug application.

"(b) PERMISSIVE DEBARMENT.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may debar a person described in

paragraph (2) from submitting, or assisting in the submission of, any abbreviated drug application if the Secretary finds that there is reason to believe that such person may undermine the regulatory process.

"(2) PERSONS SUBJECT TO PERMISSIVE DEBARMENT.—The following persons are subject to debarment under paragraph (1):

"(A) CONVICTION RELATED TO AN ABBREVIATED DRUG APPLICATION.—Any person that the Secretary finds has been convicted of (i) a misdemeanor under Federal law or a felony under State law for conduct relating to the development or approval, including the process for the development or approval, of any abbreviated drug application, or (ii) a conspiracy to commit, or aiding or abetting, such criminal offense.

"(B) CONVICTION FOR BRIBERY, FRAUD, OR SIMILAR CRIME.—Any individual whom the Secretary finds has been convicted under Federal or State law of (i) a felony of bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, or falsification or destruction of records, or (ii) a conspiracy to commit, or aiding or abetting, a felony offense described in clause (i).

"(C) CONVICTION RELATED TO OBSTRUCTION OF JUSTICE.—Any individual whom the Secretary finds has been convicted under Federal or State law, of (i) a felony related to the interference with, obstruction of the investigation into, or prosecution of, any criminal offense, or (ii) a conspiracy to commit, or aiding or abetting, such felony.

"(D) MATERIAL PARTICIPATION.—Any individual whom the Secretary finds materially participated in acts that were the basis for a conviction for an offense described in subparagraph (A), (B), or (C) for which a conviction was obtained.

"(E) USE OF DEBARRED PERSON.—Any person that the Secretary finds has knowingly—

"(i) employed or retained as a consultant or contractor, or

"(ii) otherwise used the services of,

a person who is debarred under this section in any capacity in which such person has or might have any control over or involvement in the development of any drug application subject to section 505 or 507.

"(c) DEBARMENT PERIOD AND CONSIDERATIONS.—

"(1) IN GENERAL.—During the period of debarment under subsection (a) or (b), the Secretary shall not accept any abbreviated drug application and shall not review (other than audit under this section) any pending abbreviated drug application of a person debarred under such subsection.

"(2) DEBARMENT PERIODS.—

"(A) IN GENERAL.—The Secretary shall debar a person under subsection (a) or (b) for the following periods:

"(i) The debarment of an individual under subsection (a) shall be permanent.

"(ii) The period of debarment of a person (other than an individual) under subsection (a) shall not be less than 1 year or more than 10 years, but if an act leading to a subsequent debarment occurs within 10 years after such person has been debarred under subsection (a), the period of debarment shall be permanent.

"(iii) The period of debarment of any person under subsection (b)(2) shall not be more than 5 years.

The Secretary may determine whether debarment periods shall run concurrently or consecutively in the case of a person debarred for multiple offenses.

"(B) NOTIFICATION.—Upon a conviction described in subsection (a) or (b), a person may notify the Secretary that the person acquiesces to debarment and such person's debarment shall commence upon such notification.

"(3) CONSIDERATIONS.—In determining the appropriateness and the period of a debarment of a person under subsection (b) and any period of debarment beyond the minimum specified in subparagraph (A)(ii) of paragraph (2), the Secretary shall consider where applicable—

"(A) the nature and seriousness of any offense involved,

"(B) the nature and extent of management participation in any offense involved, whether corporate policies and practices encouraged the offense, including whether inadequate institutional controls contributed to the offense,

"(C) the nature and extent of voluntary steps to mitigate the impact on the public of any offense involved, including the discontinuation of the distribution of suspect drugs, full cooperation with any investigations (including the extent of disclosure to appropriate authorities of all wrongdoing), the relinquishing of profits on drug approvals fraudulently obtained, and any other actions taken to substantially limit potential or actual adverse effects on the public health,

"(D) whether and the extent to which changes in ownership, management, or operations have corrected the causes of any offense involved and provide reasonable assurances that the offense will not occur in the future,

"(E) whether the person to be debarred is able to present adequate evidence that current production of drugs subject to abbreviated drug applications and all pending abbreviated drug applications are free of fraud or material false statements, and

"(F) prior convictions under this Act or under other Acts involving matters within the jurisdiction of the Food and Drug Administration.

"(d) TERMINATION OF DEBARMENT.—

"(1) APPLICATION.—Any person that is debarred under subsection (a) (other than a person permanently debarred) or any person that is debarred under subsection (b) may apply to the Secretary for termination of the debarment. Any information submitted to the Secretary under this subsection does not constitute an amendment or supplement to pending or approved abbreviated drug applications.

"(2) ACTION BY THE SECRETARY.—The Secretary shall grant or deny any application respecting a debarment which is submitted under paragraph (1) within 180 days of the date the application is submitted.

"(3) TERMINATION.— If the conviction for which a person has been debarred under subsection (a) or (b) is reversed, the Secretary shall, on the Secretary's own initiative or upon petition, withdraw the order of debarment. Upon application submitted under paragraph (1), the Secretary shall terminate the debarment of a person if the Secretary finds that—

"(A) changes in ownership, management, or operations have fully corrected the causes of the offense involved and provide reasonable assurances that the offense will not occur in the future, and

"(B) sufficient audits, conducted by the Food and Drug Administration or by independent experts acceptable to the Food and Drug Administration, demonstrate that pending applications and the development of drugs being tested before the submission of an application are free of fraud or material false statements.

In the case of persons debarred under subsection (a), such termination shall take effect no earlier than the expiration of one year from the date of the debarment.

"(4) SPECIAL EARLY TERMINATION.—

"(A) APPLICATION.—Any person that is debarred under subsection (a) (other than an individual or a person permanently debarred under subsection (c)(2)(A)(ii)) may apply to the Secretary for special early termination of debarment which may take effect before the expiration of the one-year minimum period prescribed under subsection (c)(2)(A)(ii).

"(B) HEARING ON PETITION.—If the Secretary, after an informal hearing, determines that—

"(i) the person making the application under subparagraph (A) has demonstrated that the felony conviction which was the basis for such person's debarment involved the commission of an offense which was not authorized, requested, commanded, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting on behalf of the person within the scope of the board's or agent's office or employment,

"(ii) all individuals who were involved in the commission of the offense or who had or should have had prior knowledge of the offense have been removed from employment involving the development or approval of any drug subject to sections 505 or 507,

"(iii) the person fully cooperated with all investigations and promptly disclosed all wrongdoing to the appropriate authorities, and

"(iv) the person acted to mitigate any impact on the public of any offense involved, including the discontinuation of the distribution of any drug which the Secretary asked by withdrawn due to concerns about its safety or efficacy,

the Secretary shall take the action described in subparagraph (C).

"(C) SECRETARIAL ACTION.—The action referred to in subparagraph (B) is—

"(i) terminating the debarment immediately, or

"(ii) limiting the period of debarment to less than one year,

whichever best serves the interest of justice and protects the integrity of the abbreviated drug application approval process.

"(e) PUBLICATION AND LIST OF DEBARRED PERSONS.—The Secretary shall publish in the Federal Register the name of any person debarred under subsection (a) or (b), the effective date of the debarment, and the period of the debarment. The Secretary shall also maintain and make available to the public a list, updated no less often than quarterly, of such persons, of the effective dates and minimum periods of such debarments, and of the termination of debarments.

"(f) TEMPORARY DENIAL OF APPROVAL.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may, in accordance with paragraph (3), refuse by order, for the period prescribed by paragraph (2), to approve any abbreviated drug application submitted by any person—

"(A) if such person is under an active Federal criminal investigation in connection with an action described in subparagraph (B),

"(B) if the Secretary determines that such person—

"(i) has bribed or attempted to bribe, has paid or attempted to pay an illegal gratuity, has induced or attempted to induce another person to bribe or pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services or

to any other Federal, State, or local official in connection with any abbreviated drug application, or has conspired to commit, or aided or abetted, such actions, or

"(ii) has knowingly made or caused to be made a pattern or practice of false statements or misrepresentations with respect to material facts relating to any abbreviated drug application or the production of any drug subject to an abbreviated drug application to any officer, employee, or agent of the Department of Health and Human Services, or has conspired to commit, or aided or abetted, such actions, and

"(C) if a significant question has been raised regarding the integrity of the approval process with respect to such abbreviated drug application, the reliability of data in such person's abbreviated drug application, or the reliability of data concerning such abbreviated drug application.

Such an order may be modified or terminated at any time.

"(2) APPLICABLE PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a denial of approval of an application of a person under paragraph (1) shall be in effect for a period determined by the Secretary but not to exceed 18 months beginning on the date the Secretary makes the determination described in paragraph (1) with respect to which the denial was made. The Secretary shall terminate such denial if the investigation with respect to which the determination was made ends and—

"(i) does not result in a criminal charge against such person, or

"(ii) if criminal charges have been brought and the charges have been dismissed or a judgment of acquittal has been entered.

"(B) EXTENSION.—If, at the end of the period described in subparagraph (A), the Secretary determines that a person has been criminally charged for an action described in subparagraph (B) of paragraph (1), the Secretary may extend the period of denial of approval of an application for a period not to exceed 18 months. The Secretary shall terminate such extension if the charges have been dismissed or a judgment of acquittal has been entered.

"(3) INFORMAL HEARING.—Within 10 days of the date of the order of the Secretary's refusing to approve an abbreviated drug application is served upon a person under paragraph (1), the Secretary, in response to a petition, shall provide such person with an opportunity for an informal hearing on the decision of the Secretary to refuse such approval. Within 60 days of the date on which such hearing is held, the Secretary shall notify the person given such hearing whether the Secretary's refusal of approval will be continued, terminated, or otherwise modified. Such notification shall be final agency action.

"(g) SUSPENSION AUTHORITY.—

"(1) IN GENERAL.—If—

"(A) the Secretary determines—

"(i) that a person has engaged in an action described in subparagraph (B) of subsection (f)(1) in connection with 2 or more drugs under abbreviated drug applications, or

"(ii) that a person has engaged in flagrant and repeated violations of good manufacturing practice or good laboratory practice in connection with the development, manufacturing, or distribution of a drug approved under an abbreviated drug application during a 2-year period and—

"(I) such violations may undermine the safety and efficacy of such drugs, and

"(II) the causes of such violations have not been corrected within a reasonable period of time following notice of such violations by the Secretary, and

"(B) such person is under an active investigation by any Federal authority in connection with a civil or criminal action involving an action described in subparagraph (A),

the Secretary shall issue an order suspending the distribution of all drugs the development or approval of which was related to an action described in subparagraph (A) or suspending the distribution of all drugs approved under abbreviated drug applications of such person if the Secretary finds that an action of such person described in subparagraph (A) may have affected the development or approval of a significant number of drugs which the Secretary is unable to identify. The Secretary shall exclude a drug from such order if the Secretary determines that such action was not likely to have influenced the safety or efficacy of such drug.

"(2) PUBLIC HEALTH WAIVER.—The Secretary shall, on the Secretary's own initiative or in response to a petition, waive the suspension under paragraph (1) (involving an action described in paragraph (1)(A)(i)) with respect to any drug if the Secretary finds that such waiver is necessary to protect the public health because sufficient quantities of the drug are otherwise not available. The Secretary shall act on any petition seeking action under this paragraph within 180 days of the date the petition is submitted to the Secretary.

"(h) TERMINATION OF SUSPENSION.—The Secretary shall withdraw an order of suspension of the distribution of a drug under subsection (g) if the person with respect to whom the order was issued demonstrates—

"(1)(A) on the basis of an audit by the Food and Drug Administration or by experts acceptable to the Food and Drug Administration, or on the basis of other information, that the development, approval, manufacturing, and distribution of such drug is in substantial compliance with the applicable requirements of this Act, and

"(B) changes in ownership, management, or operations (i) fully remedy the patterns or practices with respect to which the order was issued, and (ii) provide reasonable assurances that such actions will not occur in the future, or

"(2) the initial determination was in error.

The Secretary shall act on a submission under paragraphs (1) and (2) within 180 days of the date of the submission and the Secretary may consider the submission concurrently with the suspension proceeding. Any information submitted to the Secretary under this subsection does not constitute an amendment or supplement to a pending or approved abbreviated drug application.

"(i) PROCEDURE.—The Secretary may not take any action under subsection (a), (b), (c), (d)(3), (g), or (h) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(j) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (a), (b), (c), (d), (f), (g), or (h) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(k) APPLICABILITY.—

"(1) CONVICTION.—For purposes of this section, a person is considered to have been convicted of a criminal offense—

"(A) when a judgment of conviction has been entered against the person by a Federal or State court, regardless of whether there is an appeal pending,

"(B) when a plea of guilty or nolo contendere by the person has been accepted by a Federal or State court, or

"(C) when the person has entered into participation in a first offender, deferred adjudication, or other similar arrangement or program where judgment of conviction has been withheld.

"(2) EFFECTIVE DATE.—Subsection (a) and subparagraphs (A), (B), and (C) of subsection (b)(2) shall not apply to a conviction which occurred more than 5 years before the initiation of the action proposed to be taken under such subsection or subparagraph, and subparagraphs (D) and (E) of subsection (b)(2) and subsections (f) and (g) shall not apply to an act which occurred more than 5 years before the initiation of the action proposed to be taken under such subparagraph or subsection.".

SEC. 3. CERTIFICATIONS.

Section 505(j)(2)(A) (21 U.S.C. 355(j)(2)(A)) is amended—

(1) by striking out "and" at the end of clause (vii), by striking out the period at the end of clause (viii) and inserting in lieu thereof a semicolon, and by adding at the end the following:

"(ix) a certification that the applicant did not and will not use the services of any person debarred under section 306 in connection with the application; and

"(x) a list of all convictions within the last 5 years of the applicant and affiliated persons responsible for the development or submission of abbreviated drug applications.", and

(2) in the last sentence, by striking out "(viii)" and inserting in lieu thereof "(x)".

SEC. 4. CIVIL PENALTIES.

Chapter III, as amended by section 2, is amended by adding after section 306 the following:

"CIVIL PENALTIES

"SEC. 307. (a) IN GENERAL.—Any person that the Secretary finds—

"(1) knowingly made or caused to be made, to any officer, employee, or agent of the Department of Health and Human Services, a false statement or misrepresentation with relation to a material fact in connection with an abbreviated drug application,

"(2) bribed or attempted to bribe or paid or attempted to pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services in connection with an abbreviated drug application,

"(3) destroyed, altered, removed, or secreted, or procured the destruction, alteration, removal, or secretion of, any material document or other material evidence which was the property of or in the possession of the Department of Health and Human Services for the purpose of interfering with that Department's discharge of its responsibilities in connection with an abbreviated drug application

"(4) knowingly failed to disclose, to an officer or employee of the Department of Health and Human Services, a material fact

which such person had an obligation to disclose relating to any drug subject to an abbreviated drug application,

"(5) knowingly obstructed an investigation of the Department of Health and Human Services into any drug subject to an abbreviated drug application,

"(6) is a person that has filed with the Secretary at any time an abbreviated drug application (whether or not such application has been approved) and employed, retained as a consultant or contractor, or otherwise used (in any capacity in which such person has or might have any control over or involvement in the development of an abbreviated drug application) the services of a person that the person knew or should have known was debarred pursuant to section 306, or

"(7) is debarred pursuant to section 306 and provided services to an applicant under an abbreviated drug application that could subject such applicant to debarment under section 306 or to a civil penalty under this section,

shall be liable to the United States for a civil penalty for each such violation in an amount not to exceed $250,000 in the case of an individual and $1,000,000 in the case of any other person.

"(b) PROCEDURE.—

"(1) IN GENERAL.—A civil penalty under subsection (a) shall be assessed by the Secretary on a person by an order made on the record after an opportunity for an agency hearing on disputed issues of material fact and the amount of the penalty. In the course of any investigation or hearing under this paragraph, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(2) AMOUNT.—In determining the amount of a civil penalty under paragraph (1), the Secretary shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the person's ability to pay, the effect on the person's ability to continue to do business, any history of prior, similar acts, and such other matters as justice may require.

"(3) LIMITATION ON ACTIONS.—The Secretary may not initiate an action under this subsection with respect to any act described in subsection (a) which occurred before the date of the enactment of this Act or which occurred more than 6 years after the date when facts material to the act are known or reasonably should have been known by the Secretary but in no event more than 10 years after the date the act took place.

"(c) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (b)(1) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(d) INFORMANTS.—The Secretary may award to any individual (other than an officer or employee of the Federal Government) who provides information leading to the imposition of a civil penalty under this section an amount not to exceed—

"(1) $250,000, or

"(2) one-half of the penalty so imposed and collected,

whichever is less. The decision of the Secretary on such award shall not be reviewable.".

SEC. 5. AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS.

Chapter III, as amended by section 4, is amended by adding after section 307 the following:

"AUTHORITY TO WITHDRAW APPROVAL OF APPLICATIONS

"SEC. 308. (a) IN GENERAL.—The Secretary—

"(1) shall withdraw approval of an abbreviated drug application if the Secretary determines that the approval was obtained, expedited, or otherwise facilitated, in whole or in part, through bribery, payment of an illegal gratuity, or fraud or material false statement, and

"(2) may withdraw approval of an abbreviated drug application if the Secretary determines that the applicant has repeatedly demonstrated a lack of ability to produce the drug for which the application was submitted in accordance with the formulations or manufacturing practice set forth in the abbreviated drug application and has introduced, or attempted to introduce, such adulterated or misbranded drug into commerce.

"(b) PROCEDURE.—The Secretary may not take any action under subsection (a) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(c) APPLICABILITY.—Subsection (a) shall apply with respect to offenses or acts regardless of when such offenses or acts occurred.

"(d) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (a) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.".

SEC. 6. INSPECTOR GENERAL.

Section 702 (21 U.S.C. 372) is amended by adding at the end the following:

"(f)(1) In addition to existing authority, the Inspector General may investigate the following:

"(A) Any allegation of misconduct by employees of the Food and Drug Administration.

"(B) Any allegation of violation of section 301(t).

"(C) Any allegation of violation, or class of violations, of this Act which the Commissioner of the Food and Drug Administration has requested the Inspector General to investigate.

"(D) Any allegation of violation, or class of violations, of this Act for which the Secretary delegates authority to the Inspector General to investigate or requests the Inspector General to investigate, including—

"(i) any allegation that false or fraudulent materials have been submitted to the Food and Drug Administration,

"(ii) any allegation that false or fraudulent records have been maintained under any law administered by the Food and Drug Administration,

"(iii) any allegation of fraud, false claims, waste, or abuse relating to programs or operations administered, carried out, financed, or conducted by the Food and Drug Administration,

"(iv) any allegation of fraud in reporting of research by clinical investigators which is submitted to the Food and Drug Administration,

"(v) any allegation of an illegal sale under Federal law of a drug which is not a controlled substance, and

"(vi) any allegation of a felony violation of this Act.

In making determinations regarding any delegation of authority, the Secretary shall consider the expertise and resources available in the Office of Inspector General and in the Food and Drug Administration.

"(2) Paragraph (1) shall not be construed to preclude the Inspector General from initiating an investigation of a violation of this Act to determine if the violation is a violation described in subparagraph (A) of paragraph (1).".

SEC. 7. INFORMATION.

Section 505(j) (21 U.S.C. 355(j) is amended by adding at the end the following:

"(8) The Secretary shall with respect to each application submitted under this subsection maintain for public inspection and revise every 30 days—

"(A) the name of the applicant,

"(B) the name of the drug covered by the application,

"(C) the name of the person to whom the review of the chemistry of the application was assigned and the date of such assignment, and

"(D) the name of the person to whom the bio-equivalence review for such application was assigned and the date of such assignment.".

SEC. 8. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(bb) The term 'abbreviated drug application' means an application submitted under section 505(j) or 507 for the approval of a drug that relies on the approved application of another drug with the same active ingredient to establish safety and efficacy, and—

"(1) in the case of section 306, includes a supplement to such an application for a different or additional use of the drug but does not include a supplement to such an application for other than a different or additional use of the drug, and

"(2) in the case of sections 307 and 308, includes any supplement to such an application.

"(cc) The term 'knowingly' means that a person, with respect to information—

"(1) has actual knowledge of the information, or

"(2) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

"(dd) The term 'high managerial agent' means an officer of a corporation or an unincorporated association, or, in the case of a partnership, a partner, or any employee or other agent of a corporation or unincorporated association having responsibility for (1) submissions to the Food and Drug Administration regarding the development or approval of an abbreviated drug application, (2) production or quality assurance or quality control of any drug produced under an abbreviated drug application, (3) research and development of any drug subject to an abbreviated drug application, or (4) other duties of such responsibility that his conduct may

fairly be assumed to represent the policy of the corporation or association.".

SEC. 9. EFFECT ON OTHER LAWS.

No amendment made by this Act shall preclude any other civil, criminal, or administrative remedy provided under Federal or State law, including any private right of action against any person for the same action subject to any action or penalty under an amendment made by this Act.

SEC. 10. REPEAL.

Section 305 (21 U.S.C. 355) (relating to hearing before report of criminal violation for criminal prosecution) is repealed.

GENERIC DRUG ENFORCEMENT ACT OF 1991

HIGHLIGHTS

1. Mandatory and permissive debarment from the generic drug approval process based on convictions. Permanent debarment for individuals, and for previously debarred companies, convicted of an approval-related felony and a one year minimum debarment period for companies convicted of an approval-related federal felony.

2. Temporary denial of generic drug approvals for up to 18 months, with one possible 18 month extension, where the Secretary determines bribery, fraud or the like has occurred.

3. Authority to suspend distribution of generic drugs of tainted companies, unless the company can prove some or all of its drugs are untainted, until the company rehabilitates itself.

4. Civil money penalties up to $1,000,000 for a corporation and up to $250,000 for an individual per offense for a variety of offenses related to generic drugs, with a whistleblower reward up to $250,000.

5. Mandatory withdrawal of tainted generic drug approvals, and permissive withdrawal of approvals where the company has repeatedly failed to live up to its commitments to FDA.

6. Standby investigational authority for the Health and Human Services Inspector General concerning Food and Drug Administration matters, including drug diversion and fraud on the agency.

7. Limited sunshine provisions for generic drug applications.

8. Repeal of the requirement of notice and opportunity for hearing before a violation of the Food, Drug and Cosmetic Act is reported by the Secretary to a United States Attorney for institution of a criminal proceeding.

GENERIC DRUG LEGISLATION

SECTION-BY-SECTION

Section 1—The title is the "Generic Drug Enforcement Act of 1991"

Section 2—New Section 306 (Debarment) gives the Secretary authority to refuse to accept, review or approve generic drug applications for companies under specified circumstances.

Creates mandatory debarment for firms and/or individuals from involvement in the generic drug approval process for felony criminal convictions in connection with the development or approval of generic drugs. [306(a)]

Creates permissive debarment of firms and/or individuals by the Secretary for (1) a criminal conviction in connection with an activity relating to the development or approval of generic drugs, (2) a criminal conviction for bribery, fraud, or similar crimes, (3) a criminal conviction related to obstruction of justice, (4) being a material participant in such crimes, or (5) knowing use of a debarred person. [306(b)]

Under mandatory debarment individuals will be permanently debarred for federal felony convictions relating to the generic drug review process, and the minimum period for debarment for convicted companies is 1 year. The maximum period is 10 years. Under permissive debarment the maximum period is 5 years. [306(c)]

Debarment may be terminated within 180 days or at end of minimum period upon application to Secretary if the Secretary finds: (A) no basis for its continuation and there are reasonable assurances that actions will not recur; and (B) sufficient audits demonstrate that pending applications are free of fraud or material false statements. [306(d)(3)]

Debarment may be terminated at any time if a company can prove that its conviction was based on conduct of an employee who was not a high managerial agent and who was acting without the knowledge of top officials in the corporation. [306(d)(4)]

The Secretary shall make public a list of debarred individuals and companies. [306(e)]

Permits the Secretary to temporarily withhold a generic drug approval for up to 18 months if he determines that a firm or individual that is under an active federal criminal investigation, has engaged in (1) bribery or attempted bribery of an HHS employee in connection with a generic drug, or (2) a pattern of false statements or representations relating to any generic drug and (3) a significant question has been raised regarding the integrity of the approval process with respect to such generic drug. This period of denial can be extended for an additional 18 months if the firm has been indicted. [306(f)]

Creates suspension authority covering the distribution of all generic drugs produced by companies under active federal criminal investigations for corrupting the approval process after a determination that such companies have committed such an offense or that they have repeatedly failed to live up to their commitments to the FDA if such action influences the safety and efficacy of such drugs. [306(g)(1)]

The Secretary can waive suspension on public health grounds. [306(g)(2)]

The suspension order can be withdrawn if (1) the suspended drugs have been satisfactorily audited to assure they meet FDA standards and the person presents evidence of ownership, management, and operational reforms to satisfactorily remedy the pattern of practice of acts causing the suspension or (2) the initial determination was in error. Information submitted to the Secretary shall be made public. [306(h)]

The Secretary may not take any action with respect to debarment, the period of debarment, the termination of debarment, suspension or termination of suspension without providing a full Administration Procedure Act hearing on disputed issues of material fact. The Secretary is provided additional authorities to conduct discovery during these hearings. [306(i)]

Any person that is subject to final decision under this section has a right of judicial review. [306(j)]

Sets forth the definition of "conviction" and applies this section to all acts or convictions which occurred within the 5 years before the initiation of the actions proposed to be taken under this section. [306(k)]

Section 3—Amends Section 507(j) to add to generic drug applications the requirement that the applicant certify it did not and will not use the services of a debarred person in connection with the application.

Section 4—New section 307 (Civil Money Penalties). Creates civil money penalties of up to $250,000 for individuals and $1,000,000 for companies committing certain offenses in connection with generic drugs.

Provides for a list of offenses in connection with generic drugs that trigger penalities: (1) false statements; (2) bribery or gratuity; (3) destruction of records; (4) failure to make obligated disclosure of a material fact; (5) obstruction of an investigation; (6) use of a debarred person; or (7) as a debarred person, subjecting another person to sanction. [306(a)]

Provisions for notice, and hearing and authority for the Secretary to conduct discovery and hold hearings. [306(b)]

Sets forth various considerations the Secretary shall take into account in determining the amount of a civil penalty. [306(b)]

Sets forth a maximum 10-year statute of limitation for civil penalties. [306(b)]

Judicial review provision. [306(c)]

Whistleblower bounty of $250,000 or one-half of penalty imposed and collected, whichever is less. [306(d)]

Section 5—New Section 308 (Withdrawal) Creates explicit authority to withdraw approval of generic drug applications in cases of bribery, fraud, or false statements or for repeated failure to live up to its commitments to FDA.

Provisions for notice and hearings, and authority for the Secretary to conduct discovery and judicial review. [306(b)&(b)]

This section applies to improper acts regardless of when they occurred. [306(c)]

Section 7—Sets forth limited sunshine provisions for generic drug applications.

Section 8—Defines the terms "abbreviated drug application." "knowingly" and "high managerial agent."

Section 9—This Act does not preclude existing criminal or civil remedies.

Section 10—Repeals existing Section 305 language requiring notice before the Secretary recommends criminal prosecution for any violation of the Food, Drug and Cosmetic Act.•

• Mr. McCAIN. Mr. President, I rise today to join my distinguished colleagues, Senators HATCH, DURENBERGER, and others, in introducing the Generic Drug Enforcement Act of 1991. The purpose of this legislation is threefold: Cleaning up the troubled generic drug industry, restoring American consumer confidence in generic drugs, and the creation of a strong deterrent for future misconduct.

The FDA was established to protect the American public from bad devices and products. Yet, at times, the FDA is rendered unable to take action against a bad actor, even one that is under an active Federal criminal investigation for engaging in bribery or attempted bribery of an HHS employee in connection with a generic drug, or a pattern of false statements or representations relating to any generic drug, or involving a significant question about the integrity of the approval process with respect to such generic drug.

As we have seen in a number of well publicized cases over the past couple of years, this places the consumer at incredible risk. There have been numerous congressional hearings and investigations involving this issue.

What is more, as we continue to encourage the use of generic equivalents, and as we see our Nation's elderly

using more and more generic drugs, it is critical that these consumers have the confidence that the drugs they are purchasing in an attempt to save money are not going to place them in harm's way.

Mr. President, our Nation's citizens need to have confidence when they purchase health care services or products that are supposed to be regulated, that this regulation is being performed effectively. Currently, the FDA's hands are tied, and they are unable to deal effectively and swiftly with bad apples in the industry. The result is a direct threat to our Nation's health consumers.

If there is a fault with this legislation, it is that it is not broad enough in scope. By that, I mean that there are bad apples in all areas of the health device and drug manufacturing industry. In my view, it is important that we not confine a strengthening of the FDA's consumer protection tools to only the generic drug industry—we need to strengthen their tools to deal with bad apples in all areas of the health manufacturing industry.

Mr. President, no segment of the health industry is bad in and of itself—but there are bad apples in most segments of the health industry. And, these bad apples tarnish the reputation of that entire segment of the industry. While we must not pull the rug out from under the entire health industry in the attempt to deal with the bad apples, we must be able to effectively deal with the bad apples. That is what this legislation is all about.

Mr. President, this is critical consumer protection legislation for those who consume health care—specifically, those who use generic drugs. I hope that our colleagues will review it carefully and consider adding their support to this important legislation.•

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. FORD, Mr. GORE, Mr. SIMON, and Mr. BRYAN):

S. 1166. A bill to provide for regulation and oversight of the development and application of the telephone technology known as pay per call, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEPHONE CONSUMER ASSISTANCE ACT

• Mr. INOUYE. Mr. President, I rise today to introduce the Telephone Consumer Assistance Act, legislation designed to address problems that have arisen due to the use of pay-per-call services, better known as 900 numbers. While most 900 service providers are legitimate businesses, this industry has attracted some unscrupulous companies. Some 900 providers charge excessive rates, do not reveal their identity or the actual cost of these calls to consumers and fail to provide the service they advertise. In recent months, the FCC, the FTC, and the State attorneys general have concluded that it is imperative that additional regulation, legislation, and industry standards be implemented to protect consumers. This legislation constitutes a first step toward addressing these problems.

Let me take a few minutes to describe industry and the problems that have arisen. Pay-per-call services give callers access to a variety of information services through the telephone network. Customers can obtain access to this information by calling a 10 digit number whose prefix is typically 900 or 700. When consumers call one of these numbers, they then assessed a charge in addition to regular long distance charge. Generally, callers are charged either a flat fee per call, or by the minute. The charge appears on the caller's telephone bill and can be as high as $25 per call or $10 per minute.

These numbers are used to: provide information like stock quotes, and sports data; conduct polls—call one number for yes and another number for no; provide legal and other advice; provide mass announcements which play prerecorded messages; promote sweepstakes; sell goods; raise funds for charitable and political organizations; provide "dating" services and group access bridging "gab" lines or "party" lines.

The way most 900 services operate is, that the information service provider enters into a contract with a telephone company—most often long distance companies. The telephone company makes telephone lines available to the information service provider and also handles the billing and collection. The 900 service provider offers the information, such as stock quotes. The service provider then advertises the service and the 900 number using print and/or broadcast media. When a consumer calls the stock quote 900 number, he/she is then billed directly on his/her telephone bill. In other words, 900 services operate like credit cards; as soon as you place a call, you are automatically billed by the phone company. The telephone company collects the charge for the consumer, takes out its share to cover the cost of providing the lines and the billing service, and passes the remainder of the charge to the service provider. It is important to note that the telephone company does not provide the information; the telephone company provides the telephone lines and billing, but, generally does not provide the information content.

The 900/700 per-per-call business, which began in the early 1980's, has developed into a $759 million industry, and is projected to grow into a $1.6 billion industry by 1992. Recently, a group of State attorneys general released a report which estimates that there are presently 10,000 different pay-for-call programs available.

According to the State attorney's general report, "the recent growth of this industry has been attributed to the fact that it represents an inexpensive and relatively simple means of tapping into a highly profitable, nationwide market." They also attribute the growth to the divestiture of AT&T, which has opened the telecommunications industry to more competition and expansion of services.

In recent years, the increased usage of 900 numbers has resulted in many consumer complaints. Since January of 1988 the FCC has received over 2,000 complaints, and the complaints are continuing. The FCC received 197 complaints in November 1990, and 190 in January 1991. The most frequent complaints concern false or deceptive disclosure of rates and products. Advertisements often fail to disclose the cost of calls to 900 numbers, or the cost of the call is printed in small illegible "mice" print. Some ads only state the cost of the call once, or in slurred, last minute voiceovers, but repeat the 900 numbers frequently throughout the advertisement.

In some cases, callers are told to call an 800 number only to get a recorded message advising them to call a 900 number, but are never told that there will be a charge for calling the 900 number. Even where the price is disclosed, the ad may not state that the caller will be charged per minute. Some sweepstakes programs require consumers to call a 900 number to claim their prize, without disclosing the cost of the call. The attorneys general report noted that a number of these companies advertise free vacations to Hawaii by calling a 900 number.

Some of these services target children who do not appreciate the costs of dialing these numbers. Especially dangerous are those that run TV and radio advertisements telling children to hold the phone up to the TV or radio. The tone associated with each telephone number are then broadcast over the TV or radio so that the call is dialed automatically. As a result, children do not even have to know how to dial to be connected to one of these services.

Finally, this problem is exacerbated by the fact that when consumers receive their monthly telephone bill, they have no idea who is the source of the 900 charge. The bill only shows the long distance carrier, AT&T, MCI or whoever carried the call. This not only lends legitimacy to the charge, because it looks like the telephone company is responsible for the charge, but the consumer believes that he/she must pay the charge or the telephone company will disconnect their service.

These problems have not gone unnoticed. Some telephone companies have voluntarily begun to institute measures to provide some protections to consumers. For example, GTE Hawaiian Telephone Co. has made call blocking of 900 and 700 numbers available to all of its customers. The blocking serv-

ice is free the first time it is requested by a customer. If the customer cancels the service and then reinstates it there will be a charge. However, this only addresses part of the problem and this service is not universally available.

In addition, the FCC has initiated a rulemaking proceeding to consider regulations on 900 service providers. The FTC has initiated multiple investigations into telemarketing fraud. In fact, the FTC recently settled one of its suits which will result in $1 million in refunds to victims of one telemarketing fraud scheme, assuming they can locate the victims. The FTC also has encountered great difficulty in tracking down the information providers.

The National Association of Attorneys General [NAAG], however, believes that neither the FCC nor FTC proceedings go far enough to protect the consumer from 900 number problems. NAAG is concerned because many consumers are completely unaware of the charges associated with 900 numbers. Further, neither the FCC nor the FTC have the authority to address these problems comprehensively under existing statutes. The NAAG report, thus, proposed several legislative changes that go beyond the proposals of the FCC or FTC proceedings.

I agree with NAAG that stronger action is needed. Accordingly, the Telephone Consumer Assistance Act addresses many of the concerns raised in the NAAG report and expands the jurisdiction of both the FCC, FTC, and the States to provide express authority to address the problems raised by the explosive growth of the pay-per-call industry. While the telephone companies can be helpful in stemming some abuses in this industry, this bill recognizes that most of the burden for solving these problems rests with those who are causing the problems—the information providers.

Accordingly, this legislation:

Requires that 900 services provide a preamble stating the cost of the call, all per call charges, describing the information, product or service to be provided, and gives the caller the option to hang up without being charged;

Requires that charges for calls cease immediately when the caller hangs up;

Bans 900 services aimed at children under the age of 16;

Requires the phone companies to give their subscribers the option to block all calls to 900 numbers from their phone, where technically feasible;

Requires that the telephone companies include in bills sent to subscribers information describing the rates charged for 900 numbers, the name and address of the numbers called, and the rights and obligations of callers and the carrier;

Prohibits local telephone companies from disconnecting subscribers for failure to pay interstate 900 number charges;

Prohibits broadcasters from carrying advertisements that emit tones that automatically dial a telephone number when the phone is held up to the radio or television;

Requires full and clear disclosure of the rates for these calls in advertisements carried on broadcast stations and in print media;

Prohibits referrals from 800 numbers, free calls, to 900 numbers that charge the caller;

Requires all 900 number service providers to register with the FTC and prohibits them from offering any service until they are on file;

Prohibits telephone companies from contracting with any 900 number service providers unless they are on file with the FTC; and

Gives the FCC, the FTC, and the States the authority to enforce the provisions of this legislation.

Requires the FTC to conduct a study concerning use of caller's numbers, without their knowledge, by telemarketing services.

Requires the FCC to conduct a study into the need for regulations requiring automatic disconnection of sevices after one full cycle, or of interactive programs if there is no activity for some period of time, and the need for beep tones to remind callers that they are being charged for interactive calls.

In closing, I believe that this legislation is very important. we are faced with a situation where, as the NAAG report states, "the telephone, a common and necessary household utility, has been transformed into a credit purchasing tool." The 900 service providers are using and abusing option to take unfair advantage of consumers. I believe that this legislation goes a long way toward ensuring that consumers are protected against abuses by pay-per-call service providers, while permitting legitimate service providers to expand their business opportunities.●

By Mr. DECONCINI:

S. 1167. A bill to deny the People's Republic of China most-favored-nation trade treatment; to the Committee on Finance.

DENIAL OF MOST-FAVORED-NATION STATUS TO THE PEOPLE'S REPUBLIC OF CHINA

● Mr. DECONCINI. Mr. President, I am pleased today to once again join with the distinguished majority leader as an original cosponsor of his legislation placing conditions on any extension of most-favored-nation trade status for China by President Bush.

Last Wednesday, the President indicated his intention to extend this preferential treatment to China because it is a "large and important nation." He believes that we must allow China time to meet conditions laid out last year when he extended China's MFN. I strongly disagree: China has had enough time to prove itelf. It has been nearly 2 years since the murder of democracy in Tiananmen Square and since that time I believe China has regressed—not progressed—in meeting its obligations to the world and its obligations to its own people.

It has responded to the people's yearning for democracy by forcing students into "re-education" camps and mandating military service before attending university. According to moving testimony from the Dalai Lama, the People's Republic of China continues its illegal occupation of and apparent policy of genocide toward the people of Tibet by killing an estimated 1 million Tibetans. The People's Republic continues to hold prodemocracy demonstrators in detention without charge or trial. And, something which is deeply disturbing to this Senator, is China's continued policy of flagrant proliferation of technology and weapons of mass destruction to Third World countries without safeguards of any kind. These weapons include missiles to Syria, Iran, and Iraq, M-11 missiles, missile technology, and weapons grade uranium to Pakistan, a nuclear reactor to Algeria, and other destructive technologies to North Korea.

Is the People's Republic of China a country which has moderated its behavior after the United States extended MFN? Is this a nation which adheres to internationally accepted standards of human rights and respect for the rule of law? Is it a nation whose policies support and nurture efforts by outward-looking, reform-minded Chinese? The answer is obvious—No.

I object to President Bush's favorable and, I believe, morally deficient treatment of the Government of the People's Republic of China. Our Government continues to ignore the atrocious neglect of human rights in China. We seem to believe that by giving China—or Iraq or the Soviet Union, for that matter—a chance to change, they will see the error of their ways and agree to join the community of civilized nations. Some nations just do not get the message. It did not work with Iraq which gassed its Kurdish citizens and invaded Kuwait. It has not worked with the Soviets whose brutal and bloody repression against the Baltic States and Armenia continues. And it has not worked with China.

All you need to do is ask the students and others who continue to languish in Chinese jails. Or ask the Tibetan priests who are denied the right to worship freely in their own country. Or ask the women who, according to the Associated Press, are forced to wear government-mandated intrauterine devices because China continues to strictly enforce its one-child policy. Or ask the doctors who are jailed because they remove these IUD's. Or ask the Western businessmen who have their products undercut through China's bla-

tant piracy of intellectual property rights. Just ask these individuals, or the thousands like them, and you will find that Bush's policy of appeasement of the aging Chinese gerontocracy is not working.

If anything, it is having the opposite effect. It appears that Bush's policy has emboldened the Chinese leadership. They seem to say, "It does not matter what we do, Bush is there to cover for us."

Well, I believe the time to act is now. I strongly support the majority leader's effort because it has the best chance of becoming law. But, I believe we must go farther. For that reason I am also introducing legislation similar to S. 1278, which I introduced last year, to immediately remove China's MFN status. I ask my colleagues to join me in cosponsoring this legislation which will tell the Chinese in no uncertain terms that their policies will no longer be tolerated by the United States.

The American Government must take action now. We must go on record against President Bush's "business as usual" policy. What signal does his policy send to those voices yearning for democracy around the world? Will we abandon them the same way we have abandoned the heroes of Tiananmen Square? Will we ignore the principle of stopping biological, chemical, and nuclear missile proliferation to appease an aging, blind, deaf, and dumb gerontocracy. Since our past exhortations have fallen on deaf ears, we must unequivocally demonstrate our commitment to democracy and human rights by opposing MFN. I ask unanimous consent that my legislation and the article referred to in my statement 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. 1167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. FINDINGS.

The Congress finds that:

(1) The People's Republic of China has engaged in flagrant violation of internationally recognized standards of human rights including—

(A) the trial and sentencing of persons whom the United States Department of State declared on January 8, 1991, "were guilty of nothing more than the peaceful advocay of democracy";

(B) the continuation of a policy of mandatory sterilization and forced adherence to the one-child per family policy through, among other methods, the persecution of doctors who have removed government-mandated intrauterine devices from women; and

(C) the religious persecution of citizens of China and Tibet by detention and house arrest.

(2) The People's Republic of China continues to harass and restrict the Chinese and international media and to interfere in Voice of America broadcasts to China and Tibet.

(3) Troop of the People's Republic of China have killed approximately 1 million Tibetans during China's illegal occupation of Tibet, according to information provided by the Dali Lama to Congress and the President.

(4) The People's Republic of China continues to provide military aid and support to the genocidal Khmer Rouge in Cambodia.

(5) The People's Republic of China continues to engage in a policy of forced labor, accordance to reports from Asia Watch and the General Accounting Office.

(6) The People's Republic of China has refused to restrict the proliferation of biological, chemical, and nuclear weapons and technology throughout the Third World, including terrorist states such as Iraq, Iran, Syria, and North Korea.

SEC. 2. DENIAL OF MOST-FAVORED-NATION TRADE TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA.

Notwithstanding any other provision of law—

(1) the President shall terminate or withdraw any portion of any trade agreement or treaty that relates to the provisions of nondiscriminatory (most-favored-nation) trade treatment to the People's Republic of China;

(2) the People's Republic of China shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States and the products of the People's Republic of China shall be subject to the rate of duty set forth in column number 2 of the harmonized Tariff Schedule of the United States; and

(3) the People's Republic of China may not be provided nondiscriminatory (most-favored-nation) trade treatment under any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431, et seq.).

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall apply with respect to articles entered, or withdrawn from from warehouse for consumption, after the date that is 15 days after the date of the enactment of this Act.

CHINA JAILING DOCTOR FOR REMOVING IUDS

BEIJING.—A doctor has been sentenced to two years to jail for removing intrauterine devices from woman, an official newspaper reported today.

Many Chinese hospitals routinely insert IUDs in women after they give birth to the one child they are permitted by national policy, and it is illegal to remove the devices without state approval.

However, many women try to remove the devices themselves or hire doctors to do it because they want more children.

Hao Yuzheng, a doctor at a school in rural Pingding County in Shanix province, west of Beijing, secretly removed several women's IUDs to make money, the *Shanxi Daily* said. It said the county judiciary sentenced her to two years in jail and fined her 135, the equivalent of several months' wages.

The case contradicts government assertions that its family-planning policy is voluntary China uses various means including fining parents or firing them from their jobs, to enforce its policy of limiting each couple to one child.

Exceptions are made in some rural areas for couples whose one child is a girl. Peasants generally want boys to help in the fields. Exceptions also are made if a first child is handicapped.

IUDs are the main form of contraception in China, in large part because they do not require voluntary action such as taking a pill daily, on the part of woman.

According to government statistics, more than 60 million Chinese women use IUD's, and nearly as many have been sterilized.

China has 13 billion people and fears that unless it curbs births, the population will become too large to feed without major food imports.•

By Mr. DASCHLE:

S. 1168. A bill to authorize the Secretary of Transportation to carry out a highway bridge demonstration project in the Vermillion, SD-Newcastle, NE, area to improve the flow of traffic between the States of Nebraska and South Dakota; to the Committee on Environment and Public Works.

NEBRASKA-SOUTH DAKOTA BRIDGE DEMONSTRATION PROJECT

Mr. DASCHLE. Mr. President, today I rise to introduce S. 1168, legislation addressing a long-overdue problem for the rural areas of Vermillion, SD, and Newcastle, NE. These towns, only a stone's throw from each other, must drive over 25 miles to the nearest bridge in order to cross the Missouri River.

S. 1168 would provide for the construciton of a bridge between these two areas. This would be the first, vital step toward bringing to Vermillion and Newcastle a link not only to each other, but to the byways and arteries that facilitate economic growth and development in the entire States of South Dakota and Nebraska.

I am pleased with the cooperation this bill has fostered between the communities of Newcastle and Vermillion, and I am proud to introduce this bill after working closely with the Newcastle-Vermillion Bridge Committee on the legislation. In addition, my friend and colleague in the House of Representatives, TIM JOHNSON, will be introducing a smiliar bill later today.

This bill would, first, authorize a feasibility and planning study to determine whether the bridge would be feasible as well as beneficial and cost-effective. Second, it would authorize the Depatment of Transportation to carry out the bridge project, should the study determine that the bridge is feasible.

A bridge linking Vermillion and Newcastle would improve economic development and community services dramatically. For example, movement of grain and livestock to market centers in Nebraska and South Dakota would be enhanced. The expected yearly flow of agricultural products over the bridge would be over $10 million, and agricultural production would reach $7 million.

As you know, access to health care is also a major problem for rural areas. The people of Vermillion estimate that access to care would increase for two-third of the people within 5 to 10 miles of the bridge in Nebraska and for almost one-quarter of the people up to 30 miles from the bridge.

In addition to health care availability, access to higher education would increase dramatically for these areas. The bridge would allow Nebraska residents access to the University of South

Dakota, and South Dakotans would have daily access to Wayne State College and Northeast Nebraska Technical College.

Recreational traffic would improve in both States, and businesses would benefit from increased sales, a larger labor pool, and better shipping routes. Vehicle traffic has been projected to be between 730,000 and 912,000 vehicles per year.

Mr. President, many in South Dakota could attest to, and give further evidence for, the need for a bridge linking the two communities. There is no doubt that the bridge project is feasible and warranted. Nevertheless, I and the bridge project sponsors understand the need for a Departrment of Transportation-approved study to demonstrate that need definitively. Once that need had been demonstrated in the feasibility study, there would be an automatic authorization of appropriations for construction of the Vermillion-Newcastle bridge.

I want to stress to my colleagues that this bridge project will assist thousands of people in at least two States, with the benefits spreading over a 100-mile radius. The State and local governments will be partners in the study and funding for the project. Each State will contribute at least 10 percent of the funds necessary for the bridge design and construction. In addition, the Vermillion-Newcastle community has managed to raise over $40,000 for the feasibility study. Clearly, the substantial fundraising effort by these communities proves how important the bridge project is.

Mr. President, I ask that my colleagues support this measure, and I look forward to working with the Committee on Environment and Public Works to see that this legislation is approved.

I ask unanimous consent that the text of the bill be printed in full following my statement.

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

S. 1168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEBRASKA-SOUTH DAKOTA BRIDGE DEMONSTRATION PROJECT.

(a) STUDY DESCRIPTION.—The Secretary of Transportation shall, in cooperation with the States of South Dakota and Nebraska, conduct a highway bridge planning and feasibility study for a bridge structure in the Vermillion, South Dakota-Newcastle, Nebraska area. Such study may be contracted out upon the agreement of the Secretary of Transportation and the States of South Dakota and Nebraska.

(b) AUTHORIZATION OF PROJECT.—If such study determines that such a bridge would be feasible and desirable, taking into account, among other things, the need for, and impact on commerce of, such a bridge, then the Secretary of Transportation is authorized to carry out a highway project, to plan, engineer, and construct a bridge across the Missouri River, connecting a Federal-aid highway in the vicinity of Newcastle, Nebraska, with a Federal-aid highway in the vicinity of Vermillion, South Dakota, for the purpose of demonstrating methods of improving the interstate flow of traffic, improving access to rural healthcare and higher education, improving grain and livestock movement, and improving overall economic growth and development of this rural area.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated out of the Highway Trust Fund (other than Mass Transit Account) such sucm as may be necessary for each of fiscal years 1992 and 1993 to carry out this section.

(d) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project under this section shall be 80 per centum and such funds shall remain available until expended. Funds made available under this section shall not be subject to any obligation limitation.

(e) STATE SHARE.—The States of Nebraska and South Dakota or political subdivisions of such States shall each provide for the project under this section 10 per centum of the cost of such project.

By Mr. GORTON:

S. 1169. A bill to authorize a certificate of documentation for the vessel *Commando*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "COMMANDO"

• Mr. GORTON. Mr. President, today I am introducing a bill to provide the necessary documentation for the vessel *Commando*. *Commando* is a 40-foot wooden vessel that was built in California in 1947. It is owned by Mr. Karl Lang of Bellevue, WA. Mr. Lang has owned the vessel since 1975. Mr. Lang would like to begin chartering the vessel on a part-time basis and perhaps on a more frequent basis after he retires in a few years. Mr. Lang is the fourth owner of the vessel. The first two owners are deceased. Mr. Lang has been unable to obtain absolute proof—birth certificates, death certificates, and so forth—that all the previous owners were American citizens. I am therefore introducing legislation to allow Mr. Lang to obtain the necessary Coast Guard documentation.

I ask unanimous consent that the attached bill be printed in the RECORD.

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

S. 1169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel COMMANDO, United States official number 955188.•

By Mr. DURENBERGER:

S. 1170. A bill to require any person who is convicted of a State crimial offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision; to the Committee on the Judiciary.

CRIMES AGAINST CHILDREN REGISTRATION ACT

Mr. DURENBERGER. Mr. President, I rise today to introduce the Crime Against Children Registration Act. This legislation will require people who are convicted of a sexual offense against a child to register a current address with local law enforcement officials for 10 years after their release from prison.

Mr. President, more than a year and a half ago, I became especially concerned about the vulnerability of America's children because of a tragic event that took place in my home community of St. Joseph, MN. On October 22, 1989, an 11-year-old boy named Jacob Wetterling was abducted by a masked man at gunpoint while returning home from a convenience store with his brother and a friend. Not a single word has been heard from Jacob or his abductor since that day.

There is not a community in Minnesota that was not shocked and heartbroken by what happened to Jacob. St. Joseph is a small, close-knit, safe community, and Jacob could have been anyone's child. Jacob's parents, Jerry and Patty Wetterling, remain hopeful that Jacob will be found, and we all pray for the day when Jacob will return home safely to his family.

Local, State, and Federal law enforcement officials responded quickly to Jacob's abduction. If local and State police had been aware of the presence of any convicted sex offenders in the community, it would have been of invaluable assistance during those first critical hours of investigation. The Crimes Against Children Registration Act would provide law enforcement officials with this tool.

The National Center for Missing and Exploited Children has expressed its support for a national system of registering child sex offenders, not only to protect children from abductions, but to protect every child that may be a victim of sexual abuse or molestation. The bill that I am introducing today grew out of the work of Patty Wetterling and her colleagues on the Minnesota Governor's Task Force on Missing Children.

Because of their efforts, a bill establishing this registration requirement just passed both Houses of the State legislation in Minnesota. A similar bill is being considered in the State of Texas. And 13 other States already have an address registration requirement: Alabama, Arkansas, Arizona, California, Florida, Illinois, Montana, Nevada, Ohio, Oklahoma, Rhode Island, Utah, and Washington.

The reasons for enacting this legislation on the national level are clear: sexual crimes against children are widespread; the people who commit these offenses repeat their crimes again and again; and local law enforcement officials need access to an interstate system of information to prevent and respond to these horrible crimes against children.

If there is any doubt about the seriousness of the problem, consider the following statistics, provided to me by the National Center for Missing and Exploited Children:

ChildHelp USA estimates that 1 in 3 girls and 1 in 6 boys will be sexually abused or victimized before the age 18. More than half—54 percent—of sexually abused children are victimized before age 7, and 84 percent are younger than 12 years old. Of the 2.4 million reported cases of child abuse in 1989, 380,000 involved sexual abuse. Two-thirds of reported nonfamily child abductions involved sexual assault. According to the FBI Law Enforcement Bulletin, child molestation is one of the most underreported crimes—only one to 10 percent of these crimes are ever disclosed.

The widespread tragedy of sexual abuse and molestation of children is compounded by the fact that child sex offenders are serial offenders. A National Institute of Mental Health study found that the typical offender molests an average of 117 children, most of whom do not report the offense. Those who attack young boys molest an average of 281. A study of imprisoned offenders found that 74 percent had one or more prior convictions for a sexual offense against a child.

The behavior of child sex offenders is repetitive to the point of compulsion. In fact, one State prison psychologist has observed that sex offenders against children have the same personality characteristics as serial killers.

Sex offenders against children are not only repeat offenders, but they are also dangerous and violent. The Justice Department has reported that over 85 percent of nonfamily abductions involved force and over 75 percent involved a weapon. Of the homicides that occur from stranger abductions, almost 40 percent involved rape or another sexual offense, and those are only the cases in which the circumstances were known.

Under the Crimes Against Children Registration Act, the type of crimes that would trigger the registration requirement include the kidnaping or false imprisonment of a minor, criminal sexual conduct toward a minor, solicitation of minors to engage in sexual conduct, the use of minors in a sexual performance, or the solicitation of minors to practice prostitution.

When a person convicted of any of these crimes is released from prison, the individual will be informed of his/her duty to register a current address with law enforcement for the following 10 years. Each time the offender moves, he or she will be required to register the new address within 10 days. This information will then be entered into the State law enforcement and National Crime Information Center computer networks, and will only be allowed to be used for law enforcement purposes.

To ensure that offenders are complying with the registration requirement, a nonforwardable verification form will be sent to the offender's last registered address each year. Failure to return the form within 10 days would constitute a class A misdemeanor unless the offender could offer a valid reason for failing to respond to the inquiry.

Mr. President, the Crimes Against Children Registration Act may require some of us to choose between two interests. One of those interests is the interest in protecting children from sexual abuse and exploitation. The other interest is the inconvenience to convicted child sex offenders who would be required to register an address with law enforcement officials once a year and each time they move.

Mr. President, for this Senator, there are no competing issues to debate. If a registration requirement for convicted sex offenders will assist law enforcement authorities in one criminal apprehension, or if it will deter a single kidnaping, I believe it is worth implementing.

I hope that my colleagues will join me in supporting this much-needed piece of legislation. I ask unanimous consent that the text of the Crimes Against Children Registration Act be printed in the RECORD.

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

S. 1170

Be it enacted in 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 "Crimes Against Children Registration Act".

SEC. 2. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision.

(2) DEFINITION.—For purposes of this Act, the term "criminal offense against a victim who is a minor" includes—

(1) kidnapping of a minor;

(2) false imprisonment of a minor;

(3) criminal sexual conduct toward a minor;

(4) solicitation of minors to engage in sexual conduct;

(5) use of minors in a sexual performance; or

(6) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this Act shall contain the following requirements:

(1) RELEASE.—If a person who is required to register under this Act is released from prison, the commissioner of the corrections facility in which the person was confined shall—

(A) inform the person of the duty to register;

(B) require the person to read and sign a form stating that the duty of the person to register under this Act has been explained;

(C) obtain the address where the person expects to reside upon release and report the address within 3 days to the State law enforcement agency; and

(D) give 1 copy of the form to the person and send 1 copy to the State law enforcement agency and 1 copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon release.

(2) REGISTRATION REQUIREMENTS UPON PROBATION OR SUPERVISED RELEASE.—

(A) PROBATION OFFICER.—If a person who is required to register under this Act completes a term of parole or other supervised release, within 14 days after the end of the probation or other supervised release, the person shall register with a law enforcement officer assigned by the State to the person at the end of that term. If the person changes residence address, the person shall give the new address to the last assigned officer in writing within 10 days.

(B) CONTENTS OF STATEMENT.—The registration provided to the officer under subparagraph (A) shall include—

(i) a statement in writing signed by the person, giving information required by the State law enforcement agency; and

(ii) a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration.

(C) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagraph (B), forward it to the State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks.

(D) ANNUAL VERIFICATION.—On each anniversary of the person's release date during the period in which the person is required to register under this Act, the officer shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the officer. If the person fails to mail the verification form to the officer within 10 days after receipt of the form, the person shall be in violation of this Act unless the person proves that the person has not changed his or her residence address.

(a) REGISTRATION FOR 10 YEARS.—A person required to register under this Act shall continue to comply with this Act until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(f) PENALTY.—A person required to register under this Act who violates any requirement of the program established by this Act is guilty of a class A misdemeanor.

(g) PRIVATE DATA.—The information provided under this Act is private data on individuals and may be used only for law enforcement purposes.

SEC. 3. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement the provisions of this Act.

(b) INELIGIBILITY FOR FUNDS.—A State not complying with the provisions of this Act 3 years after the date of enactment of this Act shall be ineligible for any grant, cooperative agreement, or other assistance under section 1404 of the Victims of Crime Act (42 U.S.C. 10603).

By Mr. AKAKA:

S. 1171. A bill to require the Secretary of Agriculture to take action to prevent the inadvertent introduction of brown tree snakes into Hawaii from Guam, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1172. A bill to require the Secretary of Defense to take actions to prevent the inadvertent introduction of brown tree snakes from Guam to Hawaii in Department of Defense aircraft, and for other purposes; to the Committee on Armed Services.

BROWN TREE SNAKE EXCLUSION LEGISLATION

• Mr. AKAKA. Mr. President, the United States is experiencing a serious but little-noticed invasion whose costs are astronomical. The armies are larger, numbering in the millions, and the battlefront extends from the East Coast to the borders of Texas and California and stretches all the way to my home State of Hawaii—literally from sea to shining sea. And I fear we may be losing the war.

I speak of the ongoing invasion of alien pest species. California has been fighting a multimillion-dollar battle against the Mediterranean fruit fly for years. Texas has already been stung by the African bee. And Customs and Agriculture agents in Miami and Los Angeles can no doubt write volumes on the countless alien plant and animal species they have intercepted and destroyed. But who knows how many more have slipped by them?

Today, Mr. President, I am introducing legislation which seeks to protect Hawaii from one of the most dangerous and costly of alien pests. The brown tree snake, which quickly established itself in Guam after World War II, now poses a severe health and environmental threat to Hawaii, I hestitate to even call the brown tree snake a "pest" since this term misleads people to believe it is no more a nuisance than a housefly or a gnat.

The threat is serious and cannot be ignored. The brown tree snake has wiped out at least nine native bird species in Guam. Where once you could hear an endless variety of bird calls and avian chatter on this Pacific island, today there is a haunting silence.

Hawaii's own bird population is already at great risk. Hawaii once could boast of at least 74 native birds species found nowhere else in the world. Today 24 species are extinct, and of the remainder, 30 are either endangered or threatened. I shudder to think of the appalling devastation and the deathly silence which would follow a successful brown tree snake invasion of Hawaii's forests.

In Guam, other mammal and lizard populations have been devastated as well, and domestic poultry and pet animals are on the defensive. In short, Mr. President, because the snake has no natural predators in Guam, it has wreaked havoc on the ecological balance.

Beyond the environmental disaster, the snake is responsible for numerous electrical power outages. The brown tree snake climbs on electrical lines and transformers and short-circuits the wires. The frequent blackouts, from 40 to 88 a year, mean lost productivity and damaged equipment running into the millions of dollars.

And if that isn't enough, consider the human health threat. The snake is mildly toxic to the average adult. But to infants, elderly people, and anyone prone to allergic reactions, the snake can be deadly.

Mr. President, Hawaii is extremely vulnerable to an alien species invasion. Over 90 percent of her native plants, birds, and insects are found nowhere else in the world. This high degree of endemism, however, means that our native flora and fauna have not developed natural defenses against recently introduced species.

Hawaii is already fighting on several fronts to eradicate or control alien pest species, such as the banana poka vine, the Clidemia shrub, and the Miconia tree, which are literally choking out native plant species. And every year, an estimated 35 new alien species arrive in Hawaii. But the threat of most of these species pales in comparison to that of the brown tree snake.

Mr. President, my legislation is an important first step to protect Hawaii and other Pacific States from this insidious snake. My measure directs the Departments of Defense and Agriculture to institute an aggressive screening of incoming cargo, whether through the use of sniffer dogs, traps, or other measures.

We must take action now. In the last decade, Mr. President, four brown tree snakes managed to reach Hawaii aboard air cargo. All were caught and killed. So far we've been lucky. But then again, Mr. President, luck is a poor substitute for policy. Unless we act quickly, the brown tree snake may soon be calling Hawaii its new home.•

By Mr. KERRY (for himself, Mr. MURKOWSKI, Mr. CRANSTON, Mr. BURDICK, Mr. DOLE, and Mr. ROBB):

S. 1175. A bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes; to the Committee on Armed Services.

ELIGIBILITY FOR AWARD OF PURPLE HEART

• Mr. KERRY. Mr. President, today, along with my colleagues, FRANK MURKOWSKI, ALAN CRANSTON, QUENTIN BURDICK, BOB DOLE, and CHARLES ROBB, I am reintroducing legislation to extend eligibility for the award of the Purple Heart to United States service personnel captured and held as prisoners-of-war during World Wars I and II and the Korean conflict.

No one can deny many of these prisoners-of-war suffered greatly as a direct result of their dedication and service to the United States. The inhumane treatment they often times suffered at the hand of the enemy ranged from physical torture resulting in permanently disabling injury to psychological damage, starvation and even execution. Although this suffering was endured in defense of the United States and her principles, the sacrifices made by many of these former prisoners-of-war have gone unrewarded. United States prisoners-of-war from World War I totalled 4,120. World War II brought captivity to 130,201 individuals. The Korean conflict saw the holding of 7,140 of our nationals.

President John F. Kennedy, in April 1962, signed Executive Order 11016 which ensured that future U.S. prisoners-of-war would be eligible to receive the Purple Heart for injuries they received while in captivity, or if their ill-treatment resulted in death. Previously, U.S. prisoners-of-war were eligible for the Purple Heart if they had been injured in action, before or during capture, or in an escape attempt.

This change in policy applied only to prisoners-of-war captured after April 25, 1962. There was no retroactive award of the Purple Heart to former prisoners-of-war captured during World Wars I and II and the Korean conflict because, among other reasons, it was felt this action would contradict the decisions made by past military leaders who thought that injuries incurred while a prisoner-of-war during those actions, were the result of war crimes, not the result of a legal act of war.

Although this judgement must be respected, bestowing the much deserved recognition to those individuals who have suffered in so many ways as a result of their willingness to work in defense of all we hold sacred, must take precedence.

Again, there can be no question that the experiences of prisoners-of-war injured or killed during captivity prior to April 25, 1962 is deserving of the honor

of the Purple Heart. The sacrifices they made in service to our country are no less valuable than those of the brave individuals serving our interests after that date. Far too much time has passed to allow any more delay. We strongly urge our colleagues to join us in affirming that this noble distinction should belong to all prisoners-of-war, regardless of their date of capture.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR AWARD OF THE PURPLE HEART.

(a) REQUIREMENT TO MAKE AWARD.—(1) Subject to paragraph (2), the President may award the Purple Heart to a person described in subsection (b) who was taken prisoner and held captive before April 25, 1962.

(2) An award of the Purple Heart under paragraph (1) may be made only in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to a person described in subsection (b) who has been taken prisoner and held captive on or after April 25, 1962.

(b) ELIGIBLE PERSON.—A person referred to in subsection (a) is an individual who, while a member of the Armed Forces of the United States or a civilian national of the United States serving in any capacity with the Armed Forces of the United States, is taken prisoner and held captive—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(c) RELATIONSHIP TO OTHER AUTHORITY TO AWARD THE PURPLE HEART.—The authority under this section is in addition to any other authority of the President to award the Purple Heart.•

By Mr. DECONCINI (for himself, Mr. MCCAIN, Mr. DOMENICI, Mr. SARBANES, Mr. BURDICK, Mr. HARKIN, Mr. BAUCUS, Mr. WIRTH, Mr. KENNEDY, Mr. BRADLEY, Mr. INOUYE, Mr. REID, Mr. DASCHLE, Mr. AKAKA, Mr. BRYAN, Mr. BINGAMAN, Mr. HATCH, Mr. NUNN, Mr. CHAFEE, and Mr. SIMPSON):

S. 1176. A bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes; to the Committee on Environment and Public Works.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY ACT

• Mr. DECONCINI. Mr. President, I am here today with very mixed feelings. On the one hand, I am saddened by the fact that after 30 years of outstanding and distinguished service, Mo Udall is no longer a Member of Congress. Yet, I am heartened by the fact that I had the opportunity to serve with this giant of the legislative branch. He was a mentor and a friend and I shall sorely miss his counsel, his advice, his wit, and friendship.

He will also be missed by all his colleagues. As the Members of the House of Representatives recently demonstrated in their floor tributes, Mo is an irreplaceable Member of that body. His colleagues in the House—liberals, conservatives, Democrats, and Republicans—each had his or her little story about Mo Udall—each from a different perspective—but each pointing out that for 30 years Mo was a shining example of what a Congressman should be.

I am extremely proud that during most of those 30 years Mo Udall was my Congressman. During his long tenure, Mo distinguished himself in many areas—postal reform, campaign finance reform, civil service reform, foreign relations, to name just a few. As one of the founders and the first chairman of the Office of Technology Assessment, Mo also demonstrated his deep interest in science and mathematics. But I believe Mo's work on behalf of the environment will be his greatest monument.

Protecting our environment presents us with one of the greatest challenges, if not the greatest challenge, now facing our Nation and the world. The legislation I am introducing today, along with 19 of my colleagues, honors the legacy of Morris K. Udall by carrying on his work on the environment in a way in which I think Mo would approve. This legislation creates a foundation with a $40 million endowment that will award scholarships, fellowships, and internships to outstanding students pursuing environmental studies. From his seat as chairman of the House Interior Committee, Mo focused his legislative agenda on resolving the problems facing our environment and natural resources. Training young people to solve today's environmental problems and prevent future ones is a fitting tribute to the man who dedicated his entire legislative career to educating the public on the precarious relationship we have with our environment, both individually and collectively.

The foundation would also fund some of the programs of the Udall Center located on the campus of the University of Arizona, Mo's alma mater. The Udall Center will invite visiting policymakers to share their practical experiences in the environmental area; convene panels of experts to discuss contemporary environmental issues; and develop and implement a Program of Environmental Research and Environmental Conflict Resolution.

The bill will also allow for the funding of a repository for the papers of Morris K. Udall, as well as the papers of other appropriate individuals. This will insure their availability to the public.

Many men and women have had the good fortune to be allowed to serve in the Congress of the United States. Most serve with honor. Many serve with distinction, but only a handful leave the legacy that Morris K. Udall has left during his 30 years in the Congress of the United States.

This bill would both honor Mo and hopefully make a significant contribution to addressing and resolving the environmental problems that lie ahead.

Mr. President, I urge all Members of the U.S. Senate to join with me in honoring Mo Udall by cosponsoring this legislation.

Mr. President, I ask unanimous consent that statements from Senators MCCAIN and KENNEDY appear in the RECORD at this point as if read.

Also, I ask unanimous consent that the full text of the bill be printed at this point in the RECORD and urge its expeditious consideration.

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

S. 1176

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 "Morris K. Udall Scholarship and Excellence in National Environmental Policy Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) For three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water; and

(3) It is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 4(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in Na-

tional Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 4. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of 10 members, as follows:

(1) Two Members, one appointed by the Speaker of the House of Representatives and one appointed by the Minority Leader of the House of Representatives.

(2) Two Members, one appointed by the Majority Leader and one appointed by the Minority Leader of the Senate.

(3) Two members, appointed by the President, who have shown leadership and interest in the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment.

(4) One member, appointed by the President of the University of Arizona after consultation with the Center, who has shown leadership and interest in the continued use, enjoyment, education, and exploration of the Nation's rich and bountiful resources.

(5) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(7) The President of the University of Arizona shall serve as a non-voting, ex officio member and shall not be eligible to serve as chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Board members first taking offices—

(i) members appointed by the President shall serve for 2 years; and

(ii) the Members appointed by the Senate and the members appointed by the President of the University of Arizona shall each serve for 4 years; and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which the member's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 5. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields; and

(6) provide educational outreach regarding environmental policy.

SEC. 6. AUTHORITY OF THE FOUNDATION.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5. The Foundation shall have the authority to award scholarships, fellowships, internships and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) Deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to Sec. 5.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships and grants under this Act shall be known as "Morris K. Udall Scholars."

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3), and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6), and section 6(a)(7) conditioned on a 25 percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

SEC. 7. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Enviromental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 10 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the fund. Such investments shall be in Public Debt Securities with maturities suitable to the needs of the Fund. Investments in Public Debt securi-

ties shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 8. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund $40,000,000 to carry out the provisions of this Act.●

● Mr. McCAIN. Mr. President, it's with both great joy and sadness that I rise today to acknowledge the retirement from Congress of our friend and colleague Morris K. Udall.

Much has been said and written about Mo Udall by individuals of far greater eloquence than me, so I will be brief. I would, however, like to submit for the RECORD some of the editorials and columns which have appeared to honor Mo and his life's work.

I wonder how one finds the words to talk about a man who has achieved so much, who has served with such distinction and who has touched the lives of so many. Only two words keep coming back to me, over and over again—thank you.

Thank you, Mo Udall, for gracing our national and political life with your talent and humor. Thank you for your courage, compassion, and integrity. Thank you for exemplifying all that is good and decent in public service. Thank you for devoting your life to your country. Thank you for making our Nation and our world a better place to live.

The imprint of Mo Udall is prominent in the laws of our Nation, his values memorialized in a natural heritage which is richer and healthier because of him. He is a public figure of enormous significance to the history of our Nation. But I'm sure what matters most to Mo Udall, is not his place in legal briefs and history books. Rather, Mo probably sees his legacy in the smiles of the countless souls whose lives he enriches by the fruits of his life's work. What greater legacy can a man leave? When we think of Mo Udall, we should think of the smiles and the joy he brings and will continue to bring to a world very much in need.

The creation of a Morris K. Udall Excellence in National Environmental Policy Foundation and Scholarship is a proper tribute to our friend and colleague. Senator DECONCINI is to be congratulated for bringing this initiative together. It will ensure that Mo's passion and commitment to our natural heritage will endure. It is our way of saying thank you.

I know this is a very emotional time for Mo and his family. Our thoughts and prayers are with you. And, once again, thank you Mo Udall.

Mr. President, I ask unanimous consent that the articles and editorials mentioned earlier be printed in the RECORD.

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

FAREWELL, MO—WE'RE REMINDED OF A STORY OR TWO OR THREE

One of Mo Udall's early leadership tasks in Congress was to oversee reorganization of the U.S. Post Office into an independent Postal Service.

He used to joke after accomplishing that task that his biggest fear in life was that he would be remembered as "the father of the modern postal system."

No problem, Mo.

As the accolades coming forth in the wake of his announced retirement indicate, Morris K. Udall will be remembered for a lot more than that.

He is the man who oversaw vast expansion of the nation's wilderness system.

He is the man who saved Alaska's wilderness, what he called "the crown jewels" of the country's parks and wilderness.

He is the man who brought the Central Arizona Project to Tucson.

He is the man who worked hard throughout his 30-year career as the representative from Arizona's 2nd Congressional District to reform the seniority system in Congress, and the way campaigns are run.

He championed clean air and clean water legislation and restoration of lands destroyed by strip mining. He promoted an environmental ethic that saw its way into scores of bills.

He did it all with a wit and grace that did Arizona proud. No doubt he enjoyed the honors and awards that came his way, but he had a down-to-earth assessment of self. He never became "a legend in his own mind"—the phrase he often used to describe some of his more pumped-up contemporaries.

He came close to being president of the United States. It was emblematic of the Udall style that he turned the disappointing experience of the many narrowly lost primaries in 1976 into more grist for the Udall humor mill.

It became a series of jokes about how "presidentialitis" could be cured only with embalming fluid, and how mothers in Arizona, knowing of his and Barry Goldwater's failed tries, couldn't tell their children that they could grow up to be president.

It became a book title: "Too Funny to Be President."

Year after year, until his recent illness, Udall's House colleagues voted him the most persuasive orator in the House and ranked him among the most effective legislators. The reason was always apparent—he had integrity. He kept his covenant with his colleagues, his district, his country and his conscience.

It would have been fitting to see Mo Udall walk boldly from the House where he served 30 years. It would have been satisfying to see him step to the podium one more time to make his farewell. "I'm reminded of a story," he would begin.

But the manner of his leaving diminishes none of what he did there. It doesn't diminish his earlier career as county attorney, as lawyer for the defense, as professional basketball player, UA student body president, pride of St. Johns, Arizona.

He will be missed.

We will not see his equal soon—if ever.

[From the Arizona Republic, Apr. 23, 1991]

MO UDALL'S RETIREMENT—THE END OF AN ERA

Through the years Arizona has enjoyed the services of a number of able and respected politicians. Barry Goldwater, Paul Fannin, John Rhodes, Carl Hayden and Ernest MacFarland left enduring legacies. Those not fortunate enough to live in Arizona have marveled at how a sparsely populated Western state could produce political giants who left their mark on America's national life.

Add to that august list the name of Morris Udall, the last of his generation. Reduced by Parkinson's disease to a shadow of his former self, Mr. Udall has decided to hang up his spurs. The decision to retire from Congress on May 4 is the right one for the ailing 68-year-old native Arizonan. He will be missed. His self-deprecating wit, quick intelligence and home-spun humility have made him one of the most respected congressmen.

In 1976 Mr. Udall made a gritty run for the presidency. He placed second in a series of close primaries, but his dignified campaign

never could overtake Jimmy Carter. The reluctance of other long-shot liberals to withdraw from the race likely sealed the Udall defeat. Mr. Udall frequently joked that the voters simply had grown sick of him, and in 1984 he nixed talk of another run, saying he would not want the campaign to become a forum on Parkinson's disease.

Whatever Mr. Udall's failings in presidential politics, his success in the legislative arena was remarkable. He was the driving force in campaign finance reform, he helped forge reforms in the House's creaky seniority system and he was the floor whip for the historic 1964 Civil Rights Act.

As chairman of the Interior and Insular Affairs Committee, Mr. Udall recorded several major environmental achievements, including the regulation of reclamation on strip-mined land and the Alaska Lands Act that doubled the size of the national park system and tripled the amount of wilderness area. Truly, Mr. Udall was ahead of this time on environmental concerns.

Several years ago, when concern over his health was becoming public, Mr. Udall was asked how he would like to be remembered. I would hope, he said, "that in Arizona people would think of me as somebody who cared about the land deeply, who left a legacy of national parks and wilderness areas and resource policies that give future generations some idea of what kind of love of the land and environment that I've always felt."

Clearly, Mr. Udall achieved that and more. His distinguished example in gentle word and historic deed set a standard for public service. In riding into the sunset Mr. Udall carries the heartfelt admiration of the Arizonans. We wish him Godspeed.

MO GOES—30 YEARS OF WARMTH AND WIT

The last days of Morris K. Udall's service to his country were an embarrassment. But the embarrassing actions were not Udall's they came from others.

The man from Arizona's 2nd District, hospitalized with advancing Parkinson's disease, debilitated by severe injuries suffered in a Jan. 6, fall, was withering away—and everyone knew it, it was only a matter of time, as his wife and family and staff put his affairs in order, before the inevitable retirement announcement came. Still, the unnecessary, tasteless calls for his resignation cascaded from editorials and calculating columnists who showed all the emotion of Cleveland pathologists.

The Udall years were pushed to one side, forgotten in the rush to see who would be Arizona's next congressman. The tawdry display was in the genre of Evan Mecham, the King holiday and AzScam. It was an embarrassment. But now that the inevitable, announcement has come, now that Udall's departure from Congress is official, perhaps the ambitious and the calculating, the impatient and the unsympathetic can join with the rest of Arizona to pay Udall the tribute he is due.

As chairman of the House Interior and Insular Affairs Committee, Udall was an incredibly powerful and influential engine of government. While he served, Udall made the most of his energies and influence for Arizona. He was Arizona's wilderness man, introducing legislation that added to the state's wilderness system, in addition to shepherding the Alaska National Interest Lands Conservation Act, enacted and signed into law in 1980, doubling the size of the national park system.

Udall was instrumental in securing passage of legislation that provided direction for the mining industry in the reclamation and restoration of land. He was a bold champion for the causes of native Americans. He was a basketball player and a presidential candidate, a tall presence wherever his pursuits drew him. He is a good fellow and has been a good colleague—wise, warm and witty.

Were Mo in better health, the embarrassing moments that presaged his farewell to Congress would undoubtedly have been countered by his wit and humor.

"Through their tears," he might have said, "some of those who have been mourning my departure, still managed to pack my bags without missing a pair of socks or pad of paper."

Fortunately, for the rest of us, what Mo Udall did for Arizona and the United States cannot be packed away to make way for his replacement. It is too vast, too wide, too heavy to be put in a box, or ever forgotten.

[From the Tribune Newspapers, Apr. 20, 1991]

UDALL'S CONTRIBUTIONS

Anyone who appreciates the wondrous beauty of America's public lands should share the sadness as one of its most eloquent and powerful protectors steps down.

Morris K. Udall, who rose to within grasp of the Democratic presidential nomination during three decades as a respected and beloved leader in the U.S. House of Representatives, on Friday resigned his seat. Regardless of political persuasion, all Americans—and particularly Arizonans—should feel the loss of his effective and humane leadership.

Above all, Udall was a strong advocate for protecting wilderness and natural waterways, preserving water quality, improving conditions for Native Americans and ensuring the safety of nuclear energy. He also has been an effective team player with the rest of the state's congressional delegation in advancing causes of particular importance to Arizona.

Some people have criticized Udall for not resigning sooner as the ravages of Parkinson's Disease steadily withered his once athletic 6-foot-5-inch frame. Only after being hospitalized for more than three months following a fall down a flight of stairs at his Arlington, Va., home did he concede his position.

But Udall would have been out of character had he resigned sooner. He is no quitter. And he has pursued his chosen causes as tenaciously as he has waved off those who questioned his physical ability to do the job.

He can be proud of his many accomplishments. After winning the southern Arizona House seat vacated in 1961 by his brother Stewart's appointment to Interior secretary, Mo was instrumental in winning congressional approval for the Central Arizona Project.

Through his long tenure as head of the House Interior Committee he earned his reputation as protector of America's scenic and recreational assets. When he hasn't been working to add to the nation's inventory of protected lands, he has fought to broaden the scope of those protections.

A high point in Udall's career came with passage of his Alaska Lands Bill, which preserves what he refers to as the "crown jewels" of North America.

He also has been a friend and advocate for the nation's Indian tribes as they have struggled to improve education, health care and economic conditions on their reservations.

Udall the man has given us as much as has Udall the politician. He never backed down from a tough battle, even if he didn't always win. But he never succumbed to bitterness or personal attacks.

Through the years, Udall's ever-ready sense of humor has endeared him to political friend and foe alike. He has used it as often to publicly poke fun at himself as to disarm his opponents.

Truly, he has earned the rank of statesman when there are precious few around.

While Udall has relinquished his seat in Congress, he surely hasn't given up the ultimate fight. He will be in our prayers.

[From the Tribune Newspapers, Apr. 25, 1991]

CONGRESS LOSING SPIRITED MEMBER AS UDALL DEPARTS

(By David Broder)

WASHINGTON.—The losing presidential candidates in the past generation who were most cherished by the reporters who covered them were both Arizonans—Barry Goldwater and Morris Udall. It had nothing to do with ideology and everything to do with character and personality.

Goldwater, a conservative Republican, and Udall, a liberal Democrat, shared traits which made them great friends despite their disagreements. They both had a deep aversion to self-important phonies. And they both knew that politics, like life itself, requires the leavening gift of humor.

Goldwater went home four years ago, hobbled by arthritic hips. And now Udall has announced his resignation from Congress because he has been immobilized by the effects of Parkinson's disease and the injuries he suffered in a fall down the stairs at his home.

Goldwater won his party's nomination in a year when no Republican could be elected. Udall lost the nomination in a year when the Democrats could—and did—win. Both had to overcome the frustration they felt; both succeeded, but Udall's was probably the greater triumph.

In his 1976 campaign, he went through a series of agonizingly close, second-place finishes to Jimmy Carter. He was the victim of the tactical amateurism of his own organization and of the cannibalism of the Democratic left. Three other liberals, with less chance of winning, stayed in the race and drained off crucial support. Had he gained the votes of only one of them, former Sen. Fred Harris of Oklahoma, he would have beaten Carter in New Hampshire, Wisconsin and Michigan—and history would have been different. He also was sold out by liberal trade unions, which used the excuse of Udall's independence on labor issues to rationalize their deal-making with the favored Carter.

All this he bore with remarkable good humor, bouncing back time and again to rejoin the battle. By the end, in Ohio, he was dead-broke, all but exhausted—and adored by the reporters covering him.

In retrospect, it clearly was not the time for a Udall presidency. Two years after Watergate, America wanted an "outsider" as president, not a longtime congressman like Udall or Jerry Ford. And two years before Proposition 13 triggered a national tax revolt, it was not the time for a man who told voters that until America is "a just society," government's work is not done.

So Udall came back to the House, his home since 1961 and the place where his skills as a legislator, a political conciliator and a reformer were most appreciated. The legacy he left there is imposing and enduring. It ranges from strip-mining and Alaskan wilderness legislation to the reform of archaic committee and floor procedures that congressional barons had used to conceal their arbitrary

power. For a whole generation of congressmen, Udall became a mentor and a model—and they will miss him as much as the press galleries do.

Few of them, unfortunately, can match him as a teacher. Like his friend, former Rep. Barber B. Conable, Jr., the Rochester, N.Y., Republican who is retiring now from his job as head of the World Bank, Udall wrote his own newsletters, sharing with constituents his insights into the issues in the news and the ways of government.

So candid and delightful were these Udall newsletters that they were published in book form back in 1972. The title was appropriate—The Education of a Congressman—for Udall operated on the belief that representative government really is a continuing dialogue between citizens and their leaders.

Adlai Stevenson's belief that a campaign is a time to "talk sense to the American people" sustained Udall's run for the White House. His aides worried how to "pump Mo up" and "get him mad" at the opposition. He would respond with one of his hundreds of Lincolnian stories about the ridiculousness of overweening ambition.

But it was not a joking Udall who said in the midst of his own 1976 campaign, "Beware of the presidential candidate who has no friends his own age and confidantes who can tell him to go to hell, who has no hobbies and outside interests. * * * God help us from presidents who can't be a little bit gentle, and who don't have a sense of humor, and who can't gather friends around and play poker and climb a mountain. You know, these intense workaholics really worry me."

Mo Udall was a westerner and a liberal and a skeptic and a man whose humor was rooted in a deep appreciation of the tragedy of human life and the futility of human striving. For all those reasons—and more—he was special and precious to many of us.

What Archibald Cox said of him in a symbolic nominating speech at the 1976 Democratic convention was true: "By the count of votes, he did come in second, but he succeeded in the larger aim * * * for he proved that a public figure, even in a long and heated political contest, can exemplify the best of the American spirit, that honor need not yield to ambition, that open-mindedness and willingness to listen are not inconsistent with devotion to principle, that civility can accompany tenacity, and that humility should go hand in hand with power."

And, besides, he made it such fun.

UDALL: AN ACCOMPLISHED LAWYER, POLITICIAN, FIGHTER

(By Dennis DeConcini)

To see the prodigious legacy of Rep. Morris K. Udall, one need only look about the nation and state he so passionately loved and so ably served. His public monuments will endure forever.

I could go on for forever about Mo's many great accomplishments, but I'd like to offer a different perspective. There is a different side to this man. A side I saw as a young high-school and college student, when, even then, I witnessed firsthand why this man was destined for greatness.

Some of my most lasting memories of Mo Udall occurred after he had graduated from the University of Arizona law school and eventually came to work in my father's law office. I remember sitting in my father's office as a young high school student; Mo and his brother Stewart would meet with my father and strategize about cases on which they were working. Mo had a brilliant legal mind. He was an extremely hard worker, but more importantly, he listened intently to everything that was said.

I was also impressed with Mo's organizational skills. Specializing in personal injury cases, Mo carried a tremendous work load as a young lawyer. He seemed happiest during those times when he was barely keeping his head above water.

In fact, when Mo and Stewart Udall formed their own law firm, they carried three lawyers, including themselves. The firm used one secretary, so Mo and Stewart performed many of the administrative and secretarial tasks themselves.

Even with this busy schedule, Mo always found time after work with his kids to play baseball or participate in the Y-Indian Guide program. "Big Beaver," his chosen name in Indian Guides, always found time to enjoy life.

I was 24 years old when Mo Udall was first elected to Congress. I worked on his first campaign, and as I listened to him speak at various functions throughout his race, I was in awe of his ability to capture and maintain an audience's attention. His ability to communicate with people was not something he had trained himself to do. Rather, he was blessed with an ability to speak to his audience as if he were having a personal conversation with each individual. Even more impressively, Mo used few or no notes when he addressed an audience.

In addition to Mo's talents as both a lawyer and politician, he was also an accomplished businessman. Mo was concerned that no banks in Tucson were either controlled or owned by Tucsonans. At that time, all the banks in the area were owned and operated by institutions based in California or Phoenix. In order to remedy this problem, Mo became one of the original co-founders of Catalina Savings and Loan.

Mo also showed a great deal of interest in the real-estate market. He invested in real estate not only in Tucson and its outlying areas, but also in the Shenandoah Valley in Virginia.

Mo also loved to fly. He was an accomplished pilot, having served in the U.S. Army Air Corps during World War II. He continued to fly after he was discharged, but he found that flying time proved to be too expensive. In order to soften the financial burden, Mo and his flying partners formed a business. They would fly over the Catalinas and spread the ashes of people's loved ones over the mountains for a fee.

Mo Udall is a fighter. He never allowed any of his personal hardships or his battle with Parkinson's disease to slow him down. Even as Parkinson's began to take its toll, the old Udall charm and wit never faded.

I will dearly miss Mo Udall on Capitol Hill. I will always remember what he has done for Arizona and our nation, and I will always cherish these memories.

[From the Arizona Daily Star, May 3, 1991]

MO UDALL: TRUE FRIEND OF INDIAN TRIBES

(By John McCain)

His legendary wit, his vital hand in landmark environmental legislation and his national political leadership have been the focus of numerous remembrances about Mo Udall as his 30-year House career comes to a close. While all these areas are indeed hallmarks of his service to Arizona and the nation, they neglect an important aspect of his work that I think is important to include: his concern, compassion and efforts for Native Americans.

While faddish attention has focused on our first Americans from time to time over the years, Mo was persistent in ensuring that, during the 14 years he chaired the House Interior Committee, the Congress met its responsibility to advocate for and protect the rights and interests of Indians. Even before he attained the powerful chairmanship, Mo labored in an often fruitless vineyard of Indian issues for over a quarter of a century.

DEEP COMMITMENT

He did not work so long and so hard for personal glory or political gain. He did so because he cared for the dignified people in Indian tribes across the land and for the sanctity of the federal commitment memorialized in over 350 treaties with Indian tribes.

The evidence of his concern is spread across the public record. As a member of the House Interior and Insular Affairs Committee (and its chairman since 1977), he played a major role in the enactment of the Alaska Native Claims Settlement Act, the Indian Self-Determination Act, the Native American Grave Protection and Repatriation Act, the Indian Child Protection and Repatriation Act, the Indian Child Protection and Family Violence Prevention Act and the Indian Health Care Improvement Act. The list of major Indian reform bills he sponsored or supported could go on and on.

His finest work and fondest memories, however, came not in the major legislation but in the smallest problems that he was able to solve by the wise use of his office. Of the 184 Indian bills passed by the committee under his leadership, many were measures of little significance nationally, but of critical importance to one Indian tribe.

NO PROBLEM TOO SMALL

The Cocopah Tribe of Arizona and the Rumsey Rancheria of California are examples of two small tribes that benefited directly from Mo's concern for the Indian people. His efforts on their behalf assured the future stability and well-being of both these tribes. His work on their behalf demonstrates that no Indian problem was too small for his attention and time.

Mo also faithfully worked against legislation or other government action hostile to the treaties, rights, property of other vital interests of Native Americans. Sometimes all alone, he fought to ensure that the kinds of government action that have historically been bad for Indians were not allowed to go forward on his watch.

Yet, the public record of his legislation and other actions on behalf of Indians offers only surface testimony to Mo's efforts and accomplishments. You have to go to the Indian reservations and other native communities to see the real impact of his fostering hand.

TOWARD A BETTER LIFE

Life there is still hard. Poverty can be crushing and despair ever-present. But hope has been regenerated in the last 20 years, and slow, steady progress is being made toward a better life for Indian people, in large measure because of the legislative efforts of Mo Udall.

While the nation may not be aware of the role Mo has played in ensuring we meet our obligations to the first Americans, one need only visit his home or office to see that Indians know. On his walls and shelves are emblems of heartfelt appreciation from Indian tribes, Alaskan Native groups and Indian organizations that express love, respect and gratitude to him for a career of work on their behalf. All of this work, and most of the appreciation, occurred before "Dances

With Wolves" spawned a bevy of Indian advocates.

It is not this outpouring of recognition that matters to Mo. He is ending his distinguished career with the proud and long-suffering Native American people, knowing he has touched their lives and made their futures brighter by his efforts. This is his most lasting recognition in our nation's history, and why he will be missed first and missed most by the first Americans.

[From the Arizona Daily Star, May 5, 1991]

MORRIS K. UDALL, A MAN OF INTEGRITY

I'm reminded of a story.

That's the way Mo Udall began every speech I ever saw him make.

But the story I'm reminded of is not one of his. It may seem an odd metaphor for a Democrat, but you remember the tale about the blind men who each felt a different part of the elephant and deduced it to be quite different things depending on whether a tusk, a tail, a trunk or a leg was being touched and described.

A lot of Udall yarns have been swapped lately, a lot of the parts and pieces of the Udall legacy have been described.

And it's true that Mo Udall was an effective legislator, a friend of the environment, a witty, Lincolnesque orator, a man who used his powers of persuasion and his personal friendships to get the job done.

But it's also true he was a powerful figure who wielded that power to accomplish what personal persuasion could not. And like every great legislator, he was a creature of compromise, willing to shave off the more extreme edges of a bill or a policy to satisfy critics willing to trade votes.

He was, critics will note, the savior of wilderness who once lobbied for dams at the edges of the Grand Canyon and did little for the Mount Graham red squirrel.

He was the conservationist who spent most of his legislative career pushing a waiver reclamation project that urbanized his native state.

He was the friend of labor who voted to protect his home state's right-to-work law.

And he would be the first to admit, were he able to speak for himself in this Udall lovefest that surrounds his retirement yesterday from Congress, that politics is not a game for the overfastidious.

He was a careful legislator, who researched issues and argued them with friends and foes before making a commitment. He had a reputation for integrity, fairness and kindness, but he was no bloodless saint.

If he could raise that magnificent voice in protest one more time, he would tell us all to end this damn wake—and pour him three fingers of Scotch.

"Perfection is the enemy of the merely good," he would say, as his friend Jim McNulty remembers him saying on one particular occasion of comprise.

He wasn't perfect. He was merely better than the rest of us.

DRIVE TO EXCEL

He always excelled at everything he did.

Growing up in St. Johns, where he lost his right eye at age 6 in an accident, he was the center of attention—the center of the community that his grandfather founded as a Mormon settlement in 1880.

He wasn't just the star center of the basketball team, he was the pitcher on the baseball team and the quarterback of the football team. On football Saturdays, he changed quickly at halftime so that he could join the band on the field. He was a top student and one of the town's best poker players.

Tom Chandler, a Tucson lawyer who has known the Udall family since his days at the university was a contemporary of Mo's big brother, Stewart. He remembers being across the street, says Udall was the finest courtroom lawyer he ever saw. "He didn't try a case, he produced it, he put on a show."

Udall used every inch of his 6-foot-5 frame and every bit of his no-frills country manner to his advantage. Because he had his own planes, he was fond of using aerial photographs of accident and crime scenes. Chandler remembers losing a lawsuit to Udall when a woman tripped over a step at the Flamingo Hotel despite the fact that the step Udall called hidden was clearly visible. Chandler told the jury, from 1,000 feet in the air.

Udall ran for his first office in 1950—county attorney—and won, becoming, in Chandler's eyes at least, the best county attorney Pima ever had.

"There are very few public officials who will ever measure up to that man as far as gut integrity is concerned," Chandler said.

Integrity is a word mentioned often when you ask Udall's friends and colleagues to describe him. It was the only thing that occurred to Prior Pray, Udall's longtime district aide, when asked to sum up the man's career, "Integrity is the word I keep coming back to," he said.

Udall was elected to Congress on May 2, 1961, in a special election to replace his brother Stewart who was named interior secretary by President Kennedy.

He began the practice of making his income tax records public because he didn't think the required congressional disclosure was tough enough. He fought for campaign finance reform and reform of the seniority system in Congress.

Over the years, he would lead successful battles for reform of campaign laws and the civil service system.

And he led the battle, of course, for the Central Arizona Project—the state's biggest federal bonanza—a project originally geared toward the state's farmers that is ending its construction as a lifeline to the state's rapidly growing water-starved cities.

Much, much later, he would concede that it would have been better for Arizona to develop a string of cities along the Colorado instead of bringing the water to Phoenix and Tucson. But that was more regret than admission of mistake. The die had been cast when Udall went to Congress. He simply delivered what the congressman was supposed to deliver—though many thought he never would do it.

The dams on the Colorado are another story. Had they been developed to supply power to the CAP, they would have further controlled the flow of the Colorado, already a mechanized spigot rather than a river. But while they would have created reservoirs upstream and downstream from the national park, they would also have provided a more even flow than that coming through Glen Canyon Dam, whose fluctuations are now blamed for much environmental damage in Grand Canyon.

And you could argue that those dams would have been better for the state's environment than their replacement—the Navajo Generating Station at Page—blamed for air pollution that obscures canyon views.

Of course, purists can argue that nothing at all would have been the best solution—no dams, no reaction when he walked out of the snow and into a New Hampshire barber shop and introduced himself: "Hi, I'm Mo Udall and I'm running for president."

"We know," answered one of the townfolk passing time there. "We were just laughin' about that this morning."

Udall lost, in primary after primary, to Jimmy Carter. His delegates learned to turn their "MO" buttons upside-down to read "OW."

Tom Chandler thinks Udall could have won if a few more influential Arizona friends had believed more strongly in the possibility.

A HERO ABROAD

But Udall always seemed to command more respect on that national level than at home. That's partly because his increasingly conservative district was often out of step with Udall's progressive stands. And it's partly because in Tucson he was simply the local congressman.

Michael McNulty, local lawyer and son of Mo's friend Jim, was a Udall staffer for four years and once accompanied him to a speech at the University of Virginia law school. When Mo entered the auditorium, the place erupted in cheers and applause. Udall turned to McNulty and said, "Sometime I wish I could get a reaction like that in Tucson."

Udall's last campaign was first rumored to be in 1980. That was the first year Udall admitted publicly that he had Parkinson's disease. J. Dan O'Neill, a longtime friend, said he went to work running Udall's Tucson office then, figuring on two to four years max.

But Udall kept running, finally announcing his final campaign in 1990. His physical condition was painful to behold and he made few public appearances, but he did kick off his re-election campaign in April with a speech to the Democrats of Greater Tucson.

As always, his own frailties were the brunt of the famous Udall humor. In a voice that was barely audible in the respectfully silent room, Udall told the tale of the senator who was approaching his 100th birthday and was asked how he felt. "Considering the alternatives, not too bad," was the answer.

"Well, I stand before you with a painful old back, Parkinson's disease, arthritis, one good eye, and I can tell you, considering the alternatives, I feel pretty good," said Udall.

He held hope of being fully involved in his final term. He was investigating fetal-tissue surgery that held some promise for him and was on new medication for Parkinson's. "Some days it seems it really does the job and I can bounce into the car without any help. Then the hoarse voice, all these things assert themselves again."

There is a tendency to make this a sad occasion. But what did Mo Udall wish to be his political legacy?

In 1973, as the Watergate scandal was pulling down a presidency and the reputation of politics in general, Udall penned one of his famous newsletters, arguing that public servants could still be found practicing the nation's politics. He mentioned Arizona's Goldwater, John Rhodes and Carl Hayden and his own brother, Stewart.

"I have had Arizona ancestors and relatives in both political parties serve in all kinds of public offices from the president's Cabinet to local school boards. Not one has been touched with a breath of scandal or abuse of public trust. My greatest desire is to retire from public office someday with a record that will enhance that tradition."

Yesterday, Morris K. Udall retired from Congress with a record of integrity in public service that is a credit to his relatives and ancestors and to the people of Arizona whom he served for 30 years.●

Mr. KENNEDY. Mr. President, it is an honor to join as a sponsor of this

measure to establish the Mo Udall scholarship and advance the cause to which he devoted so much of his public career—the preservation of our environment and our magnificent natural resources.

The retirement of Congressman Udall was a sad day for Congress, the country, and the legions of citizens in America and many other lands whose lives are better today because of his brilliant public service. He will rank as one of the greatest Members of the House of Representatives of all time, and also as one of the most beloved.

As Mo liked to say, the job of leaders is to lead. And lead he did. As chairman of the House Interior Committee, he was "Mr. Environment" in the Congress, urging the Nation to deal more effectively with the increasingly urgent environmental challenges we face. His leadership on these issues was especially courageous in the long battle he led to regulate the strip mining industry, against the vigorous resistance of the industry in his State.

Mo Udall's leadership was equally preeminent on many other issues. Somehow, for 30 years, whenever you probed to the heart of the great concerns of the day, you found Mo Udall in the thick of the battle, championing the rights of average citizens against special interest pressures, defending the highest ideals of America, and always doing it with the special grace and wit that were his trademark and that endeared him to Democrats and Republicans alike.

I think particularly of his influential role in ending the Vietnam war. Mo Udall was one of the first leaders in the Congress in the 1960's to break with the administration and oppose the war. Because of his action, we were able to end the war more quickly.

I also think of his early battles to reform the seniority system and to make the Congress more responsive to the people we serve. In carrying forward these efforts today, we continue to follow the paths he blazed so well throughout his remarkable career.

Above all, I think of the extraordinary courage he has displayed in recent years in battling the cruel disease that finally led to his resignation from the Congress. In this, as in so many other battles, Mo won the respect and admiration and affection of us all.

The legislation we are introducing today is a fitting tribute to Mo Udall's indispensable leadership during the past three decades in the Congress. We will miss him in the years ahead, and so will the country.

Mr. President, I ask unanimous consent that an eloquent recent tribute by David Broder to Mo Udall may be printed in the RECORD.

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

[From the Washington Post, Apr. 24, 1991]

UDALL'S TRIUMPH

(By David Broder)

The losing presidental candidates in the past generation who were most cherished by the reporters who covered them were both Arizonans—Barry Goldwater and Morris Udall. It had nothing to do with ideology and everything to do with character and personality.

Goldwater, a conservative Republican, and Udall, a liberal Democrat, shared traits that made them great friends despite their disagreements. They both had a deep aversion to self-important phonies. And they both knew that politics, like life itself, requires the leavening gift of humor.

Goldwater went home four years ago, hobbled by arthritic hips. And now Udall has announced his resignation from Congress because he has been immobilized by the effects of Parkinson's disease and the injuries he suffered in a fall down the stairs at his home.

Goldwater won his party's nomination in a year when no Republican could be elected. Udall lost the nomination in a year when the Democrats could—and did—win. Both had to overcome the frustration they felt; both succeeded, but Udall's was probably the greater triumph.

In his 1976 campaign, he went through a series of agonizingly close, second-place finishes to Jimmy Carter. He was the victim of the tactical amateurism of his own organization and of the cannibalism of the Democratic left. Three other liberals, with less chance of winning, stayed in the race and drained off crucial support. He had gained the votes of only one of them, former senator Fred Harris of Oklahoma, he would have beaten Carter in New Hampshire, Wisconsin and Michigan—and history would have been different. He also was sold out by liberal trade unions, which used the excuse of Udall's independence on labor issues to rationalize their deal-making with the favored Carter.

All this he bore with remarkable good humor, bouncing back time and again to rejoin the battle. By the end, in Ohio, he was dead-broke, all but exhausted—and adored by the reporters covering him.

In retrospect, it clearly was not the time for a Udall presidency. Two years after Watergate, America wanted an "outsider" as president, not a longtime congressman like Udall or Jerry Ford. And two years before Proposition 13 triggered a national tax revolt, it was not the time for a man who told voters that until America is "a just society," government's work is not done.

So Udall came back to the House, his home since 1961 and the place where his skills as a legislator, a political conciliator and a reformer were most appreciated. The legacy he left there is imposing and enduring. It ranges from strip mining and Alaskan wilderness legislation to the reform of archaic committee and floor procedures that congressional barons had used to conceal their arbitrary power. For a whole generation of congressmen, Udall became a mentor and a model—and they will miss him as much as the press galleries do.

Few of them, unfortunately, can match him as a teacher. Like his friend, former representative Barber B. Conable Jr., the Rochester, NY, Republican who is retiring now from his job as head of the World Bank, Udall wrote his own newsletters, sharing with constituents his insights into the issues in the news and the ways of government.

So candid and delightful were these Udall newsletters that they were published in book form back in 1972. The title was appropriate—"The Education of a Congressman"—for Udall operated on the belief that representative government really is a continuing dialogue between citizens and their leaders.

Adlai Stevenson's belief that a campaign is a time to "talk sense to the American people" sustained Udall's run for the White House. His aides worried how to "pump Mo up" and "get him mad" at the opposition. He would respond with one of his hundreds of Lincolnian stories about the ridiculousness of overweening ambition.

But it was not a joking Udall who said in the midst of his own 1976 campaign, "Beware of the presidential candidate who has no friends his own age and confidantes who can tell him to go to hell, who has no hobbies and outside interests. . . . God help us from presidents who can't be a little bit gentle, and who don't have a sense of humor, and who can't gather friends around and play poker and climb a mountain. You know, these intense workaholics really worry me."

Mo Udall was a westerner and a liberal and a skeptic and a man whose humor was rooted in a deep appreciation of the tragedy of human life and the futility of human striving. For all those reasons—and more—he was special and precious to many of us.

What Archibald Cox said of him in a symbolic nominating speech at the 1976 Democratic convention was true: "By the count of votes, he did come in second, but he succeeded in the larger aim . . . for he proved that a public figure, even in a long and heated political contest, can exemplify the best of the American spirit, that honor need not yield to ambition, that open-mindedness and willingness to listen are not inconsistent with devotion to principle, that civility can accompany tenacity and that humility should go hand in hand with power."

And, besides, he made it such fun.

By Mr. ROCKEFELLER:

S. 1177. A bill to amend the Social Security Act to assure universal access to health insurance for basic health services in the United States through qualified employer health plans and a public health insurance plan, to contain costs and assure quality in the provision of health services, to reform the provision of health insurance to small employers, and for other purposes; to the Committee on Finance.

PEPPER COMMISSION HEALTH CARE ACCESS AND REFORM ACT

• Mr. ROCKEFELLER. Mr. President, I am extremely proud to be introducing today the Pepper Commission Health Care Access and Reform Act of 1991. I believe this legislation will be the benchmark from which future health care reform will be measured.

I am extremely honored that my colleague, Congressman HENRY WAXMAN, is introducing the Pepper Commission companion bill in the House. HENRY WAXMAN has long been a committed, dedicated, and tireless leader on health care issues, especially in children's health care. Over the past decade, millions of children have received health care directly as a result of his legislative efforts. I am extremely pleased to be a partner with someone whom I hold in such high esteem.

Mr. President, through legislation passed in 1987, the U.S. Bipartisan Commission on Comprehensive Health Care—later renamed after its founder, Claude Pepper—was charged with designing a blueprint which would provide universal access to health and comprehensive long term care to every American. We met our charge last fall when we unveiled the Pepper Commission final report and issued a call for action—to the public, to the President, and to Congress.

Today's legislation represents over 2 years of careful and intense attention on ways to reform our health care system. The Pepper Commission said that we need fundamental health care reform and we need it now.

We carefully weighed all the options. We considered patching up the current Medicaid Program, but ultimately rejected that approach. Not only was it more costly than the final Pepper Commission recommendations, but it would not achieve the goal of universal health access that was unanimously agreed to by all Commission members.

National health insurance, while certainly appealing in many respects, was deemed simply not practical given the current budget climate. In addition to its costs, though, there was a deep sense that the American public is simply not ready for a one-size-fits-all national insurance plan. We are a pluralistic society. We crave diversity, choice, and innovation. Over the next decade, perhaps the political sentiment for national health insurance will grow. If we do nothing for 10 years, that will certainly be the case. But waiting 10 years is too high a price for 33 million uninsured Americans to pay.

As the Commission built its plan, we studied and addressed all of the major failings of our present health care system, as well as the many political concerns. We choose to build on the current job-based system since three-fourths of all Americans already have health insurance coverage through their workplace, and because over three-fourths of the uninsured are workers or in a worker's family.

But, instead of simply mandating businesses to comply with a health insurance requirement, the Pepper plan addresses the very legitimate concerns of small business for affordability and availability of private health insurance coverage. In order to make it possible for those businesses not currently providing coverage to their workers—most of which are overwhelmingly small—to be able to actually obtain and afford health insurance coverage, the Pepper Commission unanimously agreed on the need for immediate reform of the private health insurance market for small employers.

The legislation I am introducing today lays out in great detail the specific measures needed to achieve real small group insurance reform, as envisioned by the Commissioners. Under this legislation, private health insurers in the small employer market would be prohibited from competing on the basis of risk selection. The practice of cherry picking—through enrollment and renewal practices, through discriminatory pricing, and through benefit design—would be eradicated. Under a reformed market, insurers would have to start competing on the basis of efficiency, customer service, and managing the cost of health care.

Specifically, the Pepper legislation includes the following:

Guaranteed issue of coverage for any small business, regardless of health status or risk status;

Community rating, with only a minor adjustment allowed for age and sex, both at issue and at renewal; and

A minimum benefit standard—overriding State-mandated benefits—to ensure adequate health care protection that would apply to every health insurance policy sold to small employers.

Small employer is defined as firms with 1 to 100 employees so that over 90 percent of all employers—and virtually all traditional employer health insurance plans—would be protected. Similar to Medigap legislation enacted last year and as recommended by the Pepper Commission, these reforms envision a key role for the National Association of Insurance Commissioners [NAIC]. The Federal Government would set standards for enrollment, rating, and benefit design practices and the NAIC would draw up model legislation leaving States to carry out the reforms. Importantly, States would be free to design reinsurance programs—again, within Federal standards—to promote further stability in health insurance. Instead of forcing a one-size-fits-all reinsurance scheme on every State, States would be encouraged to fashion programs that would be compatible with the special needs of their own small employer and insurance markets.

Turning to affordability, the Pepper legislation includes two kinds of tax credits for small employers. One allows unincorporated businesses and the self-employed, like incorporated businesses, to deduct from taxable income the entire cost of their health insurance premiums. Another tax credit provides for a 5-year 40 percent subsidy against the cost of health premiums from employers with fewer than 25 workers and an average payroll of less than $18,000 per worker.

I believe these two tax credits, in addition to the insurance reforms will enable the vast majority of small businesses to afford health insurance for their workers. But, because I have a concern that these measures could still fall somewhat short, I have included in my legislation a proposal not originally recommended by the Pepper Commission.

Mr. President, I want to the emphasize that this is the only divergence from the Pepper Commission plan included in this legislation. But, I sincerely believe that the unique circumstances of small businesses requires special attention. My provision would allow small employers to insist that their private insurance carrier pay doctors and hospitals according to Medicare's payment rules. This wouldn't necessarily mean Medicare payment rates—but they could insist on DRG's for hospitals and the resource-based relative value scale for physicians. The effect of this reform would be to drastically reduce cost shifting in the system and give small businesses the same type of market clout afforded large businesses in negotiating payment rates with hospitals and doctors.

I selected Medicare payment rules because they are the most fair and useable. Obviously, some significant adjustments would need to be made, especially to reflect a younger population. But, Congress has been working hard to improve the equity in Medicare payments to rural and urban hospitals. And the RBRVS offers the best option to date for making physician payments fair and reasonable.

After all these reforms, tax credits, and incentives for small business are in effect for a period of 5 years, it would be expected that small businesses would voluntarily purchase health insurance coverage for their workers. If 80 percent of the previously uninsured workers of small business remain without coverage after a period of time, small businesses, like larger ones, would be required to purchase coverage.

A key element of the Pepper plan was the creation of a new Federal health plan to replace the flawed and miserably failed Medicaid program. Instead of a patchwork of 50 individual State programs, with uneven eligibility, arbitrary benefit standards and clearly inadequate payments levels, this legislation creates a new Federal health program with uniform benefits, eligibility guidelines, and reimbursement levels along the lines of the Medicare Program.

A critical feature of the Pepper plan allows employers to purchase coverage from this new Federal Health Insurance Program at a set percent of payroll. Rather than simply requiring businesses to buy private coverage, whatever its costs, employers would have a choice. The payroll percentage would be set to encourage employers who now purchase private insurance to retain that coverage, and to establish a fair balance between public and private insurance.

Mr. President, the twin goals of access and cost containment are forever intertwined and therefore must be addressed simultaneously. To pursue one

goal without the other would further undermine a system already seriously stressed. The mere, albeit major, accomplishment of universal health coverage would eliminate the significant cost shifting currently occurring between and among current purchasers of health care and would go a long way toward stabilizing health care costs.

Other cost containment measures included in this bill are more Federal research in practice guidelines and outcome measures to reduce unnecessary and inappropriate medical care; elimination of medical underwriting to substantially reduce administrative expenses of insurance companies; minimum cost sharing requirements so that individuals—subject to ability to pay—take costs as well as benefits into account when seeking medical care; and encouragement of managed care in both the public and private sectors.

With the additional proposal of allowing small businesses the ability to elect Medicare rules for reimbursement, I am confident that taken together, these cost containment measures will significantly reduce overall health care costs.

The Pepper plan has already achieved a level of success. Last year, Congress enacted three important measures that are proposed in the Pepper Commission's call for action. As part of the 5-year budget deal, and with the help of my colleagues on the Finance Committee and under the leadership of Chairman BENTSEN, we reformed the Medigap system, expanded access to public insurance for all pregnant mothers and children up to 100 percent of poverty, and we enacted the first step for the Commission's long term care plan—more home care services through Medicaid.

Corporate leaders, organized labor, consumer groups, and providers, like the American Medical Association, and others with a stake in our health care system are urging Congress and the President to act.

Mr. President, I have been working with the majority leader, as well as Senators RIEGLE, KENNEDY, and METZENBAUM, and will soon join them in introducing a leadership package on health care reform. It is time to lead all the players through the tradeoffs and the compromises this type of major legislation requires.

Before concluding, Mr. President, I have many to thank for their tireless devotion and commitment to health care reform. Without their time, energy, and hard work, none of this would have been possible. I will name just a few.

Of course, first in line to thank are the staff members of the Pepper Commission led by the brilliant Judy Feder and the exceptional Ed Howard. It was only through the careful and deliberate work of the Pepper staff, their tremendous sense of dedication and pride, that a report of such high caliber was produced. I will always be grateful to each and every one of them. And, it was only through the drafting wizardry of Ed Grossman that the Pepper Commission final report was so carefully crafted into final legislative form.

Mr. President, hard work and tough choices lie ahead to break the health care gridlock. But I am very proud of the contribution made so far by the Pepper Commission. With this legislation, we now have laid out in a detailed and precise fashion just how we can build a health care system that makes sense and provides for all Americans. And I know that both HENRY WAXMAN and I renew our pledge today to convince our fellow political leaders and the American people to agree that we must take this course, as soon as we possibly can.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD immediately following my remarks.

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

S. 1177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pepper Commission Health Care Access and Reform Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO PRIVATE OR PUBLIC HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH EMPLOYMENT

Sec. 101. Employment-based health insurance coverage.

"TITLE XXI—ACCESS TO PRIVATE OR PUBLIC HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH EMPLOYMENT

"PART A—EMPLOYER REQUIREMENT TO ENROLL EMPLOYEES AND FAMILIES IN A QUALIFIED EMPLOYER HEALTH PLAN OR IN PUBLIC HEALTH INSURANCE PLAN

"Sec. 2101. Application to full-time employees.

"Sec. 2102. Application to part-time employees.

"Sec. 2103. Application to seasonal and temporary employees.

"Sec. 2104. Treatment of all family members as a unit.

"Sec. 2105. Meeting requirement of enrollment in qualified employer health plan through enrollment in public health insurance plan.

"Sec. 2106. Application of requirement to employers of different sizes.

"Sec. 2107. Timing of enrollment; period of coverage.

"Sec. 2108. Enforcement.

"PART B—REQUIREMENTS FOR QUALIFIED EMPLOYER HEALTH PLANS

"Sec. 2121. Qualified employer health plan and covered employer health plan defined.

"Sec. 2122. Requirements relating to employee premiums and cost-sharing.

"PART C—DEFINITIONS AND MISCELLANEOUS

"Sec. 2181. Definitions.

"Sec. 2182. Nonapplication to residents of Puerto Rico and territories.

TITLE II—ACCESS TO HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH A PUBLIC HEALTH INSURANCE PLAN

Sec. 201. Public health insurance plan.

"TITLE XXII—ACCESS TO HEALTH INSURANCE FOR BASIC HEALTH THROUGH A PUBLIC HEALTH INSURANCE PLAN

"PART A—ELIGIBILITY AND ENROLLMENT

"Sec. 2201. Eligibility to enroll for health insurance benefits and to apply for low-income assistance.

"Sec. 2202. Application for enrollment.

"Sec. 2203. Coverage period; termination of enrollment.

"Sec. 2204. Requirement of health insurance coverage.

"PART B—HEALTH INSURANCE BENEFITS

"Sec. 2211. Basic health services (including preventive services) for general enrollees.

"Sec. 2212. EPSDT services.

"Sec. 2213. Medicare supplemental benefits for low-income medicare beneficiaries.

"Sec. 2214. Scope of coverage.

"PART C—PAYMENTS FOR BENEFITS; DEDUCTIBLES, COINSURANCE, AND STOP-LOSS PROTECTION FOR BASIC HEALTH SERVICES

"Sec. 2221. Payments for benefits.

"Sec. 2222. Deductible for basic health services.

"Sec. 2223. Coinsurance for basic health services.

"Sec. 2224. Limit on cost-sharing for basic health services.

"Sec. 2225. Exclusions; coordination.

"Sec. 2226. Application of qualified health plan provisions.

"PART D—PREMIUMS, PUBLIC HEALTH INSURANCE TRUST FUND

"Sec. 2231. Premiums.

"Sec. 2232. Collection of premiums.

"Sec. 2233. Public Health Insurance Trust Fund.

PART E—ASSISTANCE FOR LOW-INCOME INDIVIDUALS

"Sec. 2241. Assistance for individuals with income below the poverty line enrolled on a non-employment basis.

"Sec. 2242. Assistance for individuals with income below twice the poverty line enrolled on a non-employment basis.

"Sec. 2243. Assistance for individuals covered under qualified employer health plans.

"Sec. 2244. Applications for assistance.

"Sec. 2245. Reconciliation of premium assistance through use of income statements.

"Sec. 2246. Treatment of certain cash assistance recipients.

"Sec. 2247. Computation of family adjusted total income.

"PART F—QUALIFIED HEALTH PLANS

"Sec. 2251. Certification of qualified health plans.

"Sec. 2252. Treatment of family as a unit; coverage period; health plan cards.

"Sec. 2253. Requirements respecting basic benefits.

"Sec. 2254. Requirements respecting limits on preexisting condition exclusions and coverage standards for basic health services.
"Sec. 2255. Requirements respecting limits on cost-sharing.
"Sec. 2256. Adequacy of payments.
"Sec. 2257. Coordination and portability of health coverage under qualified health plans.
"Sec. 2258. Consumer protections.
"Sec. 2259. Preemption of certain State and Federal requirements.

"PART G—ADMINISTRATIVE PROVISIONS

"Sec. 2261. Agreements with hospitals; participating physicians; treatment of Indian Health Services facilities.
"Sec. 2262. Health maintenance organizations and competitive medical plans.
"Sec. 2263. Use of fiscal agents.
"Sec. 2264. General administration.
"Sec. 2265. Determinations; appeals; Provider Reimbursement Review Board.
"Sec. 2266. Program integrity.
"Sec. 2267. Information by telephone.
"Sec. 2268. Incorporation of miscellaneous medicare provisions.

"PART H—DEFINITIONS AND MISCELLANEOUS

"Sec. 2281. Incorporation of certain definitions used in other health-related titles.
"Sec. 2282. Definitions relating to families.
"Sec. 2283. Other definitions.
"Sec. 2284. Glossary of defined terms used in title and contained in this title or related titles.
"Sec. 2284. Other definitions.
"Sec. 2285. Authorizing reciprocal coverage of foreign nationals.
"Sec. 2286. Nonapplication to residents of Puerto Rico and territories.

TITLE III—QUALITY ASSURANCE AND COST CONTAINMENT

Sec. 301. Application of payment rates under public health insurance plan under qualified employer health plans.
Sec. 302. Favorable treatment of managed care.
Sec. 303. Application of outcomes research to public health insurance plan.
Sec. 304. Application of peer review program under the public health insurance plan.
Sec. 305. Medical malpractice.
Sec. 306. Report on requiring use of uniform claims forms.

TITLE IV—GROUP HEALTH INSURANCE REFORM

SUBTITLE A—GENERAL REFORMS

Sec. 401. General reforms.

"TITLE XXIII—GROUP HEALTH INSURANCE STANDARDS

"PART A—GENERAL STANDARDS; DEFINITIONS

"Sec. 2301. Application of requirements to employment-related health plans.
"Sec. 2302. Establishment of standards.
"Sec. 2303. Requirements applicable to all employment-related health plans.
"Sec. 2304. Definitions.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"Sec. 2311. Enrollment practice and guaranteed renewability requirements for small employer health plans.
"Sec. 2312. Rating practices for small employer health plans.
"Sec. 2313. Basic benefit package for small employer health plans.
"Sec. 2314 Public plan reimbursement option for small employer health plans.
"Sec. 2315. Miscellaneous disclosure and record-keeping requirements for small employer health plans.
"Sec. 2316. Nonapplication in Puerto Rico and the territories.

SUBTITLE B—REINSURANCE SYSTEMS

Sec. 411. Encouraging development of reinsurance systems.

SUBTITLE C—ENCOURAGING ESTABLISHMENT OF MANAGED CARE

Sec. 421. Favorable treatment of managed care plans and utilization review programs.

"PART C—FAVORABLE TREATMENT OF MANAGED CARE

"Sec. 2331. Favorable treatment of managed care plans.
"Sec. 2332. Favorable treatment of utilization review programs.

TITLE V—EXPANSION OF PRIMARY CARE AND PUBLIC HEALTH DELIVERY CAPACITY IN MEETING HEALTH OBJECTIVES

Sec. 501. Extension of authorizations for primary care and public health programs through the year 2000.
Sec. 502. Expanding primary care and public health delivery capacity.
Sec. 503. Annual report on impact of Act in meeting goals and objectives stated in "Healthy People, 2000".

TITLE VI—FINANCING AND TAX-RELATED PROVISIONS

Sec. 601. Progressive financing of public health insurance plan.
Sec. 602. State maintenance of effort payments.
Sec. 603. Full deduction for qualified health plan insurance costs of self-employed individuals.
Sec. 604. Excise tax for violation of health benefit plan requirements.
Sec. 605. Refundable credit for qualified plan costs of very small employers.
Sec. 606. Repeal of COBRA continuation requirements.

TITLE VII—MEDICARE AND MEDICAID AMENDMENTS

SUBTITLE A—MEDICARE

Sec. 701. Protection for low-income medicare beneficiaries.
Sec. 702. Phased-in requirement of part B enrollment.
Sec. 703. Changes in participation agreements.
Sec. 704. Assuring coordination of enrollment with qualified health plans.
Sec. 705. Miscellaneous.

SUBTITLE B—MEDICAID

Sec. 711. Coordination with public health insurance program.

TITLE VIII—CONFORMING CHANGES TO ERISA

Sec. 801. Repeal of COBRA continuation requirements.

TITLE I—ACCESS TO PRIVATE OR PUBLIC HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH EMPLOYMENT

SEC. 101. EMPLOYMENT-BASED HEALTH INSURANCE COVERAGE.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—ACCESS TO PRIVATE OR PUBLIC HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH EMPLOYMENT

"PART A—EMPLOYER REQUIREMENT TO ENROLL EMPLOYEES AND FAMILIES IN A QUALIFIED EMPLOYER HEALTH PLAN OR IN PUBLIC HEALTH INSURANCE PLAN

"SEC. 2101. APPLICATION TO FULL-TIME EMPLOYEES.

"(a) UNMARRIED EMPLOYEES.—

"(1) IN GENERAL.—Except as provided in this part, each employer shall, in accordance with this title, enroll each of its full-time employees who is unmarried in a qualified employer health plan (or in the public health insurance plan, if elected by the employer under section 2105).

"(2) MULTIPLE FULL-TIME EMPLOYMENT.—In the case of an unmarried individual who is a full-time employee of more than 1 employer, the individual shall elect (in a manner specified by the Secretary) the covered employer health plan (as defined in section 2121(b)) under which the individual will be enrolled.

"(b) MARRIED EMPLOYEES.—

"(1) IN GENERAL.—Except as provided in this part, each employer shall, in accordance with this title, enroll each of its full-time employees who is married in a qualified employer health plan (or in the public health insurance plan, if elected by the employer under section 2105).

"(2) BOTH FULL-TIME EMPLOYEES.—

"(A) ASSIGNMENT BASED ON DATE OF BIRTH RULE.—In the case of married individuals both of whom are full-time employees, both individuals shall be enrolled in the covered employer health plan of the employee with the earlier month, day, and time of birth in the year.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the nonenrolling plan from supplementing the benefits of the enrolling plan.

"(C) DEFINITIONS.—In this paragraph, the terms 'enrolling employer' and 'enrolling plan' mean, with respect to a married couple, the employer that offers the covered employer health plan in which the couple is enrolled under subparagraph (A) and such plan, respectively, and the terms 'nonenrolling employer' and 'nonenrolling plan' mean the other employer and other covered employer health plan.

"(3) MULTIPLE FULL-TIME EMPLOYMENT.—In the case of married individuals both of whom are full-time employees, if either spouse is a full-time employee of more than 1 employer that spouse shall elect the employer which shall be treated as the spouse's enrolling employer in applying this subsection.

"SEC. 2102. APPLICATION TO PART-TIME EMPLOYEES.

"(a) REQUIRED ENROLLMENT OR CONTRIBUTION.—

"(1) IN GENERAL.—

"(A) REGULAR PART-TIME EMPLOYEES.—Except as provided in this part, with respect to each part-time employee who is not a medicare beneficiary and who normally performs on a monthly basis for the employer 10 or more hours of service per week, each employer shall, in accordance with this title, enroll the employee (and family members) in

a qualified employer health plan (or in the public health insurance plan, if elected by the employer under section 2105).

"(B) VERY PART-TIME EMPLOYEES.—Except as provided in this part, with respect to each part-time employee who is not a medicare beneficiary and who normally performs on a monthly basis for the employer less than 10 hours of service per week, each employer shall, in accordance with this title, either—

"(i) enroll the employee (and family member) in a qualified employer health plan, or

"(ii) subject to subsection (c), provide for a contribution towards the employee's enrollment under the public health insurance plan in an amount equal to not less than the minimum amount specified in subsection (b).

"(2) FULL-TIME EMPLOYMENT EXCEPTION.—Paragraph (1) shall not apply with respect to a part-time employee if—

"(A) the employee is the full-time employee of another employer,

"(B) the employee's spouse is a full-time employee, or

"(C) the employee is the child of an individual who is a full-time employee.

"(3) UNIFORM ELECTION.—The election under paragraph (1)(B) shall be made uniformly with respect to all part-time employees.

"(b) MINIMUM CONTRIBUTION.—For purposes of subsection (a)(1)(B)(ii), subject to subsection (c), the minimum amount specified in this subsection with respect to an employee is the product of—

"(1) the employer premium percentage determined under section 2231(b)(2) for the year, and

"(2) the wages paid by the employer with respect to such employee for the period during which the contribution is required.

"(c) MULTIPLE PART-TIME EMPLOYMENT.—Subject to subsection (a)(2), the treatment of unmarried, and married, individuals who have multiple part-time employment shall be governed by rules, established by the Secretary, based on the principles of the rules for multiple full-time employment described in subsections (a)(2) and (b)(3) of section 2101.

"SEC. 2103. APPLICATION TO SEASONAL AND TEMPORARY EMPLOYEES.

"(a) IN GENERAL.—

"(1) IN GENERAL.—Except as provided in section 2104(b), in the case of an employee designated under paragraph (3) as a seasonal or temporary employee (as defined in section 2181(b)(3)), whether a part-time or full-time employee, instead of enrolling the employee (and family members) in the qualified employer health plan of the employer, the employer shall make a payment to the public health insurance plan in an amount not less than the minimum amount specified in subsection (b), and the amount of such payment shall be credited towards the enrollment of the employee (and family members) under the public health insurance plan. The failure of the employee to be enrolled in the public health insurance plan shall not affect the liability for, or amount of the, such payment to the plan.

"(2) FULL-TIME EMPLOYMENT EXCEPTION.—Paragraph (1) shall not apply with respect to a seasonal or temporary employee if—

"(A) the employee is the full-time or part-time employee (but not a seasonal or temporary employee) of another employer, or

"(B) the employee's spouse is a full-time or part-time employee (but not a seasonal or temporary employee).

"(3) DESIGNATION OF SEASONAL OR TEMPORARY EMPLOYEES.—Each employer shall designate, at the time of initial employment and in a manner specified by the Secretary, if the individual is to be treated under this title as a seasonal or temporary employee.

"(4) KEEPING CONTRIBUTION IF NOT ENROLLED.—A contribution is required with respect to an employee (and family members) under paragraph (1) regardless of whether or not the employee (and family members) are enrolled under the public health insurance plan.

"(b) MINIMUM CONTRIBUTION.—The minimum amount specified in this subsection with respect to an employee is the product of—

"(1) the employer premium percentage computed under section 2231(b)(2) for the year, and

"(2) the wages paid by the employer with respect to such employee for the period during which the contribution is required.

"SEC. 2104. TREATMENT OF ALL FAMILY MEMBERS AS A UNIT.

"(a) IN GENERAL.—In accordance with section 2252(a), enrollment of an employee in a covered employer health plan shall include enrollment of the other family members of the employee.

"(b) NO CONTRIBUTION REQUIRED FOR CHILDREN.—In the case of an individual who is a child, the employer of the child is not required to enroll the child in a covered employer health plan or make a contribution with respect to enrollment under the public health insurance plan on behalf of a child by virtue of the part-time or full-time employment of the child (whether or not the parent of the child is a full-time or part-time employee).

"SEC. 2105. MEETING REQUIREMENT OF ENROLLMENT IN QUALIFIED EMPLOYER HEALTH PLAN THROUGH ENROLLMENT IN PUBLIC HEALTH INSURANCE PLAN.

"(a) IN GENERAL.—In the case where an employer is required under this part to enroll employees (and family members) in a qualified employer health plan, the employer may elect to meet such requirement by entering into an agreement with the Secretary to enroll such individuals under the public health insurance plan.

"(b) CONTENTS OF AGREEMENT.—Such agreement shall provide, among other things, for the following:

"(1) The employer shall provide to the Secretary (in such form and manner as the Secretary may specify and no later than the date enrollment under a qualified employer health plan is required under this part) completed application forms for enrollment with the public health insurance plan of employees (and family members) required to be enrolled under this part and covered under the agreement.

"(2) The employer shall provide for payment of employer premiums (in the amount established under section 2231(b)) with respect to such enrollment.

"(3) The employer shall withhold from the pay of the employee any amount of the employee premium applicable to such enrollment which is charged by the employer consistent with section 2122(b) (relating to limitation on employee premiums).

"(c) ELECTION FOR FULL-TIME AND PART-TIME EMPLOYEES OR FOR PART-TIME EMPLOYEES ONLY.—The election under subsection (a), insofar as it applies to employees who are not seasonal or temporary employees, shall only be available with respect to either—

"(1) all employees (and their family members), including part-time employees, or

"(2) all part-time employees (and their family members).

"SEC. 2106. APPLICATION OF REQUIREMENT TO EMPLOYERS OF DIFFERENT SIZES.

"(a) LARGE EMPLOYERS.—Except as provided in subsection (d), the requirements of this part apply to large employers as of January 1 of the 4th year beginning after the date of the enactment of this title.

"(b) SMALL EMPLOYERS THAT ARE NOT VERY SMALL EMPLOYERS.—

"(1) BASELINE SURVEY OF CURRENT AVAILABILITY.—The Secretary shall provide for a survey of small employers that are not very small employers respecting their offering, as of January of the first year beginning after the date of the enactment of this title, of health benefits to employees for which there is some employer contribution toward part or all of the costs of coverage. Based on such survey, the Secretary shall determine the percentage, as of such month, of full-time equivalent employees of such employers who have been offered health benefits for which there is some such employer contribution.

"(2) INITIAL FOLLOW-UP SURVEY.—The Secretary shall provide for a survey of small employers that are not very small employers respecting the coverage, as of January of the 4th year beginning after the date of the enactment of this title, of their employees under a qualified employer health plan. Based on such survey, the Secretary shall determine the percentage, as of such month, of full-time equivalent employees of such employers who are covered under a qualified employer health plan.

"(3) 80 PERCENT TEST.—

"(A) FAILURE TO MEET TEST.—If the percentage determined (under a survey as of January of a year) under paragraph (2) (or, if applicable, under subparagraph (B)(ii)) is less than the target percentage (as defined in subparagraph (C)), then, subject to subsection (d), the requirements of this part apply to small employers that are not very small employers as of January 1 of the following year.

"(B) TEST MET.—If the percentage determined (under a survey as of January of a year) under paragraph (2) (or, if applicable, under clause (ii) of this subparagraph) is not less than the target percentage—

"(i) the Secretary shall submit to Congress a report on how to assure coverage of all full-time employees (and family members) of small employers that are not very small employers under qualified health plans,

"(ii) the Secretary shall provide for a survey and determination, of the type described in paragraph (2), for the month of January in the following year, and

"(iii) the provisions of this paragraph (other than clause (i)) shall also apply to the survey (and any subsequent surveys under clause (ii)).

No subsequent surveys shall be conducted under clause (ii) after the first year in which condition described in subparagraph (A) has been met.

"(C) TARGET PERCENTAGE DEFINED.—In this paragraph, the term 'target percentage' means the percentage determined under paragraph (1) plus 80 percent of the difference between such percentage and 100 percent.

"(4) EMPLOYEES DO NOT INCLUDE MEDICARE BENEFICIARIES.—In this subsection (and, by reference, subsection (c)) the term 'employees' does not include medicare beneficiaries.

"(c) VERY SMALL EMPLOYERS.—The provisions of subsection (b) shall be applied separately to very small employers in the same manner as they apply to small employers that are not very small employers, except that, for this purpose, the reference in sub-

section (b)(2) to the 4th year beginning after the date of the enactment of this title is deemed a reference to the 5th year beginning after such date.

"(d) TRANSITIONAL RULES.—

"(1) EXCEPTION FOR NON-FULL-TIME WORKERS.—The requirements of this part shall in no case apply to part-time employees or to seasonal or temporary employees earlier than January 1 of the 6th year beginning after the date of the enactment of this title.

"(2) TRANSITION FOR COLLECTIVE BARGAINING AGREEMENTS.—The requirements of this part shall not apply to employers with respect to their employees, insofar as such employees are covered under a collective bargaining agreement ratified before the date of the enactment of this title, earlier than the date of termination of such agreement (determined without regard to any extension thereof agreed to after the date of the enactment of this title).

"(3) SUSPENSION OF DATE OF BIRTH.—In the case of married individuals both of whom are full-time employees, the rule (described in section 2101(b)(2)(A)) requiring coverage under a covered employer health plan based on a date of birth rule shall only apply if both spouses are required under this part to be enrolled under a qualified employer health plan.

"SEC. 2107. TIMING OF ENROLLMENT; PERIOD OF COVERAGE.

"(a) TIMING OF ENROLLMENT; NOTICES.—

"(1) IN GENERAL.—Enrollment under this part shall occur not later than the date on which the employment, for which such enrollment is required under this part, commences.

"(2) REFERENCE TO DISCLOSURE REQUIREMENT.—For requirement for disclosure to employees of information respecting—

"(A) certain managed care plans, and

"(B) the availability of low-income assistance under part E of title XXII,

see section 2258(a)(2).

"(b) PERIOD OF COVERAGE.—

"(1) BEGINNING OF COVERAGE.—Coverage under a covered employer health plan shall begin in accordance with section 2252(b).

"(2) TERMINATION OF COVERAGE.—

"(A) IN GENERAL.—If an enrollment is effected under this part on the basis of employment, coverage under such enrollment may be terminated, subject to subparagraph (B), on the last day of the month (or of any subsequent month) during which such employment is terminated.

"(B) NOTICE REQUIRED.—Effective on the date specified in section 2257(b)(2), coverage under a covered employer health plan shall not be terminated as of the last day of a month unless notice has been provided to the Secretary, as required in section 2257(b)(1), of such termination at least 7 days before the last day of that month.

"(3) TREATMENT OF FAMILY MEMBERS.—Subject to section 2252, the period of coverage for family members of an employee shall be the same as the period of coverage for the employee.

"SEC. 2108. ENFORCEMENT.

"(a) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

"(1) for individuals and entities to file written, signed complaints respecting potential violations of the requirements of this part,

"(2) for the investigation of those complaints which, on their face, have a substantial probability of validity, and

"(3) for the investigation of such other violations of the requirements of this part as the Secretary determines to be appropriate.

For purposes of this paragraph, the designation as a seasonal or temporary employee under section 2103(a)(3) of an individual who is employed for periods in excess of the period permitted under section 2181(b)(3) constitutes a violation of the requirements of this part.

"(b) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this section—

"(1) agents of the Secretary and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

"(2) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this subsection and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(c) HEARING.—

"(1) IN GENERAL.—Before imposing an order described in subsection (d) against an employer under this section for a violation of the requirements of this part, the Secretary shall provide the employer with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary) of the date of the notice, a hearing respecting the violation.

"(2) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge under section 201. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

"(3) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that an employer named in the complaint has violated the requirements of this part, the administrative law judge shall state his findings of fact and issue and cause to be served on such employer an order described in subsection (d).

"(d) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the order under this section—

"(A) shall require the employer—

"(i) to cease and desist from such violations, and

"(ii) to pay a civil penalty in an amount not to exceed 3 times the amount of premiums which the employer would be required to pay to enroll all individuals (otherwise required under this part to be enrolled under a qualified employer health plan) under the public health insurance plan a period of not less than 1 year; and

"(B) may require the employer to take such other remedial action as is appropriate.

"(2) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this section by reason of any violation if the employer establishes to the satisfaction of the Secretary that—

"(A) such violation was due to reasonable cause and not to willful neglect, and

"(B) such violation is corrected within the 30-day period beginning on earliest date the employer knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(3) WAIVER BY SECRETARY.—In the case of a violation which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed by paragraph (1)(A)(ii) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

"(4) STATE LOSS OF FUNDS.—In the case of an employer that is a State or political subdivision of a State or an agency or instrumentality of a State or political subdivision and that violates the requirements of this part, instead of imposing a civil money penalty under paragraph (1)(A)(ii), there shall be imposed an order reducing payments to the State (in which the violation occurs), under title IV, V, XIX, or XX (as specified by the Secretary), in an amount equivalent to the amount of the civil money penalty that otherwise would be imposed in the case of other employers.

"(e) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this section.

"(f) JUDICIAL REVIEW.—An employer adversely affected by a final order issued under this section may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(g) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final order issued under this section against the employer, the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(h) USE OF AMOUNTS COLLECTED.—Civil money penalties collected under this section shall be credited to the Public Health Insurance Trust Fund.

"PART B—REQUIREMENTS FOR QUALIFIED EMPLOYER HEALTH PLANS

"SEC. 2121. QUALIFIED EMPLOYER HEALTH PLAN AND COVERED EMPLOYER HEALTH PLAN DEFINED.

"(a) QUALIFIED EMPLOYER HEALTH PLAN DEFINED.—In this title and title XXII, the term 'qualified employer health plan' means an employment-related health plan (as defined in section 2304(a)(2)) that—

"(1) is a qualified health plan (as defined in section 2251(a)),

"(2) except as provided in section 2122, does not impose premiums, deductibles, or copayments on employees (and family members) required to be enrolled in a covered employer health plan under part A, and

"(3) meets the requirements of section 2243(c)(3) (relating to coordination of low-income assistance for deductibles and coinsurance).

Such term does not include the public health insurance plan.

"(b) COVERED EMPLOYER HEALTH PLAN DEFINED.—In this title, the term 'covered employer health plan' means, with respect to employees (and family members) whom an employer is required to enroll under part A, the qualified employer health plan in which they are enrolled or, in the case of an election with respect to such employees (and family members) under section 2105, the public health insurance plan.

"SEC. 2122. REQUIREMENTS RELATING TO EMPLOYEE PREMIUMS AND COST-SHARING.

"(a) ENROLLEE PREMIUMS AND COST-SHARING PERMITTED.—

"(1) IN GENERAL.—A qualified employer health plan may require an enrollee to pay for—

"(A) premiums for coverage under the plan, but only if the premiums do not exceed the limitations imposed under this section, and

"(B) cost-sharing amounts for coverage under the plan, but only if the cost-sharing does not exceed the limitations on deductibles, copayments, and coinsurance imposed with respect to qualified health plans under section 2255.

"(2) TREATMENT OF ADDITIONAL, REQUIRED COVERAGE.—If a qualified employer health plan provides benefits in addition to the benefits required under this title and the employee is not permitted the option of not accepting such additional benefits, the plan—

"(A) may not impose a premium, for such basic and additional benefits, that exceeds the premiums that may be imposed for the basic benefits, and

"(B) shall assure that cost-sharing is not imposed with respect to basic health services once the cost-sharing limit has been reached in a year with respect to benefits for such services.

"(3) NONDISCRIMINATION IN PREMIUM AMOUNTS.—Under a qualified employer health plan, no employee may be charged a different premium for similar benefits in the same covered employer health plan for the same beneficiary class based on the age or sex of the employee.

"(b) LIMITATION ON PREMIUMS.—

"(1) MONTHLY PREMIUM LIMITED TO 20 PERCENT OF ACTUARIAL RATE.—

"(A) IN GENERAL.—A qualified employer health plan may not require an employee to pay a premium—

"(i) for coverage for a period of longer than one month, or

"(ii) the amount of which on a monthly basis exceeds 20 percent of the monthly actuarial rate (as defined under subparagraph (B)).

"(B) MONTHLY ACTUARIAL RATE DEFINED.—For purposes of this subsection, the term 'monthly actuarial rate' means—

"(i) with respect to a qualified employer health plan in a plan year, the average monthly per enrollee amount that the plan estimates, for enrollees under the plan during the year, would be necessary to pay for the total benefits required during the year under the plan (with respect to basic health services), including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin, or

"(ii) with respect to the public health insurance plan, the beneficiary actuarial rate (established under section 2231(a)(2)) applicable to basic health services in the community with respect to the beneficiary class which describes the employee's enrollment.

"(C) APPLICATION ON BASIS OF FAMILY STATUS.—For purposes of subparagraph (B)(i), a qualified employer health plan may provide for the premium to be applied, and the monthly actuarial rate described in such subparagraph to be estimated, for basic health services based on the beneficiary classes described in section 2231(d)(1) (other than subparagraphs (A) and (C)) or on such other beneficiary classifications, consistent with subsection (a), as the employer or plan may specify.

"(3) LIABILITY FOR PAYMENT OF PREMIUMS.—An employee enrolled under a qualified employer health plan is liable for payment of premiums required under that plan in accordance with this subsection. In no case shall an employee be liable for premiums with respect to a qualified employer health plan, other than the portion of the premium which may be imposed on the employee consistent with this section.

"(4) WITHHOLDING PERMITTED.—No provision of State law shall prevent an employer of an employee enrolled under a qualified employer health plan from withholding the amount of any premium due by the employee under this subsection from the wages paid the employee.

"(5) CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as preventing an employer from paying part or all of the employee premium for basic health services or other health services, or

"(B) subject to subsection (a), from requiring an employee to pay for all or part of the premium for benefits for services other than basic health services.

"PART C—DEFINITIONS AND MISCELLANEOUS

"SEC. 2181. DEFINITIONS.

"(a) EMPLOYEE, EMPLOYER, EMPLOYMENT, WAGES.—

"(1) IN GENERAL.—In this title, except as otherwise provided in this section, the terms 'wages', 'employer', 'employee', and 'employment' have the same meanings as such terms have for purposes of chapter 21 of the Internal Revenue Code of 1986.

"(2) MODIFICATIONS OF RULES.—In applying paragraph (1)—

"(A) the exceptions specified in paragraphs (5), (6), (7), and (8) of section 3121(b) of the Internal Revenue Code of 1986 shall not be applied, and

"(B) in applying section 3121(a) of such Code, the limitation of wages to the contribution and benefit base under section 3121(a) of such Code shall not apply.

"(3) TREATMENT OF FEDERAL EMPLOYMENT.—In applying paragraph (1), the term 'employment' shall not be considered to include service performed in the employ of the United States if, in connection with the performance of such service, the individual—

"(A) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

"(B) is provided medical and dental benefits under chapter 55 of title 10, United States Code.

"(b) DEFINITIONS RELATING TO EMPLOYEES.—In this title:

"(1) FULL-TIME EMPLOYEE.—The term 'full-time employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 25 hours of service per week for that employer.

"(2) PART-TIME EMPLOYEE.—The term 'part-time employee' means, with respect to an employer, an employee who is not a full-time employee.

"(3) SEASONAL OR TEMPORARY EMPLOYEE.—The term 'seasonal or temporary employee' means, with respect to an employer, an employee who is employed by the employer for not more than 4 months in any 12 month period; except that the Secretary may extend such period for up to 6 months in any 12 month period in the case of employment that is sporadic, irregular, and seasonal in nature.

"(4) TREATMENT OF CONSULTANTS AND CONTRACTORS.—The term 'employee' includes an individual who is a consultant or contractor of an employer if the Secretary determines that the consulting arrangement or contract was entered into to avoid the requirements of this title.

"(5) EXCLUSION OF FOREIGN EMPLOYMENT.—The term 'employee' does not include an individual—

"(A) who is not a citizen or resident of the United States with respect to service performed outside the United States, or

"(B) who is a citizen or resident of the United States with respect to services performed outside the United States for an employer other than an American employer (as defined in section 3121(h) of the Internal Revenue Code of 1986).

"(c) DEFINITIONS RELATING TO SIZE OF EMPLOYER.—In this title:

"(1) VERY SMALL EMPLOYER.—The term 'very small employer' means, with respect to a calendar year, an employer that normally employs fewer than 25 employees on a typical business day during the calendar year.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs fewer than 101 employees on a typical business day during the calendar year.

"(3) LARGE EMPLOYER.—The term 'large employer' means an employer that is not a small employer.

"(4) APPLICATION OF CONTROLLED GROUP RULES.—For purposes of determining if an employer is a very small, small, or large employer or the number of hours an individual is normally employed with respect to an employer, rules similar to the rules of subsection (b) and (c) of section 414 of the Internal Revenue Code of 1986 shall apply.

"(d) INCORPORATION OF DEFINITIONS.—Except as otherwise provided in this title, the terms defined in section 2282 and 2283 shall apply under this title in the same manner as they apply under title XXII.

"SEC. 2182. NONAPPLICATION TO RESIDENTS OF PUERTO RICO AND TERRITORIES.

"The provisions of this title shall not apply with respect to an employee who is not a resident of one of the 50 States or the District of Columbia.".

TITLE II—ACCESS TO HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH A PUBLIC HEALTH INSURANCE PLAN

SEC. 201. PUBLIC HEALTH INSURANCE PLAN.

The Social Security Act is amended by adding after the title added by section 101 the following new title:

"TITLE XXII—ACCESS TO HEALTH INSURANCE FOR BASIC HEALTH SERVICES THROUGH A PUBLIC HEALTH INSURANCE PLAN

"PART A—ELIGIBILITY AND ENROLLMENT

"SEC. 2201. ELIGIBILITY TO ENROLL FOR HEALTH INSURANCE BENEFITS AND TO APPLY FOR LOW-INCOME ASSISTANCE.

"(a) ELIGIBILITY TO ENROLL FOR HEALTH INSURANCE BENEFITS.—Subject to subsection (c)—

"(1) ENROLLMENT TO OBTAIN BENEFITS WITH RESPECT TO BASIC HEALTH SERVICES.—

"(A) IN GENERAL.—Each eligible individual (as defined in subsection (d)) who is not a medicare beneficiary is eligible to enroll under this title—

"(i) on a non-employment basis, for health insurance benefits with respect to basic health services and with respect to EPSDT services, or

"(ii) on an employment basis, for health insurance benefits with respect to basic health services.

"(B) ENROLLMENT UNDER TITLE ON AN EMPLOYMENT AND NON-EMPLOYMENT BASIS DEFINED.—An eligible individual is considered, for purposes of this title, to be enrolled under this title—

"(i) with respect to basic health services on an 'employment basis' only if the individ-

ual is enrolled by an employer pursuant to a public plan election under section 2105, or

"(ii) on a 'non-employment basis'—

"(I) with respect to EPSDT services and medicare supplemental benefits, and

"(II) with respect to basic health services, if the individual is enrolled under this title other than on an employment basis.

"(C) ENROLLMENT UNDER A QUALIFIED EMPLOYER HEALTH PLAN DEFINED.—An individual is considered, for purposes of this title, to be 'enrolled under a qualified employer health plan' if—

"(i) the individual is enrolled under a qualified employer health plan (as defined in section 2281(b)(7)) as an employee (or family member of an employee),

"(ii) the employer is required to provide for such enrollment (or, in the case of a public plan election, for enrollment under this title) under part A of title XXI, and

"(iii) the amount of the employee share of the premium is limited under section 2122(b).

"(2) ENROLLMENT TO OBTAIN BENEFITS WITH RESPECT TO EPSDT SERVICES.—An eligible individual who—

"(A)(i) is enrolled under this title on an employment basis, (ii) is enrolled under a qualified employer health plan, or (iii) is enrolled under another qualified health plan, and

"(B) is not a medicare beneficiary,

is eligible to enroll under this title with respect to EPSDT services.

"(3) NON-EMPLOYED MEDICARE BENEFICIARIES.—In the case of an eligible individual who—

"(A) is a medicare beneficiary, and

"(B) is not enrolled under a qualified employer health plan or under this title on an employment basis,

the individual is eligible to enroll under this title with respect to medicare supplemental benefits only if the individual is a low-income medicare beneficiary (as defined in section 2283(a)(1)(B)).

"(b) ELIGIBILITY TO APPLY FOR LOW-INCOME ASSISTANCE.—Subject to subsection (c), each eligible individual who—

"(1) is enrolled in the public health insurance plan under this title, whether on a non-employment basis or on an employment basis,

"(2) is enrolled under a qualified employer health plan, or

"(3) is a medicare beneficiary,

is eligible to apply for low-income assistance under part E.

"(c) PHASE-IN OF ELIGIBILITY.—

"(1) DELAY IN FULL ELIGIBILITY.—Except as provided in paragraph (2), no individual is eligible to enroll for any health insurance benefits under this title or to apply for low-income assistance under part E for any period before January 1 of the 6th year beginning after the date of the enactment of this title.

"(2) ELIGIBILITY PHASE-IN.—

"(A) CHILDREN AND PREGNANT WOMEN.—Children under 7 years of age and pregnant women (as defined in section 2282) are eligible to enroll under this title on a non-employment basis and to apply for low-income assistance under part E effective on January 1 of the 2nd year beginning after the date of the enactment of this title.

"(B) ALL CHILDREN.—Unmarried individuals under 19 years of age are eligible to enroll under this title on a non-employment basis and to apply for low-income assistance under part E effective on January 1 of the 3rd year beginning after the date of the enactment of this title.

"(C) EMPLOYEES OF LARGE EMPLOYERS.—Large employers may provide for enrollment of employees (and family members) on an employment basis effective January 1 of the 4th year beginning after the date of the enactment of this title. Employees of such employers (and their family members) who are enrolled under qualified employer health plans (or under this title on an employment basis) are eligible as of such date to apply for low-income assistance under part E.

"(D) OTHER EMPLOYED INDIVIDUALS.—Any other employer who is subject to the requirements of part A of title XXI may provide for enrollment of employees (and family members) on an employment basis. Employees of such employers (and their family members) who are enrolled under qualified employer health plans (or under this title on an employment basis) are eligible as of the date the employers are subject to such requirements to apply for low-income assistance under part E.

"(d) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term 'eligible individual' means an individual who is—

"(1)(A) a citizen or national of the United States, (B) an alien lawfully admitted for permanent residence, or (C) an alien otherwise residing permanently in the United States under color of law, and

"(2) a resident of the United States.

"SEC. 2202. APPLICATION FOR ENROLLMENT.

"(a) PERIOD OF APPLICATION.—Individuals eligible to enroll under this title may apply to enroll at any time at which they are so eligible.

"(b) APPLICATION PROCESS.—

"(1) IN GENERAL.—The filing of a complete application for enrollment under this title shall (except as the Secretary may provide) constitute enrollment under this title. Such an application may be filed with the Secretary by mail or at such locations as the Secretary may specify.

"(2) AVAILABILITY OF APPLICATIONS.—The Secretary shall make applications for enrollment under this title available—

"(A) at local offices of the Social Security Administration,

"(B) at out-reach sites (such as provider locations), and

"(C) at other locations accessible to a broad cross-section of individuals eligible to enroll.

"(3) APPLICATION FOR LOW-INCOME ASSISTANCE.—An application for enrollment under this section may (but need not) be accompanied by an application for low-income assistance under part E.

"(4) RESTRICTION ON USE OF AGENTS.—The Secretary may not provide for receipt or processing of applications for enrollment under this title—

"(A) by any non-Federal entity which is directly or indirectly involved in the administration of title IV, XVI, or XIX of this Act, or

"(B) by any entity which does not meet such standards as the Secretary establishes to assure the confidentiality of information collected in the enrollment process.

"SEC. 2203. COVERAGE PERIOD; TERMINATION OF ENROLLMENT.

"(a) BEGINNING OF COVERAGE.—For provision regarding the beginning of coverage under the public health insurance plan, see section 2252(b).

"(b) TERMINATION OF ENROLLMENT DURING TRANSITION PERIOD.—

"(1) IN GENERAL.—Before January 1 of the 6th year beginning after the date of the enactment of this title, except as provided in paragraph (3)—

"(A) an individual enrolled under this title may terminate enrollment on a non-employment basis by providing written notice to the Secretary that the individual—

"(i) no longer wishes to be enrolled in the public health insurance plan, or

"(ii) is enrolled under a qualified health plan or is a medicare beneficiary; and

"(B) the Secretary may terminate enrollment on a non-employment basis of an individual, after providing the individual (or the individual's representative) with written notice, for failure to pay premiums required with respect to such enrollment.

"(2) EFFECTIVE DATE OF TERMINATION.—A termination of enrollment under paragraph (1)(A) shall take effect at the close of the month following the month in which the notice is filed. A termination of enrollment under paragraph (1)(B) shall take effect on a date (determined under regulations) after the date written notice of such termination has been provided to the enrollee (or the enrollee's representative). Such regulations shall provide a grace period of at least 1 month after the date of written notice in which overdue premiums may be paid and coverage continued.

"(3) MINIMUM PERIOD OF ENROLLMENT DURING TRANSITION.—Subject to paragraph (4), before January 1 of the 6th year beginning after the date of the enactment of this title—

"(A) IN GENERAL.—An individual (other than a pregnant woman or newborn) who is enrolled under this title on a non-employment basis may not terminate enrollment less than 12 months after the date of the enrollment.

"(B) PREGNANT WOMEN AND NEWBORNS.—In the case of a woman who is enrolled under this title during pregnancy on a non-employment basis—

"(i) the enrollment of the woman may not be terminated earlier than the end of the month in which the 60-day period, beginning on the last day of the pregnancy, ends; and

"(ii) the newborn child shall be deemed enrolled under this title as of the date of birth, and such enrollment may not be terminated earlier than the end of the month in which the child's first birthday occurs.

"(4) TERMINATION PERMITTED IF COVERED UNDER ANOTHER QUALIFIED HEALTH PLAN.—The minimum period of enrollment under paragraph (3) shall not apply if, at the time of termination of enrollment, the individual is immediately covered under another qualified health plan which will provide coverage during the minimum period for which enrollment is otherwise required under such paragraph.

"(c) TERMINATION OF ENROLLMENT AFTER TRANSITION PERIOD.—For limitations on termination of enrollment under this title on or after January 1 of the 6th year beginning after the date of the enactment of this title, see section 2204(c).

"SEC. 2204. REQUIREMENT OF HEALTH INSURANCE COVERAGE.

"(a) REQUIREMENT FOR ALL ELIGIBLE INDIVIDUALS.—

"(1) IN GENERAL.—Effective on and after the date specified in subsection (e), each eligible individual (as defined in section 2201(d)) who is not an excepted individual (as defined in paragraph (2)), is deemed to have enrolled under this title on the date before such date or as soon thereafter as the individual is not an excepted individual. If such an individual has not filed an application for enrollment under this title by such date, the Secretary shall provide a means to collect information sufficient to effect such enrollment as soon as possible after such date.

"(2) EXCEPTED INDIVIDUALS.—For purposes of paragraph (1), the term 'excepted individual' means an individual who—

"(A) is a medicare beneficiary,

"(B) is enrolled under a qualified employer health plan, or

"(C) demonstrates (in a manner specified by the Secretary) enrollment under a qualified health plan or under a Federal health plan (as defined in subsection (f)).

"(b) AUTOMATIC CONTINUING ENROLLMENT.—For provisions relating to coordination of enrollment among qualified health plans and assuring continuous coverage for basic health services (and portability of health insurance benefits among such plans), see section 2257.

"(c) LIMITATION ON TERMINATION OF ENROLLMENT FOR BASIC HEALTH SERVICES.—Effective on the date specified in subsection (e) and with respect to basic health services—

"(1) EMPLOYMENT-BASED ENROLLMENT.—An individual enrolled under this title on an employment basis may not elect to terminate such enrollment.

"(2) NON-EMPLOYMENT BASIS.—An individual enrolled under this title on a non-employment may not terminate such enrollment unless—

"(A) the individual is no longer eligible to be enrolled under this title because of a change of immigration or residency status, or

"(B) the individual demonstrates to the satisfaction of the Secretary that the individual is a medicare beneficiary or is enrolled under another qualified health plan.

"(d) ENFORCEMENT.—

"(1) MONITORING OF INDIVIDUAL TAX RETURNS.—The Secretary of the Treasury shall require, in conjunction with the filing of each individual income tax return under chapter 1 of the Internal Revenue Code of 1986 or (in the case of individuals not required to file such a return) at such other times as the Secretary may specify, the filing of such information as may be necessary to establish compliance with subsection (a).

"(2) RETROACTIVE ENROLLMENT.—If such an individual has not provided evidence of enrollment in a qualified health plan or Federal health plan, the Secretary—

"(A) shall enroll the individual pursuant to the filing of such return, and

"(B) shall require the payment of twice the amounts of premiums that would have been paid if the person had been enrolled on a timely basis, unless the individual has established to the satisfaction of the Secretary good cause for the failure to enroll on a timely basis.

"(e) EFFECTIVE DATE OF REQUIREMENT.—The date specified in this subsection is January 1 of the 6th year beginning after the date of the enactment of this title.

"(f) FEDERAL HEALTH PLAN DEFINED.—In this section, the term 'Federal health plan' means a health plan of, or contributed to by, the Federal Government on behalf of its employees, retirees, and their family members, and includes—

"(1) the Federal employees health insurance program under chapter 89 of title 5, United States Code,

"(2) the program for the provision of medical and dental benefits under chapter 55 of title 10, United States Code, and

"(3) the program for the provision of hospital care and medical services by the Department of Veterans' Affairs under chapter 17 of title 38, United States Code.

"PART B—HEALTH INSURANCE BENEFITS

"SEC. 2211. BASIC HEALTH SERVICES (INCLUDING PREVENTIVE SERVICES) FOR GENERAL ENROLLEES.

"(a) GENERAL POPULATION.—

"(1) IN GENERAL.—Except as provided in the succeeding provisions of this part, the health insurance benefits provided to an individual enrolled under this title (whether on an employment basis or a non-employment basis) shall consist of entitlement to have payment made, subject to the succeeding provisions of this title, with respect to basic health services (as defined in subsection (b)).

"(b) BASIC HEALTH SERVICES DEFINED.—

"(1) IN GENERAL.—In this title, the term 'basic health services' means, subject to paragraph (2), the following items and services:

"(A) Preventive services (described in subsection (c)).

"(B) Inpatient hospital services.

"(C) Medical and other health services (as defined in section 2281(a)(9)), which include physicians' services and certain other practitioner services and outpatient and clinic services.

"(2) TREATMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—Basic health services include the items and services described in paragraph (1) for the treatment of mental illness, a mental disorder, or substance abuse, but do not include—

"(A) inpatient hospital services for such treatment for any individual in excess of 45 days in any calendar year, and

"(B) outpatient psychotherapy and counseling for such treatment for any individual in excess of 25 visits in any calendar year.

"(c) PREVENTIVE SERVICES.—

"(1) IN GENERAL.—In this title, the term 'preventive services' means the following items and services furnished in accordance with any applicable periodicity schedule established under paragraph (2):

"(A) Prenatal care (including home visitation services).

"(B) Well-child care (including appropriate immunizations according to age and health history).

"(C) Screening mammography (as defined in section 2281(a)(15)).

"(D) Screening pap smear (as defined in section 2281(a)(16)).

"(E) Family planning services.

"(F) Colorectal cancer screening services (as defined by the Secretary).

"(2) PERIODICITY SCHEDULES.—

"(A) PRENATAL CARE.—With respect to prenatal care under paragraph (1)(A), the Secretary shall establish a schedule of periodicity which reflects the appropriate frequency with which such care should be provided to pregnant women, taking into account age and other risk factors.

"(B) WELL-CHILD CARE.—With respect to well-child care under paragraph (1)(B), the Secretary shall establish a schedule of periodicity which reflects the general, appropriate frequency with which such care should be provided routinely to healthy children.

"(C) SCREENING MAMMOGRAPHY AND SCREENING PAP SMEAR.—With respect to screening mammography and screening pap smear, the Secretary shall establish a schedule of periodicity which reflects the appropriate frequency with which such services should be provided to individuals, taking into account age and other risk factors.

"(D) COLORECTAL CANCER SCREENING SERVICES.—With respect to colorectal cancer screening services described in paragraph (1)(F), the Secretary shall establish a schedule of periodicity which reflects the appropriate frequency with which such services should be provided to individuals, taking into account age and other risk factors.

"(3) CONSULTATION.—The Secretary shall consult with recognized medical organizations involved in the respective field (or fields) of health in establishing the periodicity schedules under paragraph (2).

"(4) STANDARDS.—The Secretary shall establish standards for entities furnishing preventive services under this title, in the case of providers and practitioners who otherwise are not qualified to provide other services under title XVIII or this title.

"(5) REVIEW OF ADDITIONAL PREVENTIVE SERVICES.—The Secretary shall examine and periodically report to Congress on additional services that, based on studies of usefulness and cost-effectiveness, should be included as preventive services under this title.

"SEC. 2212. EPSDT SERVICES.

"(a) INCLUDED WITH NON-EMPLOYMENT BASED ENROLLMENT.—

"(1) IN GENERAL.—Each child who is enrolled under this title on a non-employment basis is entitled to health insurance benefits with respect to EPSDT services, regardless of whether or not the child is entitled to health insurance benefits under this title with respect to basic health services.

"(2) OPTIONAL EMPLOYER CONTRIBUTIONS.—Nothing in this section shall be construed as preventing an employer from providing, or as requiring an employer to provide, a contribution with respect to enrolling children of employees under this title in order to obtain health insurance benefits with respect to EPSDT services.

"(b) EPSDT SERVICES DEFINED.—In this title, the term 'EPSDT services' means the following items and services, but only to the extent they are not preventive services (as defined in section 2211(c)(1)):

"(1) Screening services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the Secretary after consultation with recognized medical and dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

"(B) which shall at a minimum include—

"(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

"(ii) a comprehensive unclothed physical exam,

"(iii) appropriate immunizations according to age and health history,

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

"(v) health education (including anticipatory guidance).

"(2) Vision services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the Secretary after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

"(3) Dental services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of dental practice, as determined by the Secretary after consultation with recognized dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

"(4) Hearing services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the Secretary after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

"(c) TREATMENT OF CERTAIN PROVIDERS AND PRACTITIONERS.—

"(1) STANDARDS.—The Secretary shall establish qualifying standards for providers and practitioners furnishing EPSDT services under this title, in the case of providers and practitioners who otherwise are not qualified to provide other services under title XVIII or this title.

"(2) CONSTRUCTION.—Nothing in this title shall be construed as limiting the providers and practitioners furnishing EPSDT services to providers and practitioners who are qualified to provide all such services or as preventing such a provider or practitioner that is qualified under this title to furnish one or more (but not all) of such items or services from being qualified to furnish such items and services as part of EPSDT services.

"SEC. 2213. MEDICARE SUPPLEMENTAL BENEFITS FOR LOW-INCOME MEDICARE BENEFICIARIES.

"(a) IN GENERAL.—In the case of a low-income medicare beneficiary who is enrolled under this title on a non-employment basis and is not enrolled under a qualified employer health plan, the health insurance benefits under this title shall consist of medicare supplemental benefits described in subsection (b).

"(b) MEDICARE SUPPLEMENTAL BENEFITS DEFINED.—In this title, the term 'medicare-supplemental benefits' means the minimum benefits required to be offered by a medicare supplemental policy under section 1882, plus coverage of the inpatient hospital deductible under part A of title XVIII.

"SEC. 2214. SCOPE OF COVERAGE.

"(a) IN GENERAL.—Subject to the succeeding provisions of this section, services covered under this title are not subject to any limitation on amount, duration, or scope. However, no payment shall be made under this title for services furnished which are not reasonable and medically necessary (as determined under subsection (b)).

"(b) REASONABLENESS AND MEDICAL NECESSITY.—

"(1) IN GENERAL.—Except as provided in this subsection, services are considered not reasonable and medically necessary under this title unless they would be considered (under section 1862(a)(1)) reasonable and medically necessary for purposes of title XVIII.

"(2) PREVENTIVE SERVICES; EPSDT SERVICES, ETC.—In the case of preventive services provided consistent with the periodicity schedule established under section 2211(c)(2) and EPSDT services provided consistent with any periodicity schedule applicable to such services—

"(A) such services shall be considered to be reasonable and medically necessary, and

"(B) shall not be subject to exclusion through the operation of paragraph (1), (7), or (12) of section 1862(a) (as incorporated under section 2225(a)(2)).

"(3) USE OF SAME NATIONAL COVERAGE DECISION REVIEW PROCESS.—The provisions of section 1869(b)(3) shall apply under this title in the same manner as they apply under title XVIII. Any determination under such title that, under paragraph (1), would apply under this title shall not be subject to review under this paragraph.

"(c) REFERENCE TO LIMITATIONS ON CERTAIN MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT SERVICES.—For limitation on coverage of basic health services for the treatment of mental illness, a mental disorder, or substance abuse, see section 2211(b)(2).

"(d) REPORT ON PRESCRIPTION DRUGS AS A COVERED SERVICE.—Not later than the beginning of the 3rd year beginning after the date of the enactment of this title, Director of the Office of Technology Assessment shall submit to Congress a report on the cost-effectiveness of including health insurance benefits under this title for some or all prescription drugs.

"PART C—PAYMENTS FOR BENEFITS; DEDUCTIBLES, COINSURANCE, AND STOP-LOSS PROTECTION FOR BASIC HEALTH SERVICES

"SEC. 2221. PAYMENTS FOR BENEFITS.

"(a) USE OF MEDICARE PAYMENT RULES.—

"(1) IN GENERAL.—Except as otherwise provided in this title—

"(A) payment of benefits under this title with respect to benefits shall be made, subject to adjustment in payment rates under subsection (b), in the same amounts and on the same basis as payment may be made with respect to such benefits under title XVIII, and

"(B) the provisions of sections 1814, 1815, 1833, 1834(c) (other than paragraphs (1)(A) and (2)), 1835, 1842, 1848, 1886, 1887 shall apply to payment of benefits (and provision of services and charges thereon) under this title in the same manner as they apply to benefits, services, and charges under title XVIII.

"(2) IDENTIFICATION OF COMPARABLE PAYMENT METHODS FOR NEW SERVICES.—In the case of services for which there is not a payment basis established under title XVIII, the Secretary shall establish payment rules that are similar to the payment rules for similar services under such title.

"(3) NO JUDICIAL OR ADMINISTRATION REVIEW.—There shall be no administrative or judicial review of the payment rates or rules under this section (including adjustments made under subsection (b)).

"(b) ADJUSTMENT OF MEDICARE PAYMENT RATES.—

"(1) IN GENERAL.—For purposes of payment for inpatient hospital services, physicians' services, and other services under this title for which payment rates are established under title XVIII, the Secretary shall adjust the payment rates otherwise established under title XVIII to take into account differences between the population served under that title and the population served by this title or enrolled under qualified employer health plans and such other appropriate factors (such as the special circumstances of hospitals the inpatients of which are predominantly children) as the Secretary deems appropriate.

"(2) CONSULTATION.—In making adjustments under paragraph (1), the Secretary shall consult with the Prospective Payment Assessment Commission with respect to inpatient hospital services and with the Physician Payment Review Commission with respect to physicians' services.

"(d) USE OF TRUST FUND.—In carrying out this section, any reference in title XVIII to a trust fund shall be treated as a reference to the Public Health Insurance Trust Fund established under section 2233.

"(e) WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICARE AND MEDICAID PROVIDERS.—The provisions of section 1885 (relating to withholding of payments for certain medicaid providers) shall apply under this title in the same manner as they apply under title XVIII, except that for this purpose any reference in such section to title XIX shall be deemed to include a reference to title XVIII.

"(f) OFFSET OF PAYMENTS TO INDIVIDUALS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP AND LOAN CONTRACT.—The provisions of section 1892 (relating to offset of payments to individuals to collect past-due obligations arising from breach of scholarship and loan contracts) shall apply under this title in the same manner as they apply under title XVIII; except that, in applying this subsection, the amounts transferred under subsection (e) of that section shall be credited directly to the scholarship or loan program to which the amounts were due.

"SEC. 2222. DEDUCTIBLE FOR BASIC HEALTH SERVICES.

"(a) DEDUCTIBLE.—

"(1) IN GENERAL.—Except as provided in this section and part E, the amount of expenses for basic health services with respect to which an individual is entitled to have payment made under this title for any year shall first be reduced by a deductible of—

"(A) $250, in the case of each person included within a beneficiary class described in subparagraph (A) or (C) of section 2231(d)(1), or

"(B) $500, in the case of each individual included within another beneficiary class.

"(2) FAMILY DEDUCTIBLE.—In the case of individuals described in paragraph (1)(B) who are members of a family, the deductible under such paragraph shall be applied collectively to the expenses of all family members who are not medicare beneficiaries.

"(3) APPLICATION OF DEDUCTIBLE IN PLACE OF MEDICARE DEDUCTIBLES.—The deductible established under this subsection shall be applied instead of applying the deductible for inpatient hospital services under the first sentence of section 1813(a)(1) and the deductible under section 1833(b).

"(4) INDEXING OF DOLLAR AMOUNTS OF DEDUCTIBLE.—The dollar amounts specified in paragraph (1) shall be increased each year (beginning with second year after the year in which this title is enacted) by a percentage equal to the percentage increase in the contribution and benefit base (determined under section 230) from the year before the year in which this title is enacted to the year before the year involved. Any such increase shall be rounded to the nearest multiple of $5.

"(b) DEDUCTIBLE DOES NOT APPLY TO PREVENTIVE SERVICES, EPSDT SERVICES, AND MEDICARE SUPPLEMENTAL BENEFITS.—The deductible established under subsection (a) does not apply—

"(1) to preventive services or EPSDT services provided consistent with the respective periodicity schedules, or

"(2) to medicare supplemental benefits.

"SEC. 2223. COINSURANCE FOR BASIC HEALTH SERVICES.

"(a) COINSURANCE RATES.—Subject to subsections (b) and (c), the coinsurance rates applicable to basic health services under title XVIII shall apply in the administration of this title

"(b) NO COINSURANCE FOR PREVENTIVE AND EPSDT SERVICES.—There shall be no coinsurance under this title in the case of—

"(1) preventive services, and

"(2) EPSDT screening services described in section 2112(b)(1),

provided consistent with any applicable periodicity schedules.

"(c) NO COINSURANCE FOR INPATIENT HOSPITAL SERVICES.—Payment shall be made for inpatient hospital services under this part without regard to the coinsurance amounts established under section 1813(a).

"SEC. 2224. LIMIT ON COST-SHARING FOR BASIC HEALTH SERVICES.

"(a) LIMITATION.—

"(1) IN GENERAL.—Whenever in a calendar year an individual's or family's expenses for the deductible and coinsurance with respect to basic health services covered under this title and furnished during the year equals $3,000, payment of benefits under this title for the individual or family for basic health services furnished during the remainder of the year shall be paid without the application of any coinsurance.

"(2) INDEXING OF DOLLAR AMOUNT OF LIMIT.—The dollar amount specified in paragraph (1) shall be increased each year (beginning with second year after the year in which this title is enacted) by a percentage equal to the percentage increase in the contribution and benefit base (determined under section 230) from the year before the year in which this title is enacted to the year before the year involved. Any such increase shall be rounded to the nearest multiple of $5.

"(b) CREDITING FOR EXPENSES INCURRED UNDER QUALIFIED EMPLOYER HEALTH PLANS.—For provision relating to the accounting of cost-sharing incurred for basic health services furnished under this title and the crediting under this title of cost-sharing incurred for such services furnished under other qualified health plans, see section 2257(c).

"SEC. 2225. EXCLUSIONS; COORDINATION.

"(a) IN GENERAL.—

"(1) REASONABLENESS AND MEDICAL NECESSITY.—For exclusion of payment for services on the basis of reasonableness and medical necessity, see section 2214.

"(2) OTHER EXCLUSIONS.—Except as provided in this section and section 2214, section 1862 (other than subsection (a)(1)) shall apply to expenses incurred for items and services provided under this title in the same manner as such section applies to items and services provided under title XVIII.

"(b) RELATIONSHIP TO MEDICARE IN CASE OF EMPLOYMENT BASED ENROLLMENT.—In the case of enrollment of a medicare beneficiary on an employment basis under this title, in applying section 1862(b) (pursuant to subsection (a)(2) of this section), the public health insurance plan shall be treated as a large group health plan (described in section 1862(b)).

"(c) SECONDARY PAYOR FOR EPSDT SERVICES.—

"(1) IN GENERAL.—Payment under this title with respect to EPSDT services shall be secondary to payment under other qualified health plans with respect to such services. In applying this paragraph, State plans of medical assistance under title XIX shall not be treated as qualified health plans.

"(2) COORDINATION.—Under standards established by the Secretary, the coordination of benefit standards specified in section 1862(b)(4) shall apply in the case described in paragraph (1) in the same manner as such standards apply under title XVIII in the case in which such title is a secondary payor.

"SEC. 2226. APPLICATION OF QUALIFIED HEALTH PLAN PROVISIONS.

"Except as specifically provided in part F, the provisions of part F shall apply to the public health insurance plan in the same manner as they apply to qualified health plans.

"PART D—PREMIUMS, PUBLIC HEALTH INSURANCE TRUST FUND

"SEC. 2231. PREMIUMS.

"(a) BENEFICIARY PREMIUMS.—

"(1) AMOUNT OF PREMIUMS.—

"(A) IN GENERAL.—Except as provided in this section, the premium to be charged for enrollment under this title on a non-employment basis of any individual in a beneficiary class (as defined in subsection (d)) for a benefit package (as defined in subsection (c)) in any community (as defined in subsection (e)) is the actuarial rate established under paragraph (2) with respect to such class, package, and community.

"(B) PART-TIME EMPLOYEES AND SEASONAL OR TEMPORARY EMPLOYEES.—

"(i) IN GENERAL.—Subject to clause (iii), in the case of a covered employee (as defined in clause (ii)) who—

"(I) normally performs on a monthly basis 10 or more hours of work per week for any employer, the premium to be charged for enrollment under this title on a non-employment basis is 20 percent of the beneficiary actuarial rate otherwise applicable under subparagraph (A), or

"(II) is not described in subclause (I), the premium to be charged for enrollment under this title on a non-employment basis is the beneficiary actuarial rate otherwise applicable under subparagraph (A), less the amount of the contributions of all the employers with respect to that employee, but in no case is the premium under this subclause to be less than the premium described in subclause (I).

"(ii) COVERED EMPLOYEE DEFINED.—In clause (i), the term 'covered employee' means an individual who—

"(I) is employed by one or more employers as a part-time employee or as a seasonal or temporary employee, and

"(II) none of whose employers has elected to meet the requirements of part A of title XXI with respect to part-time employees or seasonal or temporary employees, respectively, through enrollment under a qualified employer health plan, but all of whom are providing any contribution towards the employee's premiums under this title,

and includes the family members of such an employee.

"(iii) LIMIT ON PREMIUM WHERE PREMIUM SUBSIDY.—In no case shall the premium under clause (i) exceed—

"(I) the beneficiary actuarial rate otherwise applicable under subparagraph (A), reduced by

"(II) the amount of any premium subsidy under part E.

"(C) MEDICARE BENEFICIARIES.—

"(i) IN GENERAL.—In the case of a low-income medicare beneficiary enrolled under this title on a non-employment basis, the amount of the monthly premium to be charged for enrollment under this part shall be equal to the amount (if any) by which—

"(I) 1/12 of 5 percent of the individual's adjusted total income (as defined in section 2247, subject to clause (ii)) for the year in which the month occurs, exceeds

"(II) the premiums paid for enrollment of the individual in the month under part B (and, if applicable, part A) of title XVIII.

"(ii) COMPUTATION OF ADJUSTED TOTAL INCOME.—In the case of a medicare beneficiary who is a married and who is not enrolled in a qualified employer health plan or under this title on an employment basis, in applying clause (i) and section 2242(b), the individual's adjusted total income is ½ of the sum of the family adjusted total income of the family of which the individual is a member.

"(2) DETERMINATION OF ACTUARIAL RATES.—

"(A) IN GENERAL.—In September of each year, beginning with the 1st year beginning after the date of the enactment of this title, the Secretary shall determine and publish the beneficiary actuarial rate for each beneficiary class (as specified in subsection (d)) for each of the benefit packages (as specified in subsection (c)) available under this title (with respect to that class) for each community (designated under subsection (e)) for health insurance benefits in the following year.

"(B) BASIS FOR ACTUARIAL RATES.—Each such actuarial rate shall be established in a manner so that if all eligible individuals in the class were enrolled under this title for the benefit package in the community, the aggregate of the rates would be equal to the total expenditures (including administrative expenses) with respect to that class, benefit package, and community under this title in that following year. Each such actuarial rate shall be uniform within each beneficiary class, benefit package, and community, and shall not vary among such individuals by age, sex, health, or other risk characteristics.

"(C) PUBLIC STATEMENT.—Whenever the Secretary publishes beneficiary actuarial rates under this paragraph, the Secretary shall, at the time of such publication, include a public statement setting forth the actuarial assumptions and bases employed in arriving at the amount of the actuarial rates.

"(3) NO JUDICIAL OR ADMINISTRATION REVIEW.—There shall be no administrative or judicial review of the actuarial rates determined under this subsection.

"(b) EMPLOYER PREMIUMS.—

"(1) AMOUNT OF PREMIUMS.—

"(A) IN GENERAL.—The employer premium to be charged an employer for enrollment of full-time employees (and their families) on an employment basis under this title in a year is the product of—

"(i) the employer premium percentage computed under paragraph (2) for the year, and

"(ii) the wages paid by the employer with respect to such employees.

The employer premium to be charged for employment based enrollment of part-time and seasonal employees (and their families) under this title if the product described in the previous sentence as applied to such employees instead of to full-time employees.

"(B) CONSTRUCTION.—Nothing in this subsection prevents an employer from making contributions on behalf of the enrollment on a non-employment basis of individual employees (and their families)—

"(i) with respect to basic health services during the period beginning with the 3rd year that begins after the date of the enactment of this title and ending with the year before the year in which the employer is required to enroll employees in a qualified employer health plan, or

"(ii) at any time with respect to EPSDT services.

"(2) DETERMINATION OF EMPLOYER PREMIUM PERCENTAGE.—The Secretary shall determine in September of each year (beginning with the 3rd year beginning after the date of the enactment of this title) the employer premium percentage with respect to employers purchasing health benefits under this title with respect to their employees for different beneficiary classes for the following year. Such percentage may (at the Secretary's discretion) be determined separately for each region (as defined by the Secretary) and shall be determined as follows:

"(A) TRANSITIONAL PERCENTAGE.—The percentage shall be computed for each year in the transition period so that it is anticipated that by the 6th year after the date of the enactment of this title—

"(i) the number of full-time equivalent employees (and family members) who will be enrolled under this title on an employment basis, will be equal to

"(ii) ½ of the number of full-time equivalent employees (and family members) not covered under any employer health plan as of the date of the enactment of this title.

"(B) PERCENTAGE AFTER TRANSITIONAL PERIOD.—For any subsequent year, the percentage established under this paragraph for the previous year for a beneficiary class shall be increased by an index established by the Secretary. The index shall reflect the ratio of—

"(i) the rate of increase in per capita health care costs under this title for individuals enrolled on an employment basis, to

"(ii) the rate of increase in the contribution and benefit base (under section 230).

"(3) NO JUDICIAL OR ADMINISTRATION REVIEW.—There shall be no administrative or judicial review of the employer premium percentage determined under this subsection.

"(4) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means the period beginning with the 4th year beginning after the date of the enactment of this title and ending with the 6th year beginning after such date.

"(c) BENEFIT PACKAGES.—For purposes of this section, each of the following shall be treated as a separate benefit package:

"(1) Benefits for basic health services and EPSDT services.

"(2) Benefits for basic health services.

"(3) Benefits for EPSDT services.

"(4) Medicare supplemental benefits.

"(d) BENEFICIARY CLASSES.—For purposes of this section, the beneficiary classes are as follows:

"(1) With respect to benefit packages described in paragraphs (1) and (2) of subsection (c), each of the following:

"(A) Only 1 child.

"(B) Only 2 or more children in the same family.

"(C) 1 adult.

"(D) A married couple without children.

"(E) 1 adult and 1 child.

"(F) A married couple with 1 or more children, or 1 adult with 2 or more children.

"(2) With respect to the benefit package described in subsection (c)(3), each child.

"(3) With respect to the benefit package described in subsection (c)(4), each medicare beneficiary.

The Secretary may establish additional classes of beneficiaries if it is necessary to carry out the purposes of this title, title XXI, and title XXIII.

"(e) COMMUNITY.—For purposes of this section, the term 'community' means a geographic area designated by the Secretary as—

"(1) encompassing one or more adjacent metropolitan statistical areas, or

"(2) the remaining area within each State (that is not designated within any community under paragraph (1));

except that the Secretary may designate an entire State as a community if such a designation would better carry out the purposes of this title and title XXIII. The Secretary from time to time may change the boundaries of communities designated under paragraph (1) or (2) for such purposes. There shall be no administrative or judicial review of the designation of communities under this subsection.

"SEC. 2232. COLLECTION OF PREMIUMS.

"(a) INDIVIDUAL ENROLLMENT.—

"(1) IN GENERAL.—In the case of individuals enrolled on a non-employment basis under this title, the Secretary shall provide for the payment of premiums on a monthly or quarterly basis. To the maximum extent feasible, the Secretary shall arrange for payment of such premiums through automatic withholding from income sources or accounts with financial institutions.

"(2) COLLECTION OF UNPAID PREMIUMS.—

"(A) TRANSMISSION OF INFORMATION TO SECRETARY OF THE TREASURY.—In the case of premium amounts owing and unpaid under this subsection, the Secretary shall inform the Secretary of the Treasury of individuals or individuals owing such amounts and the amounts owed.

"(B) COLLECTION.—The Secretary of the Treasury shall assess and collect the amounts referred to in subparagraph (A) in the same manner as taxes imposed by subtitle C of the Internal Revenue Code of 1986.

"(b) EMPLOYER ENROLLMENT.—

"(1) IN GENERAL.—In the case of individuals enrolled under this title on an employment basis, the employer shall provide for periodic payments of premiums to the Secretary in a form, manner, and time established by the Secretary. Such frequency may vary based on the number of full-time employees covered and the amount of premiums due.

"(2) COLLECTION OF UNPAID PREMIUMS.—

"(A) TRANSMISSION OF INFORMATION TO SECRETARY OF THE TREASURY.—In the case of premium amounts owing and unpaid under this subsection, the Secretary shall inform the Secretary of the Treasury of employers owing such amounts and the amounts owed.

"(B) COLLECTION.—The Secretary of the Treasury shall assess and collect the amounts referred to in subparagraph (A) in the same manner as taxes imposed by subtitle C of the Internal Revenue Code of 1986.

"(c) DEPOSIT.—Premiums collected under this section shall be deposited to the credit of the Public Health Insurance Trust Fund (established under section 2233).

"SEC. 2233. PUBLIC HEALTH INSURANCE TRUST FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Public Health Insurance Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in paragraph (2) and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this part.

"(2) AUTHORIZATION TO ACCEPT GIFTS.—The Managing Trustee of the Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund, or any activity financed through the Trust Fund.

"(b) INCORPORATION OF PROVISIONS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund (established under section 1841).

"(2) GENERAL REFERENCES.—In applying paragraph (1), any reference in section 1841 to the Federal Supplementary Medical Insurance Trust Fund or to title XVIII (or part B thereof) is deemed a reference to the Trust Fund and this title, respectively.

"(3) TRANSFERS TO SMI TRUST FUND.—There shall be transferred periodically (but not less often than monthly) from the Trust Fund to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, amounts equivalent to the premium subsidies provided under part E of this title with respect to premiums under part A or part B, respectively, of title XVIII.

"(c) AUTHORIZATION OF APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS.—

"(1) ANNUAL ESTIMATE OF EXPENDITURES.—In April before the beginning of each fiscal year, the Secretary shall determine and report to Congress on—

"(A) the total amount of expenditures projected under this title in the fiscal year involved, and

"(B) the total amount of revenues (other than those attributable to this subsection) to be deposited into the Trust Fund in the fiscal year.

Such determination and report shall first be made for the fiscal year that ends during the 2nd year that begins after the date of the enactment of this title.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year, out of any moneys in the Treasury not otherwise appropriated, to the Public Health Insurance Trust Fund, a Government contribution equal to the amount by which—

"(A) the projected expenditures for the fiscal year reported under paragraph (1)(A), exceed

"(B) the projected revenues for the fiscal year reported under paragraph (1)(B).

"PART E—ASSISTANCE FOR LOW-INCOME INDIVIDUALS

"SEC. 2241. ASSISTANCE FOR INDIVIDUALS WITH INCOME BELOW THE POVERTY LINE ENROLLED ON A NON-EMPLOYMENT BASIS.

"(a) IN GENERAL.—Except as otherwise provided in this section, in the case of an individual—

"(1) who is enrolled under this title on a non-employment basis,

"(2) who is not a low-income medicare beneficiary, and

"(3) whose family adjusted total income (as defined in section 2247) does not exceed 100 percent of the official poverty line (as defined in section 2183(2)),

the low-income assistance under this part shall consist of waiver of the premiums imposed under section 2231(a) and of any deductibles or coinsurance under this title for the individual and the individual's family.

"(b) TREATMENT OF MEDICARE BENEFICIARIES.—In the case of a medicare beneficiary—

"(1) who is not enrolled under a qualified employer health plan or under this title on an employment basis, and

"(2) whose family adjusted total income (as defined in section 2247) does not exceed 100

percent of the official poverty line (as defined in section 2183(2)),

the low-income assistance under this part shall consist of waiver of the premiums imposed under section 2231(a) and of any deductibles or coinsurance under this title for the individual and the individual's family.

"(b) TREATMENT OF MEDICARE BENEFICIARIES.—In the case of a medicare beneficiary—

"(1) who is not enrolled under a qualified employer health plan or under this title on an employment basis, and

"(2) whose family adjusted total income (as defined in section 2247) does not exceed 100 percent of the official poverty line (as defined in section 2183(2)),

the low-income assistance under this part shall consist of (A) payment for premiums imposed under part A (if any) or part B of title XVIII and (B) waiver of any premiums imposed for medicare supplemental benefits under this title. The assistance described in clause (A) shall be provided in a manner so that no such premium amount is deducted from monthly benefits or transfers under section 1840.

"SEC. 2242. ASSISTANCE FOR INDIVIDUALS WITH INCOME BELOW THE TWICE THE POVERTY LINE ENROLLED ON A NON-EMPLOYMENT BASIS.

"(a) NON-MEDICARE POPULATION.—In the case of an individual who is not a medicare beneficiary, who is enrolled under this title on a non-employment basis, and whose family adjusted total income exceeds 100 percent but is less than 200 percent, of the official poverty line, the low-income assistance under this part shall consist of the following:

"(1) PREMIUMS.—The beneficiary premium amount under section 2231(a) shall be reduced by the subsidy percentage (as defined in subsection (c)) of the premium amount otherwise applied. Any reduction in premium under this paragraph shall be rounded to the nearest multiple of $5.

"(2) DEDUCTIBLE.—The deductible under section 2222 shall be reduced by the subsidy percentage of the deductible otherwise applied. Any reduction in the deductible under this paragraph shall be rounded to the nearest multiple of $10.

"(3) COINSURANCE.—The percentage coinsurance applied under section 2223 shall be reduced by the subsidy percentage multiplied by the percentage coinsurance otherwise applied.

"(b) PREMIUM SUBSIDY FOR MEDICARE BENEFICIARIES.—In the case of a low-income medicare beneficiary—

"(1) who is not enrolled under a qualified employer health plan or under this title on an employment basis, and

"(2) whose family adjusted total income exceeds 100 percent of the official poverty line,

the low-income assistance under this part for a month shall consist of payment for premiums imposed under part A (if any) or part B of title XVIII, but only to the extent that such premiums (and any premium imposed for enrollment under this title) does not exceed ½ of 5 percent of the individual's adjusted total income (as defined in section 2247, subject to section 2231(a)(1)(C)(ii)) for the year in which the month occurs. Such assistance shall be effected in a manner so that no such premium amount is deducted from monthly benefits or transfers under section 1840.

"(c) SUBSIDY PERCENTAGE DEFINED.—

"(1) IN GENERAL.—In this section and section 2243, the term 'subsidy percentage' means the number of percentage points by which the family's adjusted total income (expressed as a percent of the applicable official poverty line) is less than 200 percent.

"(2) ROUNDING FOR COINSURANCE.—For purposes of subsection (a)(3) and section 2243(c)(2), the subsidy percentage (as applied to the coinsurance percentage) shall be rounded to the nearest multiple of 5 percent.

"SEC. 2243. ASSISTANCE FOR INDIVIDUALS COVERED UNDER QUALIFIED EMPLOYER HEALTH PLANS.

"(a) IN GENERAL.—In the case of an eligible individual who is enrolled under a qualified employer health plan or is enrolled under this title on an employment basis, low-income assistance under this part shall consist of—

"(1) payment (in a manner specified by the Secretary) of the premium subsidy under subsection (b) to the individual or another family member, or, in the case described in subsection (b)(4), the employer, and

"(2) payment to the plan of the deductible and coinsurance subsidy under subsection (c).

Such subsidies shall apply to premiums, deductibles, and coinsurance for the individual and family member covered on an employment basis under the plan or under this title.

"(b) PREMIUM SUBSIDY.—

"(1) AMOUNT.—The amount of the premium subsidy under this subsection is the subsidy percentage (as defined in section 2242(c)) of the employee share of the premium. Any premium subsidy under this paragraph which is not a multiple of $5 shall be rounded to the nearest multiple of $5.

"(2) USE OF LEAST EXPENSIVE QUALIFIED PLAN.—In applying paragraph (1), the amount of the premium subsidy shall be based on the qualified employer health plan available to the employee with the smallest premium payment required of the employee (for the type of family enrollment with which the employee is enrolled).

"(3) FREQUENCY OF PAYMENT.—Except as provided in paragraph (4), the premium subsidy under this subsection shall be paid not less frequently than quarterly or, if the amount of the premium subsidy on a monthly basis exceeds $20, monthly.

"(4) OPTIONAL, DIRECT COORDINATION WITH EMPLOYERS.—In the case of an employee—

"(A) who is enrolled under a covered employer health plan,

"(B) who is entitled to assistance under this part,

"(C) whose employer agrees to enter into an arrangement with the Secretary under this paragraph, and

"(D) who assigns (in the manner specified by the Secretary) rights to premium subsidies under this subsection to the employer,

the Secretary shall enter into an arrangement with the employer under which (i) the employer agrees to reduce premiums otherwise imposed with respect to the individual by the amount of the subsidy, and (ii) the Secretary agrees to make payment (not less often than monthly) to the employer of the amount of such premium subsidy.

"(c) DEDUCTIBLE AND COINSURANCE SUBSIDY.—

"(1) DEDUCTIBLE SUBSIDY AMOUNT.—The amount of the deductible subsidy under this subsection is the subsidy percentage of the deductible otherwise applied. Any deductible subsidy under this paragraph that is not a multiple of $10 shall be rounded to the nearest multiple of $10.

"(2) COINSURANCE SUBSIDY AMOUNT.—The amount of the coinsurance subsidy under this subsection is the product of the subsidy percentage, the percentage coinsurance otherwise applied, and the payment amount permitted for basic health services.

"(3) DIRECT COORDINATION BY PLAN REQUIRED.—Each qualified employer health plan shall provide for—

"(A) acceptance of information, electronically, from the Secretary on the amount of the deductible and coinsurance subsidy for individuals (and family members),

"(B) a reduction in the deductibles and coinsurance otherwise imposed to reflect the deductible and coinsurance subsidies to which the individual and family members are entitled,

"(C) reasonably prompt payment of bills for which such charges have been made, and

"(D) transmission of such information as is necessary to indicate the amount of subsidy provided under the plan for specified individuals.

In return, the Secretary shall provide for payment, not less often than monthly, to the plan of the amount of payments made by such a plan for deductible and coinsurance subsidies under this subsection.

"SEC. 2244. APPLICATIONS FOR ASSISTANCE.

"(a) IN GENERAL.—Subject to section 2245, any individual who seeks assistance under this part (with respect to himself or herself or a family member) shall submit a written application, by person or mail, to the Secretary. The application may be submitted with an application to enroll under this title on a non-employment basis or separately.

"(b) BASIS FOR DETERMINATION.—Subject to section 2245 and reconciliation under such section, eligibility for assistance under this part shall be based on 4 times the family adjusted total income (as defined in section 2247, subject to section 2231(a)(1)(C)(ii)) during the 3 months preceding the month in which the application is filed.

"(c) FORM AND CONTENTS.—An application for assistance under this part shall be in a form and manner specified by the Secretary and shall require—

"(1) the provision of information necessary to make the determinations described in subsection (b),

"(2) the provision of information respecting any covered employer health plan in which the individual is enrolled, and

"(3) the individual (if enrolled under such a plan) to assign rights for deductible and coinsurance subsidies under this part to such plan.

Such form also shall include an option to execute, as part of completing the form and in order to meet the condition described in section 2243(b)(4)(D), an assignment of an individual's right for premium subsidies under this part to an employer.

"(d) FREQUENCY OF APPLICATIONS.—

"(1) IN GENERAL.—An application for assistance under this part may be filed at any time during the year and may be resubmitted (but, except as provided in paragraph (3), not more frequently than once every 3 months) based upon a change of income or family composition.

"(2) NEED TO REAPPLY.—In the case of an individual who—

"(A) is entitled to assistance under this section in September of a year, and

"(B) wishes to remain eligible for benefits for months beginning with January of the following year,

the individual (or a family member) must file with the Secretary in October of that preceding year a new application for assistance. If an individual that fails to file a new

application under this paragraph, an application for such assistance with respect to any family member may not be filed file during November or December of that preceding year.

"(3) CORRECTION OF INCOME.—Nothing in paragraph (1) shall be construed as preventing an individual or family from, at any time, submitting an application to reduce the amount of assistance under this part based upon an increase in income from that stated in the previous application.

"(e) TIMING OF ASSISTANCE.—

"(1) IN GENERAL.—If an application for assistance under this part is filed—

"(A) on or before the 15th day of a month, assistance under this part shall be available for premiums for months after such month and, with respect to the deductible and coinsurance, for expenses incurred after such month; or

"(B) after the 15th day of a month, assistance under this part shall be available for premiums for months after the month following such month and, with respect to the deductible and coinsurance, for expenses incurred after such following month.

"(2) WELFARE RECIPIENTS.—In the case of an individual or family with respect to whom an application for assistance is not required because of section 2246, in applying paragraph (1), the date of approval of aid or benefits described in such section shall be considered the filing of an application for assistance under this part.

"(f) VERIFICATION.—The Secretary shall provide for verification, on a sample basis or other basis, of the information supplied in applications under this part. This verification shall be separate from the reconciliation provided under section 2245.

"(g) HELP IN COMPLETING APPLICATIONS.—The Secretary shall provide, from funds appropriated to carry out this title, for grants to public or private nonprofit entities that will make available assistance to individuals and families in filing applications for assistance under this part. The Secretary shall make grants in a manner that provides such assistance at a variety of sites (such as low-income housing projects and shelters for homeless individuals) that are readily accessible to individuals and families eligible for assistance under this part.

"(h) PENALTIES FOR INACCURATE INFORMATION.—

"(1) INTEREST FOR UNDERSTATEMENTS.—Each individual who knowingly understates income reported in an application for assistance under this part or otherwise makes a material misrepresentation of information in such an application shall be liable to the Federal Government for excess payments made based on such understatement or misrepresentation, and for interest on such excess payments at a rate specified by the Secretary.

"(2) PENALTIES FOR MISREPRESENTATION.—Each individual who knowingly misrepresents material information in an application for assistance under this part shall be liable to the Federal Government for $1,000 or, if greater, three times the excess payments made based on such misrepresentation.

"(i) FILING OF APPLICATION DEFINED.—Except as provided in subsection (e)(2), for purposes of this part, an application under this part is considered to be 'filed' on the date on which the complete application, including all documentation required to act on the application, has been filed with the Secretary.

"SEC. 2245. RECONCILIATION OF PREMIUM ASSISTANCE THROUGH USE OF INCOME STATEMENTS.

"(a) REQUIREMENT FOR FILING OF INCOME STATEMENT.—Subject to section 2246, in the case of a family which is receiving low-income assistance under this part for any month in a year, a member of the family shall file with the Secretary, by not later than April 15 of the following year, a statement that verifies the family's total adjusted family income for the taxable year ending during the previous year. Such a statement shall provide information necessary to determine the family adjusted total income during the year and the number of family members in the family as of the last day of the year.

"(b) RECONCILIATION OF PREMIUM ASSISTANCE BASED ON ACTUAL INCOME.—Based on and using the income reported in the statement filed under subsection (a) with respect to a family or individual, subject to section 2246, the Secretary shall compute the amount of assistance that should have been provided under this part with respect to premiums for the family in the year involved. If the amount of such assistance computed is—

"(1) greater than the amount of premium assistance provided, the Secretary shall provide for payment (directly or through a credit against future premiums owed) to the family or individual involved of an amount equal to the amount of the deficit, or

"(2) less than the amount of assistance provided, the Secretary shall require the family or individual to pay (directly or through an increase in future premiums owed) to the Secretary (to the credit of the program under this title) an amount equal to the amount of the excess payment.

"(c) DISQUALIFICATION FOR FAILURE TO FILE.—Subject to section 2246, in the case of any family that is required to file an information statement under subsection (a) in a year and that fails to file such a statement by the deadline specified in such subsection, no member of the family shall be eligible for assistance under this part after May 1 of such year. The Secretary shall waive the application of this subsection if the family establishes, to the satisfaction of the Secretary, good cause for the failure to file the statement on a timely basis.

"(d) PENALTIES FOR FALSE INFORMATION.—Any individual that provides false information in a statement under subsection (a) is subject to a criminal penalty to the same extent as a criminal penalty may be imposed under section 1128B(a) with respect to a person described in clause (ii) of such section.

"(e) NOTICE OF REQUIREMENT.—The Secretary shall provide for written notice, in March of each year, of the requirement of subsection (a) to each family which received assistance under this part in any month during the preceding year and to which such requirement applies.

"(f) TRANSMITTAL OF INFORMATION.—The Secretary of the Treasury shall transmit annually to the Secretary such information relating to the adjusted total income of individuals for the taxable year ending in the previous year as may be necessary to verify the reconciliation of assistance under this section.

"(g) CONSTRUCTION.—Nothing in this section shall be construed as authorizing reconciliation of assistance provided with respect to deductibles and coinsurance.

"SEC. 2246. TREATMENT OF CERTAIN CASH ASSISTANCE RECIPIENTS.

"In the case of a family that has been determined to be eligible for aid under part A or E of title IV or an individual who has been determined to be eligible for supplemental security income benefits under title XVI—

"(1) the family or individual is deemed, without the need to file an application for assistance under section 2244, to have adjusted total income below 100 percent of the official poverty line applicable to a family of the size involved,

"(2) the family or individual need not file a statement under section 2245(a), and

"(3) the assistance received by the family is not subject to reconciliation under section 2245(b).

"SEC. 2247. COMPUTATION OF FAMILY ADJUSTED TOTAL INCOME.

"In this part:

"(1) ADJUSTED TOTAL INCOME.—The term 'adjusted total income' means—

"(A) adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986), determined without the application of paragraphs (6) and (7) of such section and without the application of section 162(l) of such Code, plus

"(B) the amount of social security benefits (described in section 86(d) of such Code) which is not includable in gross income under section 86 of such Code.

"(2) FAMILY ADJUSTED TOTAL INCOME.—Except as provided in section 2231(a)(1)(C)(ii), the term 'family adjusted total income' means, with respect to an individual, the sum of the adjusted total income for the individual and all the other family members.

"(3) FAMILY SIZE.—The family size to be applied under this part, with respect to family adjusted total income, is the number of individuals included in the family for purposes of coverage of health insurance benefits under this title or under a qualified employer health plan (as the case may be).

"PART F—QUALIFIED HEALTH PLANS

"SEC. 2251. CERTIFICATION OF QUALIFIED HEALTH PLANS.

"(a) QUALIFIED HEALTH PLAN DEFINED.—For purposes of this title, the term 'qualified health plan'—

"(1) means a health plan that the Secretary certifies, upon application by the plan, to meet the requirements of this part, and

"(2) includes, unless the context indicates otherwise, the public health insurance plan under this title.

"(b) DEEMED CERTIFICATION.—The Secretary shall establish a procedure under which an insured health plan (as defined by the Secretary), other than a public employee health plan, issued in a State shall be deemed to be certified under subsection (a)(1) with respect to that State if the applicable regulatory authority (as defined in section 2281(c)(1)) certifies that the plan meets the requirements for certification under this part.

"(c) REVIEW AND RECERTIFICATION.—The Secretary shall establish procedures for the periodic review and recertification of plans as qualified health plans.

"(d) TERMINATION OF CERTIFICATION.—The Secretary shall terminate the certification of a qualified health plan if the Secretary determines—

"(1) in the case of a plan deemed certified under subsection (b), that the applicable regulatory authority has terminated its certification of the plan, or

"(2) in the case of any plan, that the plan no longer meets the requirements for certification.

Before effecting either such termination, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

"SEC. 2252. TREATMENT OF FAMILY AS A UNIT; COVERAGE PERIOD; HEALTH PLAN CARDS.

"(a) TREATMENT OF FAMILY AS A UNIT.—

"(1) IN GENERAL.—Subject to paragraph (2), enrollment of a individual in a qualified health plan shall include enrollment of the other family members (as defined in section 2282(1)) of the individual.

"(2) TREATMENT OF INELIGIBLE INDIVIDUALS.—Nothing in paragraph (1) shall be construed as requiring a qualified health plan (or permitting the public health insurance plan) to enroll individuals who are not eligible individuals (as defined in section 2201(d)).

"(b) BEGINNING OF COVERAGE.—

"(1) IN GENERAL.—In the case of an individual enrolled under any qualified health plan, subject to subsection (c), the benefits under the plan shall first become available for services furnished beginning on the first day of the month following the month of enrollment.

"(2) SPECIAL RULES.—The Secretary shall provide for such standards as may be necessary to provide for the allocation of responsibility among qualified health plans in the case of an inpatient hospital stay, or other services provided over a period of time and for which a single payment amount is established, that begins during the period of coverage under one qualified health plan and ends during a period of coverage under another qualified health plan.

"(c) STANDARDS TO REFLECT CHANGES IN FAMILY AND EMPLOYMENT STATUS.—

"(1) IN GENERAL.—Under standards established by the Secretary consistent with this subsection, qualified health plans shall provide for appropriate changes in the coverage of family members to take into account—

"(A) changes in family composition or status, including marriage, divorce (or legal separation), birth or adoption of children, and the aging of children into adulthood, and

"(B) changes in employment status.

"(2) MONTHLY CHANGES.—Except as specifically provided in this subsection, such standards shall be designed—

"(A) to effect a change in enrollment (or status of enrollment) as of the first day of the first month (or, in order to provide for notice and an opportunity for coordination among plans, a later month) following the date of the event causing the change,

"(B) to prevent any periods of noncoverage under any qualified health plans, and

"(C) to provide, in cases of a change of family status such as marriage, divorce, or legal separation, for accounting and crediting of cost-sharing among family members (described in section 2257(c)) in an equitable and administrable manner.

"(3) TREATMENT OF NEWBORNS.—

"(A) BIRTH TO WOMAN DURING PERIOD OF COVERAGE.—Any child born to a woman during the period of coverage under a qualified health plan shall, as of the date of birth, be automatically enrolled and covered for benefits under the plan.

"(B) BIRTH TO WOMAN WITHOUT COVERAGE.—Any child born in the United States to a woman who is not, at the time of birth, enrolled under a qualified health plan shall be automatically enrolled and covered for benefits under this title as of the date of birth if an application for such enrollment is made not later than 60 days after the date of birth or, if later, the end of the year in which the child is born.

"(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply in such cases, specified by the Secretary, in which the newborn child should be covered under the health plan of the father or another individual.

"(4) ADOPTION.—

"(i) TREATMENT OF VOLUNTARY RELINQUISHMENT.—Any child who is voluntarily relinquished to a public or private agency shall upon the application by the agency be enrolled under this title and covered as of the date of the relinquishment, until the date of the child's placement for adoption.

"(ii) TREATMENT OF ADOPTED CHILDREN.—Any child who is placed for adoption with an individual during the period the individual is enrolled and covered under a qualified health plan shall, as of the date of the placement for adoption, be treated as the child of the individual and be automatically enrolled and covered under such plan.

"(5) PLACEMENT IN CUSTODY OF PUBLIC AGENCY PURSUANT TO COURT ORDER OR OTHERWISE.—Any child who is removed from the family and placed in the temporary custody of a public agency pursuant to a court order or otherwise shall, upon application by the public agency on or after the date of the removal and placement with the public agency, be deemed to be automatically enrolled and covered for benefits under this title as of the date of the application, until the child is returned to the family or placed for adoption.

"(6) TREATMENT OF LEGAL WARDS, FOSTER CHILDREN, ETC.—In cases not described in paragraphs (4) or (5), the Secretary shall establish standards relating to the time an individual described in section 2282(5)(B)(ii) is treated as the child of the person with custody and such other standards as may be necessary to assure the proper coordination of enrollment of children and other individuals among qualified health plans.

"(d) HEALTH PLAN CARDS.—In conjunction with enrollment of individuals under a qualified health plan, the plan shall provide for the issuance of a card which may be used for purposes of identification of such enrollment and the processing of claims for benefits under the plan. Such card shall—

"(1) identify (as appropriate) the types of benefits to which the individual is entitled under the plan, and

"(2) contain such other information as the Secretary (and the plan) shall specify.

"SEC. 2253. REQUIREMENTS RESPECTING BASIC BENEFITS.

"(a) IN GENERAL.—Each qualified health plan must provide for benefits for at least all basic health services (as defined in section 2212(b)).

"(b) TREATMENT OF ADDITIONAL BENEFITS.—Nothing in this section shall be construed as preventing a qualified health plan from including benefits in addition to benefits for basic health services.

"(c) TREATMENT OF PUBLIC HEALTH INSURANCE PLAN.—In applying subsection (a) with respect to the public health insurance plan, the provisions of part B are deemed to supersede such subsection.

"SEC. 2254. REQUIREMENTS RESPECTING LIMITS ON PREEXISTING CONDITION EXCLUSIONS AND COVERAGE STANDARDS FOR BASIC HEALTH SERVICES.

"(a) IN GENERAL.—Except as provided under subsection (b), a qualified health plan—

"(1) may not deny, limit, or condition the coverage under (or benefits of) the plan with respect to basic health services based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual, and

"(2) may not provide for exclusions from coverage for basic health services that are more restrictive than the exclusions for such services under this title.

"(b) TREATMENT OF PRE-EXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a qualified health plan (other than the public health insurance plan) may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months.

"(2) NONAPPLICATION TO NEWBORNS AND SUNSET OF PRE-EXISTING CONDITION EXCLUSIONS FOR BASIC HEALTH SERVICES.—The exclusion of coverage permitted under paragraph (1) shall not apply to—

"(A) services furnished to newborns, or

"(B) basic health services furnished on or after July 1 of the 6th year beginning after the date of the enactment of this title.

"(3) CREDITING OF PREVIOUS COVERAGE.—

"(A) IN GENERAL.—If an individual is in a period of continuous coverage (as defined in subparagraph (B)(i)) with respect to particular services as of the date of initial coverage under a plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(B) DEFINITIONS.—In this paragraph:

"(i) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health plan or program (including a qualified health plan, a Federal health plan, the medicare program, a State plan under title XIX, or a State general medical assistance program) which provides the same or substantially similar benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(ii) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage, except that such term does not include a condition which was first diagnosed or treated during a period of continuous coverage.

"(C) STANDARDS FOR SIMILAR BENEFITS.—The Secretary, in consultation with the National Association of Insurance Commissioners, shall establish such criteria for determining if benefits are substantially similar as may be necessary to carry out this subsection.

"SEC. 2255. REQUIREMENTS RESPECTING LIMITS ON COST-SHARING.

"(a) IN GENERAL.—Except as provided in subsection (b), a qualified health plan may not impose deductibles, copayments, or coinsurance with respect to basic health services in excess of the deductible and coinsurance permitted under part C with respect to such services (not taking into account any low-income assistance provided under part E).

"(b) EXCEPTION FOR MANAGED CARE PLANS.—In the case of a qualified health plan that is a managed care plan (as defined in section 2281(c)(3)), the limitations on deductibles, copayments, and coinsurance under paragraph (1) shall not apply to services furnished other than by participating providers, except that such limitations shall continue to apply to services that are medically necessary and that are required to be provided immediately because of an unforeseen illness, injury, or condition.

"(c) CONSTRUCTION.—Nothing in this section shall be construed as preventing a qualified health plan from providing for deductibles, coinsurance, and copayments or

other restrictions with respect to services other than basic health services that are different from those permitted with respect to basic health services.

"(d) TREATMENT OF PUBLIC HEALTH INSURANCE PLAN.—In applying subsection (a) with respect to the public health insurance plan, the provisions of part C are deemed to supersede such subsection.

"SEC. 2256. ADEQUACY OF PAYMENTS.

"(a) IN GENERAL.—A qualified health plan shall establish adequate payment rates for basic health services.

"(b) TEST IF RATES BELOW PUBLIC PLAN RATES.—If a qualified health plan provides payment rates for basic health services that, in the aggregate, are less than the payment rates provided under the public health insurance plan, the plan is not considered to meet the requirement of subsection (a) unless it demonstrates to the satisfaction of the Secretary that its enrollees, in order to obtain medically necessary basic health services, are not required to incur out-of-pocket expenditures (for other than premiums) substantially in excess of the out-of-pocket expenditures the enrollees would have incurred if enrolled under the public health insurance plan.

"(c) MANAGED CARE PLANS.—A qualified health plan (other than the public health insurance plan) may limit the number of providers or practitioners for which benefits for basic health services are paid only if the plan is a managed care plan.

"(d) TREATMENT OF PUBLIC HEALTH INSURANCE PLAN.—In applying subsection (a) with respect to the public health insurance plan, the provisions of part C are deemed to supersede such subsection.

"SEC. 2257. COORDINATION AND PORTABILITY OF HEALTH COVERAGE UNDER QUALIFIED HEALTH PLANS.

"(a) IN GENERAL.—Each qualified health plan shall provide for coordination of—

"(1) enrollment and termination of enrollment among the qualified health plans and title XVIII, and

"(2) application of deductibles and limitations on cost-sharing among such qualified health plans,

in accordance with standards established by the Secretary consistent with this section.

"(b) REQUIREMENT OF NOTICES WITH RESPECT TO COVERAGE.—

"(1) IN GENERAL.—Each qualified health plan shall provide notice at the time an individual's coverage under the plan begins or is terminated. Such notice shall be provided (in a form and manner and at a time specified by the Secretary)—

"(A) to the individual (or in the case of enrollment only of a child or children, to the parent enrolling the child or children), and

"(B) effective (on the date specified in paragraph (2)) to the Secretary.

The notice under this paragraph shall include the names and other identifying information of family members whose coverage is affected by the change.

"(2) DATE OF REQUIREMENT FOR NOTICE TO PUBLIC HEALTH INSURANCE PLAN.—The date specified in this paragraph is January 1 of the 6th year beginning after the date of the enactment of this title.

"(3) NOTICE TO BENEFICIARY AND OTHER QUALIFIED HEALTH PLANS UPON OBTAINING COVERAGE.—

"(A) IN GENERAL.—In the case of an individual who begins coverage under a qualified employer health plan (or under this title on an employment basis), when the Secretary receives notice under paragraph (1)(B)—

"(i) if, at the time of obtaining such coverage, the individual is enrolled on a non-employment basis in the public health insurance plan for basic health services or for medicare supplemental benefits, the Secretary shall notify the individual that coverage for such services on such a basis or for such benefits shall be terminated effective on the date of coverage under such a plan, and

"(ii) the Secretary shall provide for notice to any other qualified health plan in which the Secretary knows the individual is enrolled of the fact of such new coverage.

"(B) TREATMENT OF EPSDT SERVICES.—In the case of notice under subparagraph (A)(i), if the individual was enrolled for benefits under this title for EPSDT services, the notice shall include a statement that, unless the individual indicates otherwise, the benefits with respect to such services shall continue under this title and will not be terminated under such subparagraph. Such continuation is subject to the continued payment of any premiums due.

"(4) NOTICES OF TERMINATION.—Each notice of termination under paragraph (1) shall include—

"(A) the effective date of the termination,

"(B) in the case of notice to the Secretary, sufficient information to permit enrollment of the individuals affected under the public health insurance plan, and

"(C) in the case of an individual whose coverage under the plan is terminated other than at the end of a calendar year, the accounting statement produced under subsection (c)(2).

"(c) ACCOUNTING FOR COST-SHARING.—

"(1) IN GENERAL.—Each qualified health plan shall provide for an ongoing accounting, for each enrollee (and enrolled family members) on a calendar year basis, of expenses incurred for basic health services that are counted towards the deductible established under section 2222 and that are counted towards the cost-sharing limit established under section 2224. The amount credited for each account shall be determined in accordance with standards established by the Secretary in order to provide consistency among qualified health plans and to promote portability of benefits across qualified health plans.

"(2) STATEMENT OF ACCOUNT BALANCE.—In the case of an individual whose coverage under the plan is terminated other than at the end of a calendar year, the qualified health plan shall produce an accounting statement (in a uniform manner established by the Secretary) of the amounts that are credited under the plan towards such deductible and cost-sharing limitations for the year for each enrollee (and family members) involved, in accordance with the accounting under paragraph (1).

"(3) CREDITING OF PREVIOUS EXPENSES TOWARDS DEDUCTIBLES AND COINSURANCE.—Each qualified health plan shall, in the case of an individual who is enrolled under the plan after the beginning of a year, credit, against the deductible and cost-sharing limit for basic health services under its plan, the amounts previously accounted against the deductible and cost-sharing limit under another qualified health plan for the calendar year. The credit under this subparagraph shall be based on the accounting statement produced under paragraph (2).

"(d) COVERAGE UNDER PUBLIC HEALTH INSURANCE PLAN.—

"(1) IN GENERAL.—Except as provided in this subsection, the public health insurance plan shall enroll each eligible individual whose coverage under another qualified health plan or under title XVIII is terminated, effective on the date following the effective date of termination of coverage under such plan.

"(2) TREATMENT OF MEDICARE ELIGIBLE INDIVIDUALS.—Except as provided in paragraphs (3) and (4), in the case of an individual who—

"(A) is eligible for enrollment under part B of title XVIII,

"(B) is not so enrolled because of enrollment under a qualified health plan, but

"(C) whose enrollment under such a plan is terminated,

the Secretary shall provide, upon the effective date of such termination, for enrollment of the individual under such part.

"(3) OBTAINING ALTERNATE COVERAGE.—Paragraphs (1) and (2) shall not apply if the individual provides satisfactory evidence that the individual has obtained coverage through another qualified health plan or is a medicare beneficiary.

"(4) NO AUTOMATIC ENROLLMENT DURING TRANSITION.—Paragraphs (1) and (2) shall not apply to terminations occurring before January 1 of the 6th year beginning after the date of the enactment of this title.

"SEC. 2258. CONSUMER PROTECTIONS.

"(a) DISCLOSURES REQUIREMENTS.—

"(1) FOR PLANS SOLD TO INDIVIDUALS.—In the case of a qualified health plan that is offered to an individual, other than as enrollment under a qualified employer health plan, the plan may not be issued or sold to the individual unless the individual has been provided a written statement containing at least the following:

"(A) A description of the benefits covered in the plan and cost-sharing required with respect to such benefits.

"(B) A comparison of the benefits and cost-sharing described in subparagraph (A) with the benefits and cost-sharing available to individuals enrolled in the public health insurance plan under this title (not taking into account any low-income assistance under part E).

"(C) The premiums charged under the plan, and a comparison of such premiums with the premiums charged for enrollment under this title (not taking into account any low-income assistance under part E).

"(D) A statement that no low-income assistance is available under part E with respect to individuals who purchase such a plan, but that such assistance may be available under such part with respect to individuals who are enrolled under the public health insurance plan or under a qualified employer health plan.

"(E) A statement that, effective on January 1 of the 6th year beginning after the date of the enactment of this title, most individuals who are not full-time employees (or their family members) are eligible to enroll on a non-employment basis under the public health insurance plan.

"(F) A description of any pre-existing condition limitations that are applied under the plan, either with respect to basic health services or other health services.

"(G) If the plan restricts the providers or practitioners from which individuals may obtain covered benefits or is a managed care plan, a statement describing (i) how the choice of providers practitioners affects payment of benefits under the plan and (ii) the coverage under the plan of out-of-area services and of emergency services and urgently needed care.

"(H) If the plan includes a utilization review program, a statement (in accordance

with any standards established under section 2332) describing such program.

"(2) FOR EMPLOYER PLANS.—

"(A) MANAGED CARE PLAN.—In the case of a qualified health plan that is offered to an employer as a qualified employer health plan and that—

"(i) restricts the providers or practitioners from which enrollees may obtain covered benefits, or

"(ii) is a managed care plan,

the plan may not be issued or sold to the employer unless the covered employees have been provided, by the plan or employer, a statement that describes (I) how the choice of providers or practitioners affects payment of benefits under the plan and (II) the coverage under the plan of out-of-area services and of emergency services and urgently needed care.

"(B) NOTICE OF AVAILABILITY OF LOW-INCOME ASSISTANCE.—At the time of enrollment of an employee under a qualified employer health plan, the plan (directly or through the employer) shall provide the employee with a notice (in a form specified by the Secretary) of the low-income assistance available under part E with respect to enrollment under the plan.

"(3) STANDARD FORMAT.—The disclosures under paragraphs (1) and (2) shall be made in a uniform format established by the Secretary, after consultation with the National Association of Insurance Commissioners.

"(4) VIOLATIONS.—Any entity that issues or sells a qualified health plan in violation of paragraph (1) or (2) is subject to a civil money penalty of an amount not to exceed $5,000 with respect to each such issuance or sale. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(6) TREATMENT OF PUBLIC HEALTH INSURANCE PLAN.—This subsection shall not apply to the public health insurance plan.

"(b) EFFECTIVE GRIEVANCE PROCEDURES.—

"(1) IN GENERAL.—Each qualified health plan shall provide for meaningful procedures for hearing and resolving grievances between the plan and individuals enrolled under the plan.

"(2) TREATMENT OF PUBLIC HEALTH INSURANCE PLAN.—In applying paragraph (1) with respect to the public health insurance plan, the provisions of part G are deemed to supersede such paragraph.

"(c) RESTRICTION ON CERTAIN PHYSICIAN INCENTIVE PLANS.—

"(1) IN GENERAL.—A health plan is not a qualified health plan if it operates a physician incentive plan (as defined in paragraph (2)) unless the requirements specified in clauses (i) through (iii) of section 1876(i)(8)(A) are met (in the same manner as they apply to eligible organizations under section 1876).

"(2) PHYSICIAN INCENTIVE PLAN DEFINED.—In this subsection, the term 'physician incentive plan' means any compensation or other financial arrangement between the qualified health plan and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled under the plan.

"(d) ENROLLEE FINANCIAL PROTECTION.—

"(1) SOLVENCY PROTECTION FOR INSURED PLANS.—In the case of a qualified health plan that is an insured plan (as defined by the Secretary) and is issued in a State, in order for the plan to be certified under this part the Secretary must finds that the State has established satisfactory protection of enrollees with respect to potential insolvency.

"(2) PROTECTION AGAINST PROVIDER CLAIMS.—In the case of a failure of a qualified health plan to make payments with respect to basic health services, under standards established by the Secretary, an individual who is enrolled under the plan is not liable to any health care provider or practitioner with respect to the provision of basic health services for payments in excess of the amount for which the enrollee would have been liable if the plan were to have made payments in a timely manner.

"SEC. 2259. PREEMPTION OF CERTAIN STATE AND FEDERAL REQUIREMENTS.

"(a) BENEFIT AND COVERAGE RULES.—Effective as of January 1 of the applicable year (as defined in subsection (b)), no State shall establish or enforce any law or regulation that—

"(1) requires the offering, as part of a qualified health plan, of any services, category of care, or services of any class or type of provider that is different from the benefits required to be provided under section 2253,

"(2) specifies the individuals to be covered under a qualified health plan or the duration of such coverage, or

"(3) effective as of January 1 of the 6th year beginning after the date of the enactment of this Act, requires a right of conversion from a group qualified health plan to an individual qualified health plan.

"(b) APPLICABLE YEAR DEFINED.—In this section, the term 'applicable year' means, with respect to—

"(1) a qualified employer health plan offered to a small employer, the 3rd year beginning after the date of the enactment of this title,

"(2) any other qualified employer health plan, the 4th year beginning after the date of the enactment of this title, or

"(3) any other qualified health plan, the 5th year beginning after the date of the enactment of this title.

"(c) REFERENCE TO STATE PAYMENT RULE.—For provision relating to permitting recognition of State payment with respect to qualified health plans, see section 301(d).

"(d) EFFECTIVE DATE OF REPEAL OF DUAL CHOICE MANDATE.—Section 7(b) of Public Law 100-517 is amended by striking 'Effective 7 years after the date of the enactment of this Act' and inserting 'Effective on January of the applicable year (as defined in section 2259(b) of the Pepper Commission Health Care Access and Reform Act of 1991'.

"(e) STATE DEFINED.—In this section, the term 'State' means the 50 States and the District of Columbia.

"PART G—ADMINISTRATIVE PROVISIONS

"SEC. 2261. AGREEMENTS WITH HOSPITALS; PARTICIPATION PHYSICIANS; TREATMENT OF INDIAN HEALTH SERVICES FACILITIES.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Any hospital shall be qualified to participate under this title and shall be eligible for payments under this title if—

"(A) it has in effect a participation agreement under section 1866(a)(1), and

"(B) it files with the Secretary a participation agreement meeting the requirements of subsection (b).

"(b) ELEMENTS OF AGREEMENT.—

"(1) IN GENERAL.—Except as provided in this subsection, a participation agreement under this subsection shall provide terms, specified by the Secretary, that are the same terms as that required of hospital participation agreements under section 1866(a)(1).

"(2) MODIFIED COPAYMENTS.—Instead of the limitation on charges specified under paragraphs (1)(A) and (2) of section 1866(a), the agreement shall not permit the hospital to charge more than the applicable deductible and coinsurance permitted under this title.

"(3) ACCEPTANCE OF PAYMENT LIMITS.—Each agreement shall require the hospital not to impose charges, in the case of a qualified employer health plan with respect to which the option described in section 2314(a) has been offered and accepted, that exceed the amount of charges permitted to be imposed under this title. The previous sentence shall not be construed as prohibiting a qualified health plan from negotiating or otherwise providing payment rates that are less than the payment rates established under this title.

"(c) PHYSICIAN PARTICIPATION AGREEMENTS.—

"(1) IN GENERAL.—Except as provided in this subsection, the Secretary shall provide for participating physician agreements under this title in the same manner as such agreements are provided for under title part B of title XVIII pursuant to section 1842(h).

"(2) LIMITATION ON CHARGES TO OTHER ENTITIES.—A participating physician agreement under this subsection shall provide that the physician agrees, in the case of a qualified employer health plan with respect to which the option described in section 2314(a) has been offered and accepted, not to impose charges with respect to basic health services in the same manner as they apply to the imposition of charges under the public health insurance plan. The previous sentence shall not be construed as prohibiting a qualified health plan from negotiating or otherwise providing payment rates that are less than the payment rates established under this title.

"(d) INDIAN HEALTH SERVICE FACILITIES.—The provisions of section 1880 (relating to Indian health service facilities) shall apply to this title in the same manner as they apply under title XVIII.

"SEC. 2262. HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

"(1) IN GENERAL.—Except as provided in this subsection, section 1876 shall apply to individuals entitled to benefits under this title in the same manner as such section applies to individuals entitled to benefits under part A, and enrolled under part B, of title XVIII.

"(2) APPLICATION.—In applying section 1876 under this section—

"(A) the provisions of such section relating only to individuals enrolled under part B of title XVIII shall not apply;

"(B) any reference to a Trust Fund established under title XVIII and to benefits with respect to any services under such title is deemed a reference to the Public Health Insurance Trust Fund and to health insurance benefits with respect to basic health services under this title;

"(C) the adjusted average per capita cost shall be determined on the basis of benefits under this title;

"(D) subsections (e), (f), (g)(2), and (h) shall not apply; and

"(E) in applying subsection (c)(3)(B), an eligible organization may require a minimum period of enrollment (of not greater than 12 months) during which an individual may not terminate enrollment unless enrollment under this title is terminated.

"SEC. 2263. USE OF FISCAL AGENTS.

"(a) USE OF FISCAL AGENTS.—

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall provide for the administration of this title through the use of fiscal intermediaries and carriers in the same manner as title XVIII is carried out through the use of such fiscal intermediaries and carriers.

"(2) SPECIAL RULES.—In the administration of this title, the Secretary shall—

"(A) to the maximum extent practicable, use—

"(i) the same fiscal intermediaries and carriers with respect to medicare supplemental benefits, and

"(ii) a single carrier with respect to all basic health services and EPSDT services in an area; and

"(B) establish performance standards at least as rigorous as the performance standards applied in the administration of title XVIII.

"(3) SEPARATE CONTRACTS.—Contracts with fiscal intermediaries and carriers entered into pursuant to this subsection for an area need not be with the same intermediary or carrier with an agreement under section 1816 or a contract under section 1842 for the area. However, nothing in this section shall be construed as preventing such an organization with such an agreement or contract under such section from entering into a contract under this section.

"(b) REQUIRING USE OF ELECTRONIC BILLING.—Effective for claims submitted on or after January 1 of the 6th year beginning after the date of the enactment of this title, payment shall only be made under this title on the basis of bills or charges that are submitted electronically in a manner specified by the Secretary.

"SEC. 2264. GENERAL ADMINISTRATION.

"(a) THROUGH HEALTH CARE FINANCING ADMINISTRATION.—Except as otherwise provided in this title, this title shall be administered by the Health Care Financing Administration.

"(b) REGULATIONS; TITLE II PROVISIONS; ADMINISTRATION.—The provisions of sections 1871, 1872, and 1874 (relating to regulations, application of certain provisions of title II, and administration) shall apply to this title in the same manner as they apply to title XVIII.

"(c) TREATMENT OF AMOUNTS DUE.—In bankruptcy and reorganization proceedings, amounts owed to the public health insurance plan under this title shall be treated in the same manner as amounts owed to the Federal Government under the Federal Insurance Contributions Act.

"SEC. 2265. DETERMINATIONS; APPEALS; PROVIDER REIMBURSEMENT REVIEW BOARD.

"(a) DETERMINATIONS.—The determination of whether an individual is entitled to benefits under this title, and the determination of the amount of benefits under this title, and any other determination with respect to a claim for benefits with respect to inpatient hospital services under this title shall be made by the Secretary in accordance with regulations prescribed by the Secretary.

"(b) HEARINGS.—

"(1) IN GENERAL.—Any individual dissatisfied with any determination under subsection (a) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Sections 206(a), 1102, and 1871 (as incorporated by reference by section 2264) shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item. Any person that furnishes services or items to an individual may not represent an individual under this subsection with respect to the issue described in section 1879(a)(2) unless the person has waived any rights for payment from the beneficiary with respect to the services or items involved in the appeal. If a person furnishes services or items to an individual and represents the individual under this subsection, the person may not impose any financial liability on such individual in connection with such representation.

"(2) LIMITATION.—Notwithstanding paragraph (1), a hearing shall not be available to an individual if the amount in controversy is less than $500 and judicial review shall not be available to the individual if the amount in controversy is less than $1,000. In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involved the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.

"(3) EXPEDITED REVIEW.—In an administrative hearing pursuant to paragraph (1), where the moving party alleges that there are no material issues of fact in dispute, the administrative law judge shall make an expedited determination as to whether any such facts are in dispute and, if not, shall determine the case expeditiously.

"(c) PROVIDER REIMBURSEMENT REVIEW BOARD.—The provisions of section 1878 (relating to the Provider Reimbursement Review Board) shall apply under this title in the same manner as they apply under title XVIII.

"SEC. 2266. PROGRAM INTEGRITY.

"Sections 1124, 1124A, 1126, and 1128 through 1128B (relating to fraud and abuse) shall apply to this title in the same manner as they apply to title XVIII.

"SEC. 2267. INFORMATION BY TELEPHONE.

"The Secretary shall provide information via a toll-free telephone number on the public health insurance plan, including information concerning—

"(1) the requirement of section 2204, and

"(2) low-income assistance under part E.

"SEC. 2268. INCORPORATION OF MISCELLANEOUS MEDICARE PROVISIONS.

"(a) OVERPAYMENTS ON BEHALF OF INDIVIDUALS AND SETTLEMENT OF CLAIMS FOR BENEFITS ON BEHALF OF DECEASED INDIVIDUALS.—The provisions of section 1870 (relating to overpayments on behalf of individuals and settlement of claims for benefits on behalf of deceased individuals), other than subsection (b), shall apply under this title in the same manner as they apply under title XVIII.

"(b) LIMITATION ON CERTAIN PHYSICIAN REFERRALS.—The provisions of section 1877 (relating to limitation on certain physician referrals) shall apply under this title in the same manner as they apply under title XVIII.

"PART H—DEFINITIONS AND MISCELLANEOUS

"SEC. 2281. INCORPORATION OF CERTAIN DEFINITIONS USED IN OTHER HEALTH-RELATED TITLES.

"(a) INCORPORATION OF CERTAIN MEDICARE DEFINITIONS.—In this title, except as otherwise provided, the definitions of the following terms contained in section 1861 apply for purposes of this title in the same manner as they apply for purposes of title XVIII:

"(1) ARRANGEMENTS.—The term 'arrangements', as defined in section 1861(w).

"(2) CERTIFIED NURSE-MIDWIFE SERVICES AND CERTIFIED NURSE-MIDWIFE.—The terms 'certified nurse-midwife services' and 'certified nurse-midwife', as defined in section 1861(gg).

"(3) CLINICAL SOCIAL WORKER AND CLINICAL SOCIAL WORKER SERVICES.—The terms 'clinical social worker' and 'clinical social worker services', as defined in section 1861(hh).

"(4) DISCHARGE PLANNING PROCESS.—The description of the discharge planning process, under section 1861(ee).

"(5) DRUGS AND BIOLOGICALS.—The terms 'drugs' and 'biologicals', as defined in section 1861(t).

"(6) HOSPITAL.—The term 'hospital', as defined in section 1861(e).

"(7) INPATIENT HOSPITAL SERVICES.—The term 'inpatient hospital services', as defined in section 1861(b).

"(8) INSTITUTIONAL PLANNING.—The description of overall plans and budgets of providers of services, under section 1861(z).

"(9) MEDICAL AND OTHER HEALTH SERVICES.—The term 'medical and other health services' means, subject to the second, third, and fourth sentences of section 1861(s), the items and services described in paragraph (1), subparagraphs (A), (B), (C), (E), (H), and (K) through (N) of paragraph (2), or in paragraphs (3), (4), or (5) of such section.

"(10) PHYSICIAN.—The term 'physician', as defined in section 1861(r).

"(11) PHYSICIANS' SERVICES.—The term 'physicians' services', as defined in section 1861(q).

"(12) REASONABLE COST.—The term 'reasonable cost', as defined in section 1861(v).

"(13) RURAL HEALTH CLINIC SERVICES.—The terms 'rural health clinic services', 'rural health clinic', 'physician assistant', and 'collaboration', as defined in section 1861(aa).

"(14) QUALIFIED PSYCHOLOGIST SERVICES.—The term 'qualified psychologist services', as defined in section 1861(ii).

"(15) SCREENING MAMMOGRAPHY.—The term 'screening mammography', as defined in section 1861(jj).

"(16) SCREENING PAP SMEAR.—The term 'screening pap smear', as defined in section 1861(nn), except that the matter after 'results of the test' shall be deemed, for purposes of this title, to have been deleted.

"(17) SERVICES OF A CERTIFIED REGISTERED NURSE ANESTHETIST AND CERTIFIED REGISTERED NURSE ANESTHETIST.—The terms 'services of a certified registered nurse anesthetist' and 'certified registered nurse anesthetist', as defined in section 1861(bb).

"(18) STATE AND UNITED STATES.—Except as provided in section 2259(e), the terms 'State' and 'United States', as defined in section 1861(x).

"(b) INCORPORATION OF CERTAIN EMPLOYMENT-RELATED DEFINITIONS IN TITLE XXI.—In this title, except as otherwise provided, the definitions of the following terms contained in title XXI apply for purposes of this title:

"(1) COVERED EMPLOYER HEALTH PLAN.—The term 'covered employer health plan' as defined in section 2121(b).

"(2) EMPLOYEE.—The term 'employee' as defined in section 2181(a)(1).

"(3) EMPLOYER.—The term 'employer' as defined in section 2181(a)(1).

"(4) FULL-TIME EMPLOYEE.—The term 'full-time employee' as defined in section 2181(b)(1).

"(5) LARGE EMPLOYER.—The term 'large employer' as defined in section 2181(c)(3).

"(6) PART-TIME EMPLOYEE.—The term 'part-time employee' as defined in section 2181(b)(2).

"(7) QUALIFIED EMPLOYER HEALTH PLAN.—The term 'qualified employer health plan' as defined in section 2121(a).

"(8) SEASONAL OR TEMPORARY EMPLOYEE.—The term 'seasonal or temporary employee' as defined in section 2181(b)(3).

"(9) SMALL EMPLOYER.—The term 'small employer' as defined in section 2181(c)(2).

"(10) VERY SMALL EMPLOYER.—The term 'very small employer' as defined in section 2181(c)(1).

"(11) WAGES.—The term 'wages' as defined in section 2181(a)(1).

"(c) INCORPORATION OF CERTAIN INSURANCE REFORM RELATED DEFINITIONS IN TITLE XXIII.—In this title, except as otherwise provided, the definitions of the following terms contained in title XXIII apply for purposes of this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' as defined in section 2304(c)(1).

"(2) EMPLOYMENT-RELATED HEALTH PLAN.—The term 'employment-related health plan' as defined in section 2304(a)(2).

"(3) MANAGED CARE PLAN.—The term 'managed care plan' as defined in section 2331(c)(1).

"(4) PARTICIPATING PROVIDER.—The term 'participating provider' as defined in section 2331(d)(2).

"SEC. 2282. DEFINITIONS RELATING TO FAMILIES.

"In this title:

"(1) IN GENERAL.—Except as provided in paragraph (2), the terms 'family' and 'family member' mean an individual and the individual's spouse, and includes all the individual's children.

"(2) TREATMENT OF FAMILIES WITH MEDICARE BENEFICIARIES FOR COVERAGE PURPOSES.—In the case of a family with a medicare beneficiary, if coverage is provided to family members other than on the basis of employment of a family member, the beneficiary shall not be treated under this title as a member of the family for purposes of determining eligibility for coverage but shall be treated as a separate individual. However, except as provided in section 2242(b)(2), for purposes of applying part E, a medicare beneficiary shall continue to be treated as a member of the beneficiary's family.

"(3) SPOUSE.—The term 'spouse' means, with respect to an individual, the individual to which the individual is married.

"(4) MARRIED; UNMARRIED.—Marital status shall be determined in accordance with section 7703 of the Internal Revenue Code of 1986.

"(5) CHILD.—The term 'child' means, with respect to a person who is not a child, an individual—

"(A) who (i) is unmarried and under 18 years of age, (ii) is unmarried and under 23 years of age and a full-time student, or (iii) is an unmarried, dependent child, regardless of age, who is incapable of self-support because of mental or physical disability which existed before age 22;

"(B)(i) who is the child of the person or the person's spouse, or

"(ii) who is the legal ward of the person or the person's spouse; and

"(C) who is not in the legal custody of another individual.

The Secretary shall establish, by regulation, such rules as are appropriate with respect to the treatment of foster children, emancipated minors, children in the process of adoption, and other unmarried individuals under 23 years of age under similar circumstances as children for purposes of this title.

"(6) ADULT.—The term 'adult' means an individual who is not a child.

"SEC. 2283. OTHER DEFINITIONS.

"In this title:

"(1) MEDICARE BENEFICIARY; LOW-INCOME MEDICARE BENEFICIARY.—

"(A) The term 'medicare beneficiary' means an individual entitled to benefits under part A of title XVIII.

"(B) The term 'low-income medicare beneficiary' means a medicare beneficiary whose family adjusted total income (as defined in section 2247(2)), as determined based upon an application under part E, is less than 200 percent of the official poverty line applicable to a family of the size involved.

"(2) OFFICIAL POVERTY LINE.—The term 'official poverty line' means, for an individual in a family, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(3) PREGNANT WOMAN.—The term 'pregnant woman' means a woman who has been certified by a physician (in a manner specified by the Secretary) as being pregnant, until the last day of the month in which the 60-day period (beginning on the date of termination of the pregnancy) ends.

"(4) PUBLIC HEALTH INSURANCE PLAN.—The term 'public health insurance plan' means the program of health insurance provided under this title.

"SEC. 2284. GLOSSARY OF DEFINED TERMS USED IN TITLE AND CONTAINED IN THIS TITLE OR RELATED TITLES.

"ADJUSTED TOTAL INCOME.—The term 'adjusted total income' is defined in section 2247(1).

"ADULT.—The term 'adult' is defined in section 2282(6).

"APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' is defined in section 2304(c)(1).

"BASIC HEALTH SERVICES.—The term 'basic health services' is defined in section 2211(b).

"BENEFICIARY CLASS.—Beneficiary classes are described in section 2231(d).

"BENEFIT PACKAGE.—Benefit packages are listed in section 2231(c).

"CHILD.—The term 'child' is defined in section 2282(5).

"COMMUNITY.—The term 'community' is defined in section 2231(e).

"COVERED EMPLOYER HEALTH PLAN.—The term 'covered employer health plan' is defined in section 2121(b).

"ELIGIBLE INDIVIDUAL.—The term 'eligible individual' is defined in section 2201(d).

"EMPLOYEE.—The term 'employee' is defined in section 2181(a)(1).

"EMPLOYER.—The term 'employer' is defined in section 2181(a)(1).

"EMPLOYMENT BASED ENROLLMENT.—Employment based enrollment is described in section 2201(a)(1)(B)(i).

"EMPLOYMENT-RELATED HEALTH PLAN.—The term 'employment-related health plan' is defined in section 2301(A)(2).

"ENROLLMENT UNDER A QUALIFIED EMPLOYER HEALTH PLAN.—Conditions under which an individual is considered to be enrolled under a qualified employer health plan are described in section 2201(a)(1)(C).

"EPSDT SERVICES.—The term 'EPSDT services' is defined in section 2212(b).

"FAMILY, FAMILY MEMBER.—The terms 'family' and 'family member'' are defined in section 2282(1).

"FAMILY ADJUSTED TOTAL INCOME.—The term 'family adjusted total income' is defined in section 2247(2).

"FEDERAL HEALTH PLAN.—The term 'Federal health plan' is defined in section 2204(f).

"FULL-TIME EMPLOYEE.—The term 'full-time employee' is defined in section 2181(b)(1).

" HOSPITAL.—The term 'hospital' is defined in section 2281(6).

"INPATIENT HOSPITAL SERVICES.—The term 'inpatient hospital services' is defined in section 2281(7).

"LARGE EMPLOYER.—The term 'large employer' is defined in section 2181(c)(3).

"LOW-INCOME MEDICARE BENEFICIARY.—The term 'low-income medicare beneficiary' is defined in section 2283(1)(B).

"MANAGED CARE PLAN.—The term 'managed care plan' is defined in section 2331(c)(1).

"MARRIED.—The marital status of an individual is determined in accordance with section 2282(4).

"MEDICAL AND OTHER HEALTH SERVICES.—The term 'medical and other health services' is defined in section 2281(9).

"MEDICARE BENEFICIARY.—The term 'medicare beneficiary' is defined in section 2283(1)(A).

"MEDICARE SUPPLEMENTAL BENEFITS.—The term 'medicare supplemental benefits' is defined in section 2213(b).

"NON-EMPLOYMENT BASED ENROLLMENT.—Non-employment based enrollment is described in section 2201(a)(1)(B)(ii).

"OFFICIAL POVERTY LINE.—The term 'official poverty line' is defined in section 2283(2).

"PART-TIME EMPLOYEE.—The term 'part-time employee' is defined in section 2181(b)(2).

"PARTICIPATING PROVIDER.—The term 'participating provider' is defined in section 2331(d)(2).

"PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' is defined in section 2254(b)(3)(B)(i).

"PHYSICIAN.—The term 'physician' is defined in section 2281(10).

"PHYSICIAN INCENTIVE PLAN.—The term 'physician incentive plan' is defined in section 2258(c)(2).

"PHYSICIANS' SERVICES.—The term 'physicians' services' is defined in section 2281(11).

"PREEXISTING CONDITION.—The term 'preexisting condition' is defined in section 2254(b)(3)(B)(ii).

"PREGNANT WOMAN.—The term 'pregnant woman' is defined in section 2283(3).

"PREVENTIVE SERVICES.—The term 'preventive services' is defined in section 2211(c).

"PUBLIC HEALTH INSURANCE PLAN.—The term 'public health insurance plan' is defined in section 2283(4).

"PUBLIC PLAN ELECTION.—The term 'public plan election' is defined in section 2105(a).

"QUALIFIED EMPLOYER HEALTH PLAN.—The term 'qualified employer health plan' is defined in section 2121(a).

"QUALIFIED HEALTH PLAN.—The term 'qualified health plan' is defined in section 2251(a).

"SCREENING MAMMOGRAPHY.—The term 'screening mammography' is defined in section 2281(15).

"SCREENING PAP SMEAR.—The term 'screening pap smear' is defined in section 2281(16).

"SEASONAL OR TEMPORARY EMPLOYEE.—The term 'seasonal or temporary employee' is defined in section 2181(b)(3).

"SMALL EMPLOYER.—The term 'small employer' is defined in section 2181(c)(2).

"SPOUSE.—The term 'spouse' is defined in section 2282(3).

"STATE.—The term 'State' is defined in sections 2259(e) and 2281(18).

"SUBSIDY PERCENTAGE.—The term 'subsidy percentage' is defined in section 2242(c).

"TRANSITION PERIOD.—The term 'transition period' is defined in section 2231(b)(4).

"UNITED STATES.—The term 'United States' is defined in section 2281(19).

"UNMARRIED.—The marital status of an individual is determined in accordance with section 2282(4).

"UTILIZATION REVIEW PROGRAM.—The term 'utilization review program' is defined in section 2332(c).

"VERY SMALL EMPLOYER.—The term 'very small employer' is defined in section 2181(c)(1).

"WAGES.—The term 'wages' is defined in section 2181(a)(1).

"SEC. 2285. AUTHORIZING RECIPROCAL COVERAGE OF FOREIGN NATIONALS.

"Effective January 1 of the 6th year beginning after the date of the enactment of this title, the Secretary may make benefits available under this title with respect to basic health services for individuals who—

"(1) are not eligible individuals described in section 2201(d),

"(2) are in the United States, and

"(3) are nationals of a foreign state which provides health benefits to nationals of the United States who are in that state,

if the Secretary determines that such benefits with respect to such services would be available to nationals of the United States under comparable circumstances in the foreign state.

"SEC. 2286. NONAPPLICATION TO RESIDENTS OF PUERTO RICO AND TERRITORIES.

"The provisions of this title shall not apply to an individual who is not a resident of one of the 50 States or the District of Columbia.".

TITLE III—QUALITY ASSURANCE AND COST CONTAINMENT

SEC. 301. APPLICATION OF PAYMENT RATES UNDER PUBLIC HEALTH INSURANCE PLAN UNDER QUALIFIED EMPLOYER HEALTH PLANS.

(a) REFERENCE TO OPTION.—For a provision that contains costs for small employers by permitting them to elect to use payment rates under the public health insurance plan in their qualified employer health plans, see section 2314 of the Social Security Act (as added by section 401 of this Act).

(b) REFERENCE TO REQUIREMENT FOR MEDICARE PARTICIPATING PROVIDERS TO PARTICIPATE UNDER PUBLIC HEALTH INSURANCE PLAN.—For a provision that requires medicare providers of services and participating physicians to participate under the public health insurance plan, see section 703 of this Act.

(c) REFERENCE TO REQUIREMENT FOR PUBLIC PLAN PARTICIPATING PROVIDERS TO LIMIT CHARGES IN THE CASE OF ELECTING EMPLOYERS.—For a provision that requires providers of services and physicians participating in the public health insurance plan to agree not to charge electing small employers in excess of charges permitted under the plan, see section 2261 of the Social Security Act (as added by section 201 of this Act).

(d) USE OF STATE UNIFORM PAYMENT RULES.—

(1) IN GENERAL.—Nothing in title XXII of the Social Security Act or in this Act shall be construed as preventing a State from establishing uniform payment rates for one or more services under qualified health plans. Such payment rates may, subject to paragraph (2), apply to the medicare program under title XVIII of such Act or the public health insurance plan under title XXII of such Act, or both.

(2) APPROVAL OF PUBLIC PROGRAMS.—The Secretary may waive the requirements of titles XVIII and XXII of the Social Security Act insofar as they prevent the use of State uniform payment rates, so long as the Secretary determines—

(A) that the aggregate payments (determined for a period of at least 3 years) under each respective title will not exceed the aggregate payments that would have been made under such title in the absence of such waiver, and

(B) that the payment system will not preclude an eligible organization (as defined in section 1876(b) of such Act) from negotiating directly with providers and practitioners with respect to the organization's rate of payment for services.

Nothing in this subsection shall be construed as affecting the Secretary's authority under other law to use State payment rates under title XVIII.

SEC. 302. FAVORABLE TREATMENT OF MANAGED CARE.

For section providing favorable treatment of managed care, see section 421.

SEC. 303. APPLICATION OF OUTCOMES RESEARCH TO PUBLIC HEALTH INSURANCE PLAN.

(a) EXPANSION OF RESEARCH TO INCLUDE PUBLIC HEALTH INSURANCE PLAN.—Section 1142 of the Social Security Act (42 U.S.C. 1320b-12), relating to research on outcomes of health care services and procedures, is amended—

(1) in subsection (a)(1)(B), by inserting "and of the public health insurance plan under title XXII" after "title XVIII";

(2) in subsection (b)(3)—

(A) by inserting "AND PUBLIC HEALTH INSURANCE PLAN" after "MEDICARE PROGRAM", and

(B) by inserting before the period at the end the following: ", and the needs and priorities of the public health insurance plan under title XXII"; and

(3) in subsection (h), by inserting "or under title XXII" after "title XVIII".

(b) EXPANSION AND MODIFICATION OF FUNDING TO INCLUDE PUBLIC HEALTH INSURANCE TRUST FUND.—

(1) INCREASE IN FUNDING.—Subsection (i)(1) of such section is amended—

(A) in subparagraph (D), by striking "$148,000,000 for fiscal year 1993; and" and inserting "$300,000,000 for fiscal year 1993;",

(B) in subparagraph (E), by striking "$185,000,000 for fiscal year 1994." and inserting "$400,000,000 for fiscal year 1994; and", and

(C) by adding at the end the following new subparagraph:

"(F) $500,000,000 for fiscal year 1995.".

(2) ALLOCATION TO PUBLIC HEALTH INSURANCE PLAN.—Subsection (i)(2) of such section is amended—

(A) by striking "and 1994" and inserting ", 1994, and 1995",

(B) in subparagraph (A), by striking "60 percent" and inserting "30 percent",

(C) in subparagraph (B), by striking "40 percent" and inserting "20 percent", and

(D) by adding at the end the following new subparagraph:

"(C) 50 percent from the Public Health Insurance Trust Fund (established under section 2233).".

(c) DEVELOPMENT OF MENTAL HEALTH PRACTICE PARAMETERS.—The Administrator for Health Care Policy and Research, working with the National Institute of Mental Health and mental health providers, shall develop outcomes research and practice parameters for mental health services, including at least the diagnosis and treatment of childhood attention deficit disorders and manic depression, required of qualified health plans under title XXII of the Social Security Act.

SEC. 304. APPLICATION OF PEER REVIEW PROGRAM UNDER THE PUBLIC HEALTH INSURANCE PLAN.

(a) IN GENERAL.—Title XXII of the Social Security Act is amended by redesignating section 2268 as section 2269 and by inserting after section 2267 the following new section:

"SEC. 2268. APPLICATION OF PEER REVIEW PROGRAM.

"(a) IN GENERAL.—Subject to the succeeding provisions of this section, part B of title XI (relating to peer review of the utilization and quality of health care services) shall apply to this title in the same manner as it applies to title XVIII, and, for such purposes, any reference in such part to a provision in such title is deemed a reference to the appropriate provision (as identified by the Secretary) in this title.

"(b) CONTRACTS.—

"(1) SEPARATE CONTRACTS.—Contracts with utilization and quality control peer review organizations entered into pursuant to subsection (a) for an area need not be with the same organization with a contract under section 1153 for the area. However, nothing in this section shall be construed as preventing such an organization with a contract under such section from entering into a contract under this section.

"(2) FUNCTIONS.—The duties required of peer review organizations under contracts under this section shall be adapted to services and populations served under this title.

"(c) FUNDING.—

"(1) IN GENERAL.—In applying section 1159 under subsection (a), expenses incurred in the administration of contracts under this section shall be payable from funds in the Public Health Insurance Trust Fund.

"(2) USE OF SIMILAR FUNDING MECHANISMS.—The provisions of section 1866(a)(1)(F) shall apply to agreements with hospitals under section 2261 with respect to peer review organizations with contracts under this section in the same manner as they apply to agreements with hospitals under section 1866(a)(1) with respect to peer review organizations with contracts under part B of title XI.

"(d) NO REQUIREMENT FOR SECOND OPINION IN CERTAIN SURGICAL PROCEDURES.—Section 1164 shall not apply with respect to contracts under this section.".

SEC. 305. MEDICAL MALPRACTICE.

(a) DEMONSTRATION PROJECTS.—The Administrator for Health Care Policy and Research (established under section 901 of the Public Health Service Act) shall design, implement, and evaluate studies on medical malpractice issues and demonstration projects related to medical malpractice reform for the purpose of making recommendations to Congress under subsection (b). The studies and projects shall be designed to assure a system for compensation for persons injured as a result of adverse medical occurrences that—

(1) assures appropriate compensation,

(2) reduces the practice of defensive medicine,

(3) assures the availability and affordability of insurance for all types of providers and practitioners against claims, and

(4) provides incentives to provide quality care and to reduce the number and severity of such occurrences.

(b) RECOMMENDATIONS.—Based on such studies and demonstration projects, the Ad-

ministrator shall make recommendations to Congress respecting—

(1) incentives to improve the quality of care, and

(2) cost-effective methods of providing efficient and appropriate compensation to individuals injured in adverse medical occurrences.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1992 through 1996, such sums as may be necessary to carry out this section.

SEC. 306. REPORT ON REQUIRING USE OF UNIFORM CLAIMS FORMS.

Not later than January 1 of the 2nd year beginning after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on requiring that all claims submitted under all qualified health plans (including under titles XVIII, XIX, or XXII of the Social Security Act or under a qualified employer health plan) be on a uniform claims form which includes clinical data stated using uniform definitions and standards (such as those developed under section 1142(d) of the Social Security Act).

TITLE IV—GROUP HEALTH INSURANCE REFORM

Subtitle A—General Reforms

SEC. 401. GENERAL REFORMS.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXIII—GROUP HEALTH INSURANCE STANDARDS

"PART A—GENERAL STANDARDS; DEFINITIONS

"SEC. 2301. APPLICATION OF REQUIREMENTS TO EMPLOYMENT-RELATED HEALTH PLANS.

"(a) INSURED PLANS.—

"(1) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—No insured employment-related health plan may be issued in a State on or after the effective date specified in subsection (d) (and no new contract may be offered under such plan with respect to any employer beginning on or after such effective date) unless—

"(A) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of the applicable standards established under section 2302 (to carry out the requirements of this title) and that meets the requirements of section 2302(b) by such effective date, or

"(B) if the State has not established such a program, the plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the applicable standards established under section 2302 by such effective date.

"(2) PLAN DISAPPROVED UNDER LOOK-BEHIND AUTHORITY.—If the Secretary determines, under section 2302(c), that an employment-related health plan does not meet the applicable requirements of this title on or after such effective date, regardless of whether or not the State has taken any action with respect to such noncompliance, no new contracts may be offered to employers under the plan on or after the date of the determination.

"(b) SELF-INSURED PLANS.—

"(1) NEW PLANS.—No self-insured employment-related health plan may be offered on or after the effective date specified in subsection (d) unless the plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the applicable standards established under section 2302 by such effective date.

"(2) PLAN DISAPPROVED UNDER LOOK-BEHIND AUTHORITY.—If the Secretary determines that a self-insured employment-related health plan does not meet the applicable requirements of this title on or after such effective date, no coverage may be provided under the plan to individuals not enrolled as of the date of the determination and the plan may not be continued for plan years beginning after the date of such determination until the Secretary determines that such plan is in compliance with such requirements.

"(c) SANCTIONS.—

"(1) USE OF CEASE AND DESIST ORDER PROCESS.—Except as provided in this subsection, the provisions of section 2108 shall apply to violations by plans of subsection (a) or (b) in the same manner as such provisions apply to violations by employers of the requirements of section 2101 of such Act.

"(2) AMOUNT OF CIVIL MONEY PENALTY.—The amount of any civil money penalty imposed under paragraph (1) shall not exceed $25,000 for each employer with respect to which a violation occurs. Such amount may take into account the penalties imposed by a State with respect to the same such violation.

"(3) NOTICE TO EMPLOYER IN THE CASE OF INSURED PLANS.—As part of any order issued under paragraph (1) in the case of an insured employment-related health plan, the order shall require notice to be provided to each employer which meets the requirement of section 2101 through coverage under the plan of the findings in the order.

"(4) LOSS OF STATUS AS QUALIFIED EMPLOYER HEALTH PLAN.—

"(A) IN GENERAL.—If an employment-related health plan is determined to be in violation of subsection (a) or (b) and is not determined to have come into compliance with the applicable standards within 6 months after the date of the initial determination of such a violation, the plan shall no longer be treated as a qualified employer health plan under title XXII as of the end of such 6-month period.

"(B) NO ENFORCEMENT OF INSURANCE CONTRACTS.—In the case of an employer that is required, under part A of title XXII, to provide enrollment under a qualified employer health plan and that meets such requirement through an insured plan that is determined to be in violation of subsection (a)—

"(i) if such plan is not brought into compliance within 30 days after the date of the violation, the employer may terminate by notice the contract with the plan and is not liable for payment of any additional amounts under the plan, and

"(ii) if such plan no longer qualifies as a qualified employer health plan, such contract shall be terminated and the employer is not liable for payment of any amounts for periods in which the plan no longer qualifies as a qualified employer health plan.

"(5) REFERENCE TO EXCISE TAX.—For excise tax on violations of requirements of this title, see section 4980C of the Internal Revenue Code of 1986, as added by section 604 of this Act.

"(d) EFFECTIVE DATE.—The effective date specified in this subsection is January 1 of the third year that begins after the date of the enactment of this Act.

"SEC. 2302. ESTABLISHMENT OF STANDARDS.

"(a) ESTABLISHMENT OF STANDARDS.—

"(1) NAIC.—The Secretary shall request the NAIC—

"(A) to develop specific standards, in the form of a model Act and model regulations, to implement the requirements of this title, and

"(B) to report to the Secretary on such development,

by not later than October 1 of the year following the year in which this title is enacted. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of this title, such standards shall be the standards applied under section 2301.

"(2) SECRETARY.—If the NAIC fails to develop and report on such standards by such date or the Secretary finds that such standards do not implement the requirements of this title, the Secretary shall develop and publish, by not later than November 15 of the year following the year in which this title is enacted, such standards. Such standards shall then be the standards applied under section 2301.

"(b) ADDITIONAL ELEMENTS OF REGULATORY PROGRAMS.—

"(1) IN GENERAL.—A State regulatory program shall include the following:

"(A) The enforcement under the program—

"(i) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards, and

"(ii) shall provide for notice to the Secretary in cases where such compliance is not secured within such 30-day period.

"(B) A toll-free telephone which provides for—

"(i) a system for the receipt and disposition of consumer complaints or inquiries regarding compliance of health plans with the requirements of this title, and

"(ii) information to small employers about carriers that offer small employer health plans in the area covered by the regulatory authority.

Such system shall provide for the recording of consumer complaints in accordance with a uniform methodology developed by the NAIC and recognized by the Secretary.

"(2) SECRETARIAL AUTHORITY.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the establishment of the toll-free telephone information and complaint system described in paragraph (1).

"(c) SECRETARIAL REVIEW.—

"(1) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet the standards referred to in subsection (a) and the requirements of subsection (b). If the Secretary finds that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under section 2301(a)(1)(B) with respect to plans in the State.

"(2) LOOK-BEHIND AUTHORITY.—In the case of a State with a regulatory program found by the Secretary to meet the standards and requirements under this title, the Secretary nonetheless is authorized to determine whether or not individual insured employment-related health plans in the State have failed to comply with the applicable requirements of this title.

"(d) GAO AUDITS.—The Comptroller General shall conduct periodic audits on a sample of State regulatory programs to determine their compliance with the requirements of this section. The Comptroller General shall report to the Secretary and Congress on the findings in such audits.

"SEC. 2303. REQUIREMENTS APPLICABLE TO ALL EMPLOYMENT-RELATED HEALTH PLANS.

"(a) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), an employment-related health plan may not deny, limit, or condition the coverage under (or benefits of) the plan with respect to basic health services based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PRE-EXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, an employment-related health plan may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months.

"(B) NONAPPLICATION TO NEWBORNS AND SUNSET OF PRE-EXISTING CONDITION EXCLUSIONS FOR BASIC HEALTH SERVICES.—The exclusion of coverage permitted under subparagraph (A) shall not apply to—

"(i) services furnished to newborns, or

"(ii) basic health services furnished on or after July 1 of the 6th year beginning after the date of the enactment of this title.

"(C) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—If an individual is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under a plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—In this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health plan or program (including a qualified health plan, a Federal health plan, the medicare program, a State plan under title XIX, or a State general medical assistance program) which provides the same or substantially similar benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a plan, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage, except that such term does not include a condition which was first diagnosed or treated during a period of continuous coverage.

"(iii) STANDARDS FOR SIMILAR BENEFITS.—The standards established under section 2302 shall establish such criteria for determining if benefits are substantially similar as may be necessary to carry out this subparagraph.

"(b) PERMITTING COVERAGE DURING WAITING PERIOD.—

"(1) IN GENERAL.—If an employment-related health plan imposes a waiting period before an eligible individual may be covered under the plan, the plan—

"(A) must make available to the individual coverage (including coverage of dependents) equivalent to the coverage available to the employee upon the completion of any applicable waiting period, and

"(B) may not impose for such coverage charges that exceed the cost under the plan of providing such coverage (determined, in the case of a self-insured plan, on an average, per participant cost basis) with respect to the employee if such waiting period did not apply.

Nothing in this paragraph shall be construed as requiring a health plan to make coverage available to an individual who no longer has an employment relationship (or who is the spouse or dependent of such an individual) with respect to the plan.

"(2) ELIGIBLE INDIVIDUAL DEFINED.—In paragraph (1), the term 'eligible individual' means, with respect to a health plan, an individual who, but for a waiting period, would be eligible for immediate coverage under the plan.

"SEC. 2304. DEFINITIONS.

"(a) HEALTH PLAN AND OTHER DEFINITIONS RELATING TO HEALTH PLANS.—In this title:

"(1) HEALTH PLAN.—The term 'health plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1964), or any other health insurance arrangement, and includes an employment-related reinsurance plan (as defined in paragraph (3)), but does not include—

"(A) accident-only, credit, dental, or disability income insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) worker's compensation or similar insurance, or

"(D) automobile medical-payment insurance.

"(2) EMPLOYMENT-RELATED HEALTH PLAN.—The term 'employment-related health plan' means any health plan provided or arranged for or contributed to by the employer or an employment-related organization to provide health benefits (directly or indirectly) for the employer's employees and dependents, and includes (but only for purposes of sections 2313 unless the context otherwise requires) an employment-related reinsurance plan.

"(3) EMPLOYMENT-RELATED REINSURANCE PLAN.—The term 'employment-related reinsurance plan' means any reinsurance or similar mechanism that underwrites a portion of the risk for an employment-related health plan, if the mechanism is offered directly to an employer or employment-related group.

"(4) INSURED EMPLOYMENT-RELATED HEALTH PLAN.—The term 'insured employment-related health plan' means an employment-related health plan that is not a self-insured employment-related health plan or an employment-related reinsurance plan.

"(5) MANAGED CARE PLAN.—The term 'managed care plan' has the meaning given such term in section 2331(c)(1).

"(6) SELF-INSURED EMPLOYMENT-RELATED HEALTH PLAN.—The term 'self-insured employment-related health plan' means an employment-related health plan which is an employee welfare benefit plan (as defined in the Employee Retirement Income Security Act of 1964) and in which the employer or employment-related group assumes the underwriting risk for the plan (whether or not there is any reinsurance or similar mechanism to underwrite a portion of that risk).

"(7) SMALL EMPLOYER HEALTH PLAN.—The term 'small employer health plan' means an employment-related health plan insofar as it offers benefits with respect to any small employer, as defined in subsection (c)(8), or the employees of a small employer.

"(b) CARRIER; HEALTH MAINTENANCE ORGANIZATION; AND OTHER DEFINITIONS RELATING TO CARRIERS.—In this part:

"(1) CARRIER.—The term 'carrier' means any person that offers a health plan, whether through insurance or otherwise, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a self-insurer carrier, a reinsurance carrier, and a multiple employer welfare arrangement.

"(2) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' has the meaning given the term 'eligible organization' in section 1876(b).

"(3) REINSURANCE CARRIER.—The term 'reinsurance carrier' means the entity assuming responsibility for underwriting under an employment-related reinsurance plan, but does not include a carrier insofar as it directly offers a health plan.

"(4) SELF-INSURER CARRIER.—The term 'self-insurer carrier' means a carrier that is not a licensed insurance company, a prepaid hospital or medical service plan, or a health maintenance organization, that offers a health plan directly with respect to an employment-related group.

"(5) SMALL EMPLOYER CARRIER.—The term 'small employer carrier'—

"(A) means any carrier which offers small employer health plans, and

"(B) includes (unless the context otherwise requires)—

"(i) a self-insurer carrier offering such a plan, or

"(ii) a reinsurance carrier offering a small employer health plan that is an employment-related reinsurance plan.

"(c) GENERAL DEFINITIONS.—In this part:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means, with respect to a health plan offered in a State, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance, or, if the Secretary is exercising authority under section 2301(a)(1)(B) in the State, the Secretary.

"(2) BLOCK OF BUSINESS.—The term 'block of business' means all, or a distinct grouping of, small employers as shown on the records of the small employer carrier, if established consistent with section 2312(b)(3).

"(3) COMMUNITY.—The term 'community' has the meaning given such term in section 2231(e).

"(4) FULL-TIME EMPLOYEE.—The term 'full-time employee' has the meaning given such term in section 2181(b)(1).

"(5) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(6) REFERENCE PREMIUM RATE.—The term 'reference premium rate' means, for each block of business for a rating period in a community, the lowest premium rate charged or which could have been charged by the small employer carrier to small employers in that block under a rating system for that block of business in the community for health plans with the same or similar coverage. The reference premium rate is determined without regard to any adjustment for age or sex described in section 2312(c) and without regard to any adjustment effected under section 2312(d).

"(8) SMALL EMPLOYER.—The term 'small employer' has the meaning given such term in section 2181(c)(2).

"(9) STATE.—The term 'State' means the 50 States and the District of Columbia.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"SEC. 2311. ENROLLMENT PRACTICE AND GUARANTEED RENEWABILITY REQUIREMENTS FOR SMALL EMPLOYER HEALTH PLANS.

"(a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each small employer carrier (as defined in section 2304(b)(5)) shall register with the applicable regulatory authority for each State in which it issues or offers a small employer health plan.

"(2) NO PREEMPTION OF STATE INFORMATION REQUIREMENTS.—Nothing in paragraph (1) shall be construed as preventing the applicable regulatory authority from requiring, in the case of carriers that are not self-insurance carriers, such additional information in conjunction with, or apart from, the registration required under paragraph (1) as the applicable regulatory authority may be authorized to require under State law.

"(b) GUARANTEED ISSUE.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a carrier that offers a health plan (including a reinsurance plan, but only if offered to a self-insured employment-related health plan) to small employers located in a community must offer the same plan to any other small employer located in the community.

"(2) TREATMENT OF HEALTH MAINTENANCE ORGANIZATIONS.—

"(A) GEOGRAPHIC LIMITATIONS.—A health maintenance organization may deny coverage under a plan to a small employer whose employees are located outside the service area of the organization, but only if such denial is applied uniformly without regard to health status or insurability.

"(B) SIZE LIMITS.—A health maintenance organization may apply to the applicable regulatory authority to cease enrolling new small employer groups in its small employer health plan (or in a geographic area served by the plan) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups.

"(3) GROUNDS FOR REFUSAL TO ISSUE OR RENEW.—

"(A) IN GENERAL.—A carrier may refuse to issue or renew or terminate a plan only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation, and

"(iii) failure to meet minimum participation rates (consistent with subparagraph (B)).

"(B) MINIMUM PARTICIPATION RATES.—A carrier may require, with respect to a small employer health plan, that a minimum percentage of full-time, permanent employees eligible to enroll under the plan be enrolled, so long as such percentage is enforced uniformly for all employment groups of comparable size.

"(c) MINIMUM PLAN PERIOD.—A carrier may not offer to, or issue with respect to, a small employer a small employer health plan with a term of less than 12 months.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—

"(A) GENERAL RULE.—Subject to the succeeding provisions of this subsection, each small employer health plan must be renewed, at the option of the employer or employment-related organization described in section 2304(a)(2), unless the plan is terminated for the reasons specified in subsection (a)(3)(A) or under subparagraph (B).

"(B) TERMINATION OF BLOCK OF BUSINESS.—A carrier need not renew a health plan with respect to such an employer or employment-related organization if the carrier—

"(i) is terminating the block of business that includes the plan, and

"(ii) provides notice to the employer or organization covered under the plan of such termination at least 90 days before the date of expiration of the plan.

In the case of such a termination, the insurer may not provide for issuance of any small employer health plan in any block of business during the 5-year period beginning on the date of termination of such block of business.

"(C) CONSTRUCTION RESPECTING ADDITIONAL STATE DISCLOSURE REQUIREMENTS.—Subparagraph (B)(ii) shall not be construed as preventing the applicable regulatory authority from specifying the information to be included in the notice under such subparagraph or in requiring such notice to be provided at an earlier date.

"(2) NOTICE AND SPECIFICATION OF RATES AND ADMINISTRATIVE CHANGES.—

"(A) NOTICE.—The small employer carrier of a small employer health plan shall provide for notice, at least 30 days before the date of expiration of the health plan, of the terms for renewal of the plan. Except with respect to rates and administrative changes, the terms of renewal (including benefits) shall be the same as the terms of issuance.

"(B) RENEWAL RATES SAME AS ISSUANCE RATES.—The carrier may change the terms for such renewal, but the premium rates charged with respect to such renewal shall be the same as that for a new issue.

"(C) RATES CANNOT CHANGE MORE OFTEN THAN MONTHLY.—

"(i) IN GENERAL.—A small employer carrier may not change the premium rates established with respect to any block of business for a small employer health plan more often than monthly.

"(ii) APPLICATION OF NEW RATES.—In the case of a plan issued which becomes effective in a month, the premium rates established under clause (i) for that month shall apply to all months during the 12-month period beginning with that month. In the case of a plan renewal which is effective for a 12-month period beginning with a month, the premium rates established under clause (i) with respect to that month shall apply to all months during 12-month renewal period.

"(3) PERIOD OF RENEWAL.—The period of renewal of each small employer health plan shall be for a period of not less than 12 months.

"(e) EXCEPTION FOR SELF-INSURED CARRIERS.—The requirements of this section (other than subsection (a)) shall not apply to self-insured carriers and self-insured employment-related health plans.

"SEC. 2312. RATING PRACTICES FOR SMALL EMPLOYER HEALTH PLANS.

"(a) COHESIVE RATING SYSTEM AND ACTUARIAL CERTIFICATION.—

"(1) IN GENERAL.—The premiums (including reference premium rate, as defined in section 2304(c)(6), age-sex adjustments under subsection (c), and reductions provided under subsection (d)) for all small employer health plans of the same entity shall—

"(A) be established based on a single cohesive rating system which is applied consistently for all employer groups and is designed not to treat groups, after the second effective year (as defined in subsection (f)), differently based on health status or risk status; and

"(B) be actuarially certified annually.

"(2) ACTUARIAL CERTIFIED DEFINED.—For purposes of paragraph (1)(B), a plan is considered to be 'actuarially certified' if there is a written statement, by a member of the American Academy of Actuaries or other individual acceptable to the applicable regulatory authority that a small employer carrier is in compliance with this section, based upon the individual's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health plans.

"(b) USE OF COMMUNITY-RATING.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (c):

"(A) COMMUNITY RATING WITHIN A BLOCK OF BUSINESS.—The reference premium rate charged for a small employer health plan with similar benefits in a community within a block of business for a type of family enrollment (described in subsection (e)) shall be the same for all small employers.

"(B) LIMITING VARIATION ON REFERENCE PREMIUM RATES AMONG BLOCKS OF BUSINESS.—

"(i) IN GENERAL.—Except as provided in clause (iii), the reference premium rate charged for small employer health plans with similar benefits in any community for a type of family enrollment for the most expensive block of business shall not exceed 120 percent of such rate charged for such plan for the same type of family enrollment for the least expensive block of business.

"(ii) ROLE OF REGULATORY AUTHORITY.—An applicable regulatory authority that is a State may reduce or eliminate the percent variation otherwise permitted under clause (i).

"(iii) EXCEPTION.—Clause (i) shall not apply to a block of business—

"(I) if the block is one for which the carrier does not reject, and never has rejected, small employers included within the definition of employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis,

"(II) the carrier does not involuntarily transfer, and never has involuntarily transferred, a health plan into or out of the block of business, and

"(III) that block of business was available for purchase as of the date of the enactment of this title.

"(2) TRANSITION.—Notwithstanding paragraph (1)—

"(A) during the first effective year (as defined in subsection (f)), the premium rate for any employer may be as much as, but may not exceed, 150 percent of the reference premium rate for such plans in the same community for similar benefits in the same block of business, or

"(B) during the second effective year, the premium rate for any employer may be as much as, but may not exceed, 122 percent of the reference premium rate for such plans in the same community for similar benefits in the same block of business.

"(3) ESTABLISHMENT OF BLOCKS OF BUSINESS.—For the purpose of establishing premiums for small employer health plans with similar coverage, the small employer carrier may establish blocks of business based only on one or more of the following characteristics:

"(A) Plans that are marketed by clearly different sales forces.

"(B) Plans that have been acquired from another carrier as a distinct group.

"(C) Plans that are managed care plans.

"(D) Plans within another distinct group, if the applicable regulatory authority finds that establishment of such a group will enhance the efficiency and fairness of the small employer insurance marketplace.

"(c) AGE AND SEX ADJUSTMENT TO COMMUNITY-RATING.—

"(1) IN GENERAL.—Subject to paragraph (2), a small employer health plan may provide for an adjustment to the reference premium rate based on age and gender of covered individuals. Any such adjustment shall be applied consistently to all small employers.

"(2) LIMITATION ON ADJUSTMENT.—

"(A) IN GENERAL.—The adjustment under paragraph (1) may not result, with respect to small employer health plans with similar benefits in the same block of business in a community, in a premium rate for the most expensive age-sex group exceeding the applicable percent (as defined in subparagraph (B)) of the premium rate for the least expensive age-sex group.

"(B) APPLICABLE PERCENT DEFINED.—In subparagraph (A) but subject to subparagraph (C), the term 'applicable percent' means—

"(i) for the first effective year (as defined in subsection (e)), 200 percent,

"(ii) for the second effective year, 150 percent, and

"(iii) for any subsequent year, 110 percent.

"(C) ROLE OF REGULATORY AUTHORITY.—An applicable regulatory authority that is a State may reduce or eliminate the applicable percent otherwise applied.

"(d) ADJUSTMENT IN RATES PERMITTED IN CASE OF MEDICARE REIMBURSEMENT ELECTION.—A small employer health plan may compute premiums based upon a percentage of the reference premium rate otherwise applicable if the employer or employment-related organization to which the plan is being offered makes the reimbursement election described in section 2123. Any such adjustment shall be applied consistently to all small employers.

"(e) TYPES OF FAMILY ENROLLMENT.—

"(1) IN GENERAL.—Each small employer health plan shall permit enrollment of (and shall compute premiums separately for) individuals based on each of the following beneficiary classes:

"(A) 1 adult.

"(B) A married couple without children.

"(C) 1 adult and 1 child.

"(D) A married couple with 1 or more children, or 1 adult with 2 or more children.

"(2) APPLICATION OF DEFINITIONS.—The definitions in section 2281(b) shall apply for purposes of this subsection.

"(f) EFFECTIVE YEARS DEFINED.—In this section, the terms 'first effective year' and 'second effective year' mean the third and fourth years beginning after the date of the enactment of this Act.

"(g) EXCEPTION FOR SELF-INSURED CARRIERS.—The requirements of this section shall not apply to self-insured carriers and self-insured employment-related health plans, but does apply to reinsurance carriers and employment-related reinsurance plans offered to such carriers or underwriting such self-insured plans.

"SEC. 2313. BASIC BENEFIT PACKAGE FOR SMALL EMPLOYER HEALTH PLANS.

"(a) IN GENERAL.—

"(1) BENEFITS AND COST-SHARING IN QUALIFIED HEALTH PLANS.—Except as provided in paragraph (2), no small employer health plan may be issued to a small employer by a carrier unless—

"(A) the plan provides for benefits for all basic health services (as defined in section 2211(b));

"(B) the plan does not impose cost-sharing with respect to basic health services in excess of the deductibles and coinsurance permitted under title XXII with respect to such services (not taking into account any low-income assistance under part E of such title); and

"(C) the carrier makes available to the employer a small employer health plan that, subject to paragraph (2)(C), only provides the benefits for basic health services and the maximum cost-sharing consistent with subparagraphs (A) and (B).

"(2) EXCEPTIONS.—

"(A) NO APPLICATION TO REINSURANCE PLANS.—Paragraph (1) shall not apply to employment-related reinsurance plans.

"(B) REQUIRED OFFERING DOES NOT APPLY TO SELF-INSURED PLANS AND HMO'S.—Paragraph (1)(C) shall not apply to a self-insured plan or the plan of a health maintenance organization.

"(C) ADDITIONAL, OPTIONAL MINIMUM SERVICES.—In meeting the requirement of paragraph (1)(C), a small employer health plan may include such additional items and services as the small employer carrier can demonstrate to the satisfaction of the applicable regulatory authority that inclusion of such items and services will facilitate appropriate hospital discharges or avoid unnecessary hospitalization.

"(b) MANAGED CARE OPTION.—If a carrier (other than a health maintenance organization or reinsurance carrier) offers to employers, that are not small employers, in a community a qualified employer health plan that is a managed care plan, the carrier must make available in the community a small employer health plan that is such a managed care plan.

"(c) EXCEPTION FOR REINSURANCE CARRIERS AND PLANS.—The requirements of this section shall not apply to reinsurance carriers and employment-related reinsurance plans.

"(d) STANDARDIZATION OF BENEFIT PACKAGES.—The NAIC shall develop a model to standardize benefits to be made available under small employer health plans in order to promote consumer understanding and comparison among such plans.

"SEC. 2314. PUBLIC PLAN REIMBURSEMENT OPTION FOR SMALL EMPLOYER HEALTH PLANS.

"(a) OPTION MUST BE OFFERED.—Each small employer carrier offering a small employer health plan to a small employer shall offer the employer the option of having payment under the plan made for basic health services at rates no higher than the payment rates established under title XXII for such services. The provisions of section 1848(g)(3) shall not be considered to apply under this subsection.

"(b) APPLICATION OF PUBLIC PLAN BILLING LIMITATIONS.—In the case of a small employer that elects the option offered under subsection (a) with respect to a small employer health plan, the limitations on charges that may be made under the public health insurance plan shall apply to individuals receiving benefits under the plan. The sanctions imposed under the medicare program (and title XI), including exclusion under such program and the imposition of civil money penalties for violations of such limitations, apply to violations of the limitations imposed under this subsection.

"(c) EXCEPTION FOR REINSURANCE PLAN.—Subsection (a) shall not apply to employment-related reinsurance plans.

"SEC. 2315. MISCELLANEOUS DISCLOSURE AND RECORD-KEEPING REQUIREMENTS FOR SMALL EMPLOYER HEALTH PLANS.

"(a) DISCLOSURE TO EMPLOYERS.—

"(1) GENERAL DISCLOSURE.—Each small employer carrier shall disclose to each small employer before issuing a small employer health plan the following:

"(A) The availability (pursuant to the requirement of section 2313(a)(1)(C)) of a plan including only basic benefits.

"(B) Whether any plan that is a managed care plan or provides for a utilization review program, or both, is available, as required under section 2313(b).

"(C) The option of electing the reimbursement rules, as required under section 2314.

"(D) The limits, imposed under section 2312, on the premiums permitted to be charged for such plans.

"(E) The rights of guaranteed issue and renewability provided under section 2311.

Such disclosure shall be in addition to any disclosure required generally of qualified health plans under section 2257(a).

"(2) SPECIFIC DISCLOSURE UPON REQUEST.—Each small employer carrier shall disclose to each small employer, upon request, information concerning the blocks of business established with respect to small employer health plans and the applicable premiums for such plans.

"(3) STANDARD FORMAT.—The disclosure under paragraph (1) shall be made in a uniform format established by the Secretary, after consultation with the NAIC.

"(4) EXCEPTIONS.—Paragraph (1) (other than subparagraphs (D) and (E)) shall not apply to a small employer reinsurance carrier with respect to an employment-related reinsurance plan.

"(b) INFORMATION FILED WITH APPLICABLE REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each small employer carrier shall disclose to the applicable regulatory authority, in a manner specified by the Secretary, information concerning—

"(1) blocks of business established, and

"(2) applicable premiums for small employer health plans.

"(2) ADDITIONAL INFORMATION.—Nothing in this subsection shall be construed as limiting the information which an applicable regulatory authority may require to be reported by small employer carriers (other than self-insured carriers).

"SEC. 2316. NONAPPLICATION IN PUERTO RICO AND THE TERRITORIES.

"This part shall not apply outside the 50 States or the District of Columbia.".

Subtitle B—Reinsurance Systems

SEC. 411. ENCOURAGING DEVELOPMENT OF REINSURANCE SYSTEMS.

Title XXIII of the Social Security Act, as added by section 401, is amended by inserting after part B the following new part:

"PART C—ENCOURAGING DEVELOPMENT OF REINSURANCE SYSTEMS

"SEC. 2321. ENCOURAGING DEVELOPMENT OF REINSURANCE SYSTEMS.

"(a) DEVELOPMENT OF MODELS.—

"(1) IN GENERAL.—Not later than October 1 of the year following the year in which this title is enacted, the NAIC shall develop several models of legislation for the enactment of reinsurance systems that may be used by States with respect to health insurance policies (including small employer health plans).

"(2) SPECIFIC MODELS.—Such models shall include at least 1 of each of the following 3 models:

"(A) A model providing for voluntary participation by insurers.

"(B) A model providing for insurer participation on a retrospective basis.

"(C) A model providing for the case management of services for individual claims or groups which are reinsured through the system.

"(3) TERMS OF MODELS.—Each of the models—

"(A) shall be consistent with the provisions of this title (including those relating to community-rated premiums), and

"(B) shall include deductibles and coinsurance which (i) limit the amount of risk ceded to the reinsurance system and (ii) to encourage insurers to manage health care costs.

"(b) PROTECTION OF HEALTH MAINTENANCE ORGANIZATIONS UNDER REINSURANCE SYSTEMS.—No State may establish or enforce a reinsurance system with respect to health insurance policies unless the system provides for an adjustment in reinsurance premiums (or, in the event of losses to the system, assessments) charged to health maintenance organizations that takes into account—

"(1) the higher premiums charged by such organizations due to the greater coverage provided by such organizations as required by law,

"(2) the limitations under title XIII of the Public Health Service Act on the amount of risk which such an organization can reinsure, and

"(3) the ability of such organizations to manage risk internally.

"(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this title.".

Subtitle C—Encouraging Establishment of Managed Care

SEC. 421. FAVORABLE TREATMENT OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

Title XXIII of the Social Security Act is further amended by adding at the end the following new part:

"PART C—FAVORABLE TREATMENT OF MANAGED CARE

"SEC. 2331. FAVORABLE TREATMENT OF MANAGED CARE PLANS.

"(a) MANAGED CARE PLAN DEFINED.—

"(1) DEFINED.—In this section, the term 'managed care plan' means a qualified health plan—

"(A) in which the carrier—

"(i) utilizes explicit standards for the selection and recertification of participating providers,

"(ii) has organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services, which program (I) stresses health outcomes, and (II) provides review by physicians and other health professionals of the process followed in the provision of health services, and

"(iii) contains significant incentives to use the participating providers and procedures provided for by the plan; and

"(B) which, if it limits coverage of services to those provided by participating providers or permits deductibles and coinsurance with respect to basic health services provided by persons who are not participating providers which are in excess of those permitted under qualified health plans under title XXII—

"(i) has a sufficient number and distribution of participating providers to assure that all covered items and services are (i) available and accessible to each enrollee, within the area served by the plan, with reasonable promptness and in a manner which assures continuity, and (ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(ii) provides benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition.

"(2) DETERMINATION OF MANAGED CARE PLANS.—

"(A) INSURED PLANS.—In the case of a health plan that is offered by an entity that is subject to regulation by an applicable regulatory authority (as defined in section 2704(c)), consistent with procedures established by the Secretary in consultation with such authorities, such authorities shall be responsible for certifying for purposes of this title and the Social Security Act whether the health plan is a managed care plan.

"(B) SELF-INSURED PLANS.—In the case of other health plans, the Secretary shall be responsible for certifying for purposes of this title and the Social Security Act whether the health plan is a managed care plan.

"(b) CONDITION OF STATE FUNDING.—

"(1) IN GENERAL.—No amounts shall be made available under title IV, V, or XX of this Act to a State in any fiscal year (beginning with the first fiscal year beginning after the date of the enactment of this section) unless the State is in compliance with subsection (a).

"(2) DEEMED ELECTION; IMPLIED PREEMPTION.—

"(A) IN GENERAL.—A State is deemed to have elected subsection (a) to be in effect in the State as of the beginning of a fiscal year, unless the chief executive officer of a State indicates in writing that the State will not comply with this section. Such an election shall have the effect of preempting the establishment or enforcement of any State law that is in violation of subsection (a).

"(B) CHANGES.—A State is deemed not to have such an election in effect as of the date the Secretary determines that the State is enforcing any law or regulation in violation of subsection (a).

"(c) LIMITATION ON RESTRICTIONS ON MANAGED CARE PLANS.—In order to comply with the requirements of this subsection, a State may not by law or regulation prohibit or unreasonably limit any of the following:

"(1) A State may not prohibit or unreasonably limit a managed care plan from including incentives for enrollees to use the services of participating providers.

"(2) A State may not prohibit or unreasonably limit a managed care plan from limiting coverage of services to those provided by a participating provider.

"(3)(A) Subject to subparagraph (B), a State may not prohibit or unreasonably limit the negotiation of rates and forms of payments for providers under a managed care plan.

"(B) Subparagraph (A) shall not apply where the amount of payments with respect to a block of services or providers is established under a Statewide system applicable to all non-Federal payors with respect to such services or providers.

"(4) A State may not prohibit or unreasonably limit a managed care plan from limiting the number of participating providers.

"(5) A State may not prohibit or unreasonably limit a managed care plan from requiring that services be provided (or authorized) by a primary care physician selected by the enrollee from a list of available participating providers.

"(d) ADDITIONAL DEFINITIONS.—

"(1) APPLICATION OF OTHER DEFINITIONS.—In this part, the definitions contained in sections 2304 shall also apply.

"(2) PARTICIPATING PROVIDER.—The term 'participating provider' means an entity which provides, sells, or leases health care services under a contract with a managed care plan, which contract does not permit deductibles and coinsurance in excess of those permitted under a qualified health plan under title XXII with respect to basic health services.

"SEC. 2332. FAVORABLE TREATMENT OF UTILIZATION REVIEW PROGRAMS.

"(a) PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS THAT MEET FEDERAL STANDARDS.—

"(1) CERTIFICATION PROCESS.—The Secretary shall establish a process whereby health plans that include utilization review programs (as defined in subsection (c)) may apply to the Secretary for a certification that the programs meet the standards established under subsection (b). The Secretary may not provide for such a certification unless the program meets such standards.

"(2) RESULTS OF CERTIFICATION.—In the case of a utilization review program certified under paragraph (1), no State law or regulation shall prohibit or regulate activities under such program, except insofar as such law or regulation is consistent with the standards established under paragraph (1).

"(b) ESTABLISHMENT OF STANDARDS FOR UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall provide, by regulation, for the establishment of Federal standards for utilization review programs of qualified health plans and of employment-related health plans. Such standards shall be designed to assure, within a plan, the cost-effective and medically appropriate use of services.

"(2) CONTENTS OF STANDARDS.—Such standards shall be established with respect to at least each of the following aspects of utilization review programs:

"(A) The qualification of those who may perform utilization review activities.

"(B) The standards to be applied in performing utilization review.

"(C) The timeliness in which utilization review determinations are to be made.

"(D) An appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such a determination reviewed.

"(E) Protection for the confidentiality of individually-identifiable information used in the process.

"(3) USE OF GUIDELINES.—Such standards shall, to the maximum extent feasible, be consistent with practice guidelines developed by the Agency for Health Care Policy and Research.

"(4) EXPERIENCE WITH PEER REVIEW ORGANIZATIONS.—In the development of the standards, the Secretary shall consider the experience obtained in the peer review program under part B of title XI and in the activities of fiscal intermediaries and carriers under title XVIII.

"(5) DEADLINE.—Standards shall first be established under this subsection by not later than 2 years after the date of the enactment of this title. The Secretary may revise the standards from time to time as required to assure, within health plans, the cost-effective and medically appropriate use of services.

"(c) UTILIZATION REVIEW PROGRAM DEFINED.—In this section, the term 'utilization review program' means a system of reviewing the medical necessity and appropriateness of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may in-

clude preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.".

TITLE V—EXPANSION OF PRIMARY CARE AND PUBLIC HEALTH DELIVERY CAPACITY IN MEETING HEALTH OBJECTIVES

SEC. 501. EXTENSION OF AUTHORIZATIONS FOR PRIMARY CARE AND PUBLIC HEALTH PROGRAMS THROUGH THE YEAR 2000.

(a) IMMUNIZATION PROGRAMS.—Section 317(j)(1)(A) of such Act (42 U.S.C. 247b(j)(1)(A)) is amended by striking "1995" and inserting "2000".

(b) TUBERCULOSIS PREVENTION AND CONTROL.—Section 317(j)(2) of such Act (42 U.S.C. 247b(j)(2)) is amended by striking "1995" and inserting "2000".

(c) LEAD POISONING PREVENTION.—Section 317A(j) of such Act (42 U.S.C. 247b-1(j)) is amended by adding before the period at the end the following: "and such sums as may be necessary for each succeeding fiscal year through fiscal year 2000".

(d) PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF SEXUALLY TRANSMITTED DISEASES.—Section 318(d)(1) of such Act (42 U.S.C. 247c(d)(1)) is amended by striking "and 1991" and inserting "through 2000".

(e) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking "1994" and inserting "2000".

(f) COMMUNITY HEALTH CENTERS.—Section 330(g)(2)(A) of such Act (42 U.S.C. 254c(g)(2)(A)) is amended by striking "1994" and inserting "2000".

(g) HOMELESS PROGRAMS.—Section 340(q)(1) of such Act (42 U.S.C. 256(q)(1)) is amended by striking "and 1994" and inserting "through 2000".

(h) PUBLIC HOUSING PROGRAMS.—Section 340A(p)(1) of such Act (42 U.S.C. 256a(p)(1)) is amended by striking "and 1993" and inserting "through 2000".

(i) FAMILY PLANNING SERVICES.—Section 1001(d) of such Act (42 U.S.C. 300(d)) is amended—

(1) by striking "and" after "1984;", and

(2) by inserting before the period at the end the following: "; and such sums as may be necessary for fiscal years 1992 through 2000".

(j) EARLY INTERVENTION SERVICES FOR INDIVIDUALS WITH HIV DISEASE.—Section 2655 of such Act (42 U.S.C. 300ff-55) is amended by striking "1995" and inserting "2000".

SEC. 502. EXPANDING PRIMARY CARE AND PUBLIC HEALTH DELIVERY CAPACITY.

Section 2243 of the Social Security Act, as added by section 201 of this Act, is amended by adding at the end the following new subsection:

"(d) ALLOCATION FOR PLANNING AND DEVELOPMENT GRANTS FOR PRIMARY CARE CENTERS AND PUBLIC HEALTH CLINICS.—

"(1) IN GENERAL.—From the amounts provided under paragraph (3) the Secretary shall make grants to public and private nonprofit private entities for projects to plan and develop primary care centers and public health clinics which will serve medically underserved populations. The funds provided under such a grant may be used for the same purposes for which a grant may be made under section 330(c) of the Public Health Service Act.

"(2) PROCESS OF AWARDING GRANTS.—The provisions of section 330(e)(1) of the Public Health Service Act shall apply to a grant under this subsection in the same manner as they apply to a grant under subsection (c) of such section.

"(3) EXPENDITURES FROM TRUST FUND.—

"(A) IN GENERAL.—Expenditures, within the range specified in subparagraph (B), necessary to provide all grants under paragraph (1) in order to adequately serve medically underserved populations which are enrolled under this title or are receiving low-income assistance under part E, shall be made from the Trust Fund each fiscal year (before fiscal year 2001).

"(B) RANGE OF FUNDS.—The amount of expenditures under this subsection for any fiscal year shall be not less than ½ percent, or greater than 1 percent, of the amounts the Secretary estimates will be expended from the Trust Fund in the fiscal year for low-income assistance under part E.

"(C) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The funds provided under this subsection with respect to primary care centers and public health clinics are in addition to, and not in replacement of, funds made available to such centers and clinics under sections 317, 317A, 318, 329, 330, 340, 340A, 1001, and 2655 of the Public Health Service Act or any other law.

"(4) PRIMARY CARE CENTER DEFINED.—In this subsection, the term 'primary care center' means—

"(A) a migrant health center (as defined in section 329(a)(1) of the Public Health Service Act),

"(B) a community health center (as defined in section 330(a) of such Act), or

"(C) an entity qualified to receive a grant under section 340, 340A, 1001, or 2655 of such Act.

"(5) PUBLIC HEALTH CLINIC DEFINED.—In this subsection, the term 'public health clinic' means an entity qualified to receive a grant under section 317, 317A, or 318 of the Public Health Service Act.

"(6) MEDICALLY UNDERSERVED POPULATION DEFINED.—In this subsection, the term 'medically underserved population' has the meaning given such term in section 330(b)(3) of the Public Health Service Act.".

SEC. 503. ANNUAL REPORT ON IMPACT OF ACT IN MEETING GOALS AND OBJECTIVES STATED IN "HEALTHY PEOPLE, 2000".

(a) IN GENERAL.—The Secretary of Health and Human Services every 5 years, beginning with 1996, shall submit to Congress a report on the impact of this Act in meeting the following Goals for the Nation stated in "Healthy People, 2000" (and in meeting the specific national health promotion and disease prevention objectives stated in such report):

(1) To increase the span of healthy life for Americans.

(2) To reduce health disparities among Americans.

(3) To achieve access to preventive services for all Americans.

(b) RECOMMENDATIONS.—Each report under subsection (a) shall include such recommendations with respect to changes in the benefits and payment policies under qualified health plans as will best promote achievement of national health promotion and disease prevention goals and objectives.

TITLE VI—FINANCING AND TAX-RELATED PROVISIONS

SEC. 601. PROGRESSIVE FINANCING OF PUBLIC HEALTH INSURANCE PLAN.

The public health insurance plan shall be funded through one or more funding means in a manner that—

(1) is progressive in the aggregate,

(2) is sufficient, each year, over time, and in the aggregate, to cover the net costs of the plan, and

(3) is not derived from any one age group of society.

SEC. 602. STATE MAINTENANCE OF EFFORT PAYMENTS.

(a) CONDITION OF CONTINUED FEDERAL PAYMENTS.—Notwithstanding any other provision of the Social Security Act, as a condition of payment to a State for a calendar quarter beginning on or after January 1 of the 2nd year beginning after the date of the enactment of this Act under title IV, V, XIX, or XX of the Social Security Act, the State must provide (in a manner and at a time specified by the Secretary) for payment to the Public Health Insurance Trust Fund (established under section 2233 of such Act) of the amount specified in subsection (b) for the quarter.

(b) MAINTENANCE OF EFFORT AMOUNT.—

(1) IN GENERAL.—The amount of payment specified in this subsection for a State for a calendar quarter is equal to the State hypothetical savings specified in paragraph (2) increased by the compounded sum of the increase in the consumer price index for all urban consumers (U.S. City average, as published by the Bureau of Labor Statistics of the Department of Labor) for each year after fiscal 1991 and up to the fiscal year in which the quarter occurs.

(2) STATE SAVINGS.—A State hypothetical savings specified in this paragraph for a calendar quarter is ¼ of the amount by which the payments (net of Federal payments) made by a State under its State plan under title XIX of the Social Security Act for fiscal year 1991 for medical assistance would have been reduced if the law (as amended by this Act and in effect during such quarter) has been in effect during all of fiscal year 1991.

(c) STATE DEFINED.—In this section, the term "State" means the 50 States and the District of Columbia.

SEC. 603. FULL DEDUCTION FOR QUALIFIED HEALTH PLAN INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking "25 percent of", and

(2) by inserting "which is certified as a qualified health plan under part F of title XXII of the Social Security Act (including the public health insurance plan under such title) and" after "for insurance".

(b) DEDUCTION MADE PERMANENT.—Subsection (l) of section 162 of such Code is amended by striking paragraph (6).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 604. EXCISE TAX FOR VIOLATION OF HEALTH BENEFIT PLAN REQUIREMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980C. VIOLATION OF HEALTH BENEFIT PLAN REQUIREMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on an entity's violation of subsection (a) of section 2301 of the Social Security Act. The determination of whether there has been such a violation shall be made by the Secretary of Health and Human Services under such section.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be equal to 25 percent of the amounts received by the entity (during

the period such a violation persists) for providing any health plan for all blocks of business in all communities.

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the entity.

"(d) EXCEPTIONS.—

"(1) CORRECTIONS WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) by reason of any violation if—

"(A) such violation was due to reasonable cause and not to willful neglect, and

"(B) such violation is corrected within the 30-day period beginning on earliest date the entity knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(2) WAIVER BY SECRETARY.—In the case of a violation which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of such tax would be excessive relative to the violation involved.

"(e) DEFINITIONS.—For purposes of this section, the definitions in title XXIII of the Social Security Act shall apply under this section."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4980C. Violation of health plan requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1 of the 4th year beginning after the date of the enactment of this Act.

SEC. 605. REFUNDABLE CREDIT FOR QUALIFIED PLAN COSTS OF VERY SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. QUALIFIED HEALTH PLAN COSTS OF VERY SMALL EMPLOYERS.

"(a) ALLOWANCE OF CREDIT.—In the case of a very small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 40 percent of the amount paid or incurred by the taxpayer during the taxable year for any qualified employer health plan providing coverage to employees of such employer.

"(b) SMALL EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'very small employer' means any person engaged in the active conduct of a trade or business during the taxable year if—

"(A) the average number of full-time employees (or their equivalent) during the taxable year of such person does not exceed 24, and

"(B) the average annual rate of pay (taking into account only wages as defined in section 51(c) without regard to paragraph (4) thereof) of the employees of such person is $18,000 or less.

"(2) CONTROLLED GROUPS.—For purposes of this section—

"(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer, and

"(B) the credit (if any) allowable under this section with respect to each such employer shall be such employer's proportionate share of the payments giving rise to such credit.

"(c) QUALIFIED EMPLOYER HEALTH PLAN.—For purposes of this section, the term 'qualified employer health plan' means any plan meeting the requirements of subtitle B of title XXI of the Social Security Act.

"(d) APPLICATION OF SECTION.—This section shall apply only to taxable years beginning in the 5-year period which begins with the 3rd calendar year beginning after the date of the enactment of this section."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by striking the last item and inserting the following new items:

"Sec. 35. Qualified health plan costs of very small employers.

"Sec. 36. Overpayments of tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the close of the 1st calendar year beginning after the date of the enactment of this Act.

(d) STUDY OF EXTENSION OF CREDIT FOR EMPLOYERS OF 10 OR FEWER EMPLOYEES.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Treasury, shall review the impact of this Act, and the credit provided by the amendments made by this section, on employers of 10 or fewer full-time employees. Not later than 7 years after the date of the enactment of this Act the Secretary shall submit to Congress a report on such impact and on whether the credit provided by the amendments made by this section should be expended for very small employers with 10 or fewer full-time employees.

SEC. 606. REPEAL OF COBRA CONTINUATION REQUIREMENTS.

(a) IN GENERAL.—Section 4980B of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—Section 414 of such Code is amended—

(1) in subsection (n)(3)(C), by striking "505, and 4980B" and inserting "and 505", and.

(2) in subsection (t)(2), by striking "505, or 4980B" and inserting "or 505".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The repeal effected by subsection (a) shall apply to—

(A) health plans with respect to employees of large employers as of January 1 of the 4th year beginning after the date of the enactment of this Act,

(B) health plans with respect to employees of small employers that are not very small employers as of January 1 of the 5th year beginning after the date of the enactment of this Act, and

(C) health plans with respect to employees of very small employers as of January 1 of the 6th year beginning after the date of the enactment of this Act.

(2) DEFINITIONS.—The terms "large employer", "small employer", and "very small employer" have the meanings given such terms in 2181(c) of the Social Security Act.

(c) NOTICE OF BENEFITS UNDER PUBLIC HEALTH INSURANCE PLAN.—In the case of continuation coverage which is in effect on the date of the repeal under subsection (a) but which is to be discontinued after such date (and before the date required under law in effect before the date of the enactment of this Act) such continuation may not be discontinued without 30 days notice to the individual of such discontinuation. Such notice shall include such information respecting continuation of coverage through enrollment under the public health insurance plan as the Secretary of Health and Human Services shall specify.

TITLE VII—MEDICARE AND MEDICAID AMENDMENTS

Subtitle A—Medicare

SEC. 701. PROTECTION FOR LOW-INCOME MEDICARE BENEFICIARIES.

(a) REFERENCE TO PROVISION.—For provision making assistance available to low-income medicare beneficiaries in meeting medicare cost-sharing, see part E of title XXII of the Social Security Act, as added by section 201 of this Act.

(b) CLARIFYING APPLICATION OF BILLING LIMITS.—

(1) IN GENERAL.—Section 1848(g)(3)(A) of the Social Security Act (42 U.S.C. 1395w-4(g)(3)(A)) is amended by striking "any medical assistance" and all that follows through "title XIX" and inserting "low-income assistance under part E of title XXII".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1 of the 6th year beginning after the date of the enactment of this Act.

SEC. 702. PHASED-IN REQUIREMENT OF PART B ENROLLMENT.

(a) IN GENERAL.—Section 1811 of the Social Security Act (42 U.S.C. 1395c) is amended by inserting "(a)" after "1811." and by adding at the end the following new subsection:

"(b) Notwithstanding sections 226 and 226A and any other provision of this title, effective for services furnished on or after January 1 of the 6th year beginning after the date of the enactment of this subsection, payment may not be made under this part for items and services during any period in which the individual is not enrolled under part B or under a qualified health plan (as defined in section 2251). For purposes of the previous sentence, entitlement to benefits under this part (but for this subsection) shall not be considered enrollment in a qualified health plan.".

(b) CLARIFICATION OF COVERAGE PERIOD.—Section 1838(b) of the Social Security Act (42 U.S.C.1395q(b)) is amended to read as follows:

"(b)(1) An individual's coverage period shall continue until the individual's enrollment is terminated by the filing of notice that the individual—

"(A) no longer wishes to participate in the insurance program established by this part,

"(B) is covered under a qualified health plan, and

"(C) has notified the plan that the individual is entitled to benefits under part A of this title.

"(2) The termination of coverage under paragraph (1) shall take effect at the close of the month following the month in which the notice is filed.

"(3) Such termination shall no longer be effective at such time as the individual is eligible to be enrolled under this part and is no longer covered under a qualified health plan.".

(c) ELIMINATION OF LATE ENROLLMENT PENALTIES.—Section 1839 of such Act is amended by striking subsection (b).

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall take effect January 1 of the 6th year beginning after the date of the enactment of this Act and shall apply to premiums beginning with such January.

SEC. 703. CHANGES IN PARTICIPATION AGREEMENTS.

(a) PROVIDERS OF SERVICES.—Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking "and" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new subparagraph:

"(R) to have entered into a participation agreement under title XXII of this Act.".

(b) PHYSICIANS.—Section 1842(h)(1) of such Act is amended by adding at the end the following: "No such agreement with a physician shall be entered into and continued in effect on or after January 1 of the third year beginning after the date of the enactment of this sentence unless the physician has entered into a comparable agreement for purposes of title XXII."

SEC. 704. ASSURING COORDINATION OF ENROLLMENT WITH QUALIFIED HEALTH PLANS.

(a) NOTICES.—Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(j) The Secretary shall provide for notices of coverage under this part (and part A) in the same manner as qualified health plans are required to provide notices of coverage under section 2257(b).".

(b) TREATMENT OF SECONDARY PAYMENT IN CASE OF PART-TIME EMPLOYMENT.—Section 1862(b)(1)(A)(i)(I) of such Act (42 U.S.C. 1395y(b)(1)(A)(i)(I)) is amended by inserting "other than on a part-time basis (as defined in section 2181(b)(2))" after "individual's spouse)".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date specified in section 2257(b)(2) of the Social Security Act.

(2) The amendment made by subsection (b) shall apply to employment occurring on or after January 1 of the 4th year beginning after the date of the enactment of this Act.

SEC. 705. MISCELLANEOUS.

(a) TREATMENT OF NONPROFIT HOSPITAL PHILANTHROPY.—Section 1134 of the Social Security Act (42 U.S.C. 1320b-4) is amended by striking "and XIX" and inserting ", XIX, and XXII".

(b) HOSPITAL PROTOCOLS FOR ORGAN PROCUREMENT.—Section 1138(b) of the Social Security Act (42 U.S.C. 1320b-8(b)) is amended by striking "or XIX" and insert ", XIX, or XXII".

(c) WITHHOLDING OF PAYMENTS FROM CERTAIN PROVIDERS.—Section 1885 of such Act (42 U.S.C. 1395vv) is amended by adding at the end the following new subsection:

"(d) Subsections (a) through (c) shall apply to the public health insurance plan under title XXII, the Secretary, and the Public Health Insurance Trust Fund in the same manner as such subsections apply to title XIX, the State agency, and the appropriate State agency paid funds under subsection (c), respectively.".

Subtitle B—Medicaid

SEC. 711. COORDINATION WITH PUBLIC HEALTH INSURANCE PROGRAM.

(a) IN GENERAL.—

(1) LIMITING FEDERAL FINANCIAL PARTICIPATION FOR SERVICES COVERED UNDER PUBLIC HEALTH INSURANCE PLAN.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) in the paragraph (10) inserted by section 4401(a)(1)(B) of Omnibus Budget Reconciliation Act of 1990, by striking all that follows "1927(g)" and inserting a semicolon;

(B) by redesignating the paragraph (10) added by section 4701(b)(2) as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of Omnibus Budget Reconciliation Act of 1990, and by striking all that follows "with respect to hospitals or facilities" and inserting a semicolon;

(C) by transferring and inserting the paragraph (12) inserted by section 4752(a)(2) of Omnibus Budget Reconciliation Act of 1990 after paragraph (11), as redesignated by subparagraph (B), and by striking the period at the end and inserting a semicolon;

(D) by redesignating the paragraph (14) inserted by section 4752(e) of Omnibus Budget Reconciliation Act of 1990 as paragraph (13), by transferring and inserting it after paragraph (12), and by striking the period at the end and inserting a semicolon;

(E) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of Omnibus Budget Reconciliation Act of 1990 as paragraph (14), by transferring and inserting it after paragraph (13), and by striking the period at the end and inserting "; or"; and

(F) by inserting after paragraph (14), as so redesignated, the following new paragraph:

"(15) with respect to items and services (including medicare cost-sharing) for which payment is made under the public health insurance plan under title XXII.".

(2) CLARIFICATION OF NONDUPLICATION OF MEDICAL ASSISTANCE WITH BENEFITS UNDER PUBLIC HEALTH INSURANCE PLAN.—Title XIX of such Act is amended by adding at the end the following new section:

"NONDUPLICATION OF BENEFITS WITH PUBLIC HEALTH INSURANCE PLAN

"SEC. 1931. Notwithstanding any other provision of this title, a State is not required under its plan under section 1901(a) to provide medical assistance for items and services (including medicare cost-sharing) for which payment is made under the public health insurance plan under title XXII.".

(3) CLARIFICATION OF APPLICATION OF THIRD-PARTY PAYOR RULES TO QUALIFIED HEALTH PLANS.—Section 1902(a)(25)(A) of such Act (42 U.S.C. 1396a(a)(25)(A)) is amended by inserting "and qualified health plans certified under part F of title XXII" after "health insurers".

(b) CONTINUATION OF MEDICAID BENEFITS NOT COVERED UNDER PUBLIC HEALTH INSURANCE PLAN.—Nothing in this Act shall be construed as—

(1) changing the eligibility of individuals for medical assistance under title XIX of the Social Security Act, or

(2) subject to the amendments made by subsection (a), changing the amount, duration, or scope of medical assistance required (or permitted) to be provided under such title.

(c) REFERENCE TO STATE MAINTENANCE OF EFFORT REQUIREMENT.—For provision requiring State payments to the public health insurance plan in order to continue to qualify for payments under certain Social Security Act programs, see section 602 of this Act.

TITLE VIII—CONFORMING CHANGES TO ERISA

SEC. 801. REPEAL OF COBRA CONTINUATION REQUIREMENTS.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is repealed.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The repeal effected by subsection (a) shall apply to health plans with respect to employees of any employer as of January 1 of the 6th year beginning after the date of the enactment of this Act.

(2) DEFINITIONS.—The terms "large employer", "small employer", and "very small employer" have the meanings given such terms in title 2181(c) of the Social Security Act.

(c) NOTICE OF BENEFITS UNDER PUBLIC HEALTH INSURANCE PLAN.—In the case of continuation coverage which is in effect on the date of the repeal under subsection (a) but which is to be discontinued after such date (and before the date required under law in effect before the date of the enactment of this Act) such continuation may not be discontinued without 30 days notice to the individual of such discontinuation. Such notice shall include such information respecting continuation of coverage through enrollment under the public health insurance plan as the Secretary of Health and Human Services shall specify.●

By Mr. ROCKEFELLER (for himself, Mr. DANFORTH, Mr. BOREN, Mr. D'AMATO, Mr. BINGAMAN, and Mr. NICKLES):

S. 1178. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for expenditures for vehicles which may be fueled by clean-burning fuels, for converting vehicles so that such vehicles may be so fueled, or for facilities for the delivery of such fuels, and for other purposes; to the Committee on Finance.

ALTERNATIVE FUELS INCENTIVE ACT

● Mr. ROCKEFELLER. Mr. President, today I am introducing the Alternative Fuels Incentive Act of 1991.

I authored the Alternative Motor Fuels Act of 1988 because I believed that alternative fuels could help America address serious energy, environmental, and economic problems. Sixty-five of our colleagues joined as cosponsors.

The need for aggressive action on alternative fuels has become even clearer since 1988. The Clean Air Amendments of 1990 recognized the important role of alternative fuels in combating urban smog. The conflict in the Persian Gulf brought home again our critical need to end our dependence on imported oil.

Developments like these have raised the issue of alternative fuels to a top national priority. Not long ago, the interest in new fuels and engines was viewed by some as a pastime for automobile buffs. Today, alternative fuels have become a matter of life and death for energy security. With dependence on imported oil rising over 50 percent, we have passed the danger point.

Alternative fuels are not a project for the distant future. Many alternative fuel vehicles are already on the road across the country. A number of studies have found that the fuels can be competitive. But there is no question, either, that the fuels need a jump start to get going in the marketplace. This is because of the well-known chicken and egg problem. Producers of fuel and cars and service station operators each wait for the availability of the other's product or service and the result is inaction.

We need targeted efforts that resolve the chicken and egg problem. The Alternative Fuels Incentive Act of 1991 does this by providing modest tax incentives at points critical to establish-

ing alternative fuels in the marketplace. The bill provides incentives for purchase of alternative fuel vehicles by businesses and State and local governments. It provides a tax deduction to the ordinary consumer for purchase of alternative fuel vehicles for personal or business use. And it provides tax incentives for installation of fueling equipment for alternative fuels at service stations and elsewhere.

Previous efforts on alternative fuels have provided a foundation for the present effort. But this bill fills in the blank spaces, providing the spark that is needed for infrastructure and among consumers as well as producers.

The benefits that we can gain from alternative fuels are now well known. We can significantly reduce the smog in our cities and the tremendous damage to human health and the environment caused by auto emissions. We can diversity our fuel supply so that we are not held hostage to the explosive politics of oil in the Middle East. We can move toward fuels such as compressed natural gas, ethanol, and methanol which can be made from domestic resources, with the potential for contributing to domestic jobs and businesses.

All of this requires us to learn the lessons of the recent past and to have the foresight to apply them to the future. If we do not now seek alternatives to oil, in some future crisis we will face a situation in which there are no good alternatives at all.

Rarely are the choices so clear on an issue of such importance. We must take measures to secure our Nation's future. I urge my colleagues to join in supporting this legislation and pushing for its early enactment.

I thank all those who have helped bring this legislation to the point of introduction. I especially want to thank the distinguished Senator from Missouri [Mr. DANFORTH]. He was a tremendous help in passage of the Alternative Motor Fuels Act of 1988 and he has been indispensable as well on the present effort.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

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

S. 1178

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 "Alternative Fuels Incentive Act of 1991".

SEC. 2. DEDUCTIONS RELATING TO VEHICLES WHICH MAY USE CLEAN-BURNING FUELS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR PURCHASE OF QUALIFIED CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction for a taxable year an amount equal to the cost of—

"(1) any qualified clean-burning motor vehicle fuel property, or

"(2) any qualified clean-burning motor vehicle refueling property,

the original use of which by the taxpayer begins during such taxable year. In the case of property described in paragraph (2), such deduction shall be allowed only if such cost is paid or incurred in connection with a trade or business of the taxpayer.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY.—The cost which may be taken into account under subsection (a) with respect to each qualified clean-burning motor vehicle fuel property shall not exceed—

"(A) in the case of an automobile, or any truck having a gross vehicle weight rating of 10,000 pounds or less, $2,000,

"(B) in the case of any truck having a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) in the case of any other truck, or any bus, $50,000.

"(2) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-burning motor vehicle refueling property placed in service during the taxable year at the same or related fueling locations shall not exceed the excess (if any) of—

"(i) $75,000, over

"(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to priority placed in service at such locations for all preceding taxable years.

"(B) RELATED LOCATIONS.—For purposes of this paragraph, refueling locations shall be treated as related if such locations—

"(i) are less than 2 miles apart, and

"(ii) are owned or controlled by the taxpayer or any related person.

"(C) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(D) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to ensure that the limitation under this paragraph with respect to refueling locations may not be circumvented.

"(c) QUALIFIED CLEAN-BURNING MOTOR VEHICLE FUEL PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-burning motor vehicle fuel property' means property the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any part or component designed to modify a motor vehicle which is propelled by a fuel which is not a clean-burning fuel so that the vehicle may be propelled by a clean-burning fuel, but only to the extent such part or component is—

"(i) an engine (or modification thereof) which uses a clean-burning fuel, or

"(ii) attributable to the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which uses such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—

"(A) GENERAL RULE.—Property shall not be treated as qualified clean-burning motor vehicle fuel property unless—

"(i) the motor vehicle of which it is a part meets any applicable Federal or State emissons standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(ii) in the case of retrofit equipment described in paragraph (1)(A), such retrofit equipment meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(B) RULES WHERE NO STANDARDS ESTABLISHED.—

"(i) IN GENERAL.—If no standards described in subparagraph (A) have been established specifically with respect to any fuel or any retrofit equipment described in paragraph (1), the Administrator of the environmental Protection Agency shall establish interim standards for such fuel or retrofit equipment within 60 days of the date such standards are requested by any person.

"(ii) BASIS FOR STANDARDS.—In the case of fuel, any interim standards established under clause (i) shall be equivalent to the standards for gasoline or diesel vehicles or engines of the same class, except that if the ozone forming potential of the fuel is not more than that of gasoline, then, for purposes of any ozone requirement, the hydrocarbon emissions requirement shall be adjusted to qualify the fuel under the hydrocarbon standard. Any such standards applicable to retrofit equipment described in paragraph (1) shall provide for emissions-related certification, testing, and warranty requirements no less rigorous than those applicable to original equipment manufacturers' vehicles.

"(d) QUALIFIED CLEAN-BURNING MOTOR VEHICLE REFUELING PROPERTY.—For purposes of this section, the term 'qualified clean-burning motor vehicle refueling property' means property the original use of which begins with the taxpayer and which is for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied petroleum gas, and

"(C) any fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) COORDINATION WITH BASIS PROVISIONS AND DEPRECIATION ALLOWANCE.—

"(A) REDUCTION IN BASIS.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) COORDINATION WITH SECTION 1245.—For purposes of section 1245, the amount of any deduction allowed under subsection (a) shall be treated as a deduction allowed for depreciation under section 167 (or amortization in lieu thereof) to the extent, but for subparagraph (A), it would otherwise be treated as so allowed."

(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) of such Code is amended by adding at the end thereof the following new paragraph:

"(14) QUALIFYING CLEAN-BURNING MOTOR FUEL AND REFUELING PROPERTY.—The deduction allowed by section 179A."

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(2)(A)."

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for purchase of qualified clean-burning motor fuel and refueling property."

SEC. 3. EQUIVALENT PAYMENTS FOR PROPERTY OWNED BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall pay to each State or local governmental unit which files a claim under this section for any calendar year an amount determined under regulations prescribed by the Secretary equal to the present value of the incremental benefit that would be available under section 179A of the Internal Revenue Code of 1986 if—

(1) all qualified clean-burning motor vehicle fuel property (as defined in section 179A(c) of such Code) held by such unit were used in a trade or business,

(2) such unit were subject to tax under chapter 1 of such Code, and

(3) such year were such unit's taxable year.

(b) TREATMENT AS OVERPAYMENT.—For purposes of any law of the United States, any payment under subsection (a) shall be treated as a refund of an overpayment of tax imposed by chapter 1 of such Code.

(c) STATE OR LOCAL GOVERNMENTAL UNIT.—For purposes of this section, the term "State or local governmental unit" means any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to property placed in service after September 30, 1992, and before October 1, 2002.•

• Mr. DANFORTH. Mr. President, our domestic oil reserves are in permanent decline. As the events of earlier this year demonstrate, our need for imported oil remains so great that our economic well-being and national security are linked to the stability of the Persian Gulf. This has been called an energy crisis. But we do not face a shortage of energy; our ability to produce electricity domestically has virtually no long-term limits. Instead, we face a shortage of liquid fuels, primarily for transportation. Transportation uses consume more than 60 percent of the oil used in this country.

FUELS THAT CAN REDUCE OUR DEPENDENCE ON FOREIGN OIL

Mr. President, there are a variety of fuels whose use will reduce this dangerous dependence on foreign oil while maintaining the quality of the environment. One of the most promising of these fuels is methanol. It is currently available in excess supply. It can be produced domestically in nearly inexhaustible quantities from natural gas, coal, or biomass. It is a proven transportation fuel that can readily be used in automobiles and other vehicles. It can be delivered through our existing distribution network with only minor modifications.

Methanol can be used as a replacement fuel for gasoline, 100-percent methanol or a 85-percent methanol—15-percent gasoline blend. Methanol burns so efficiently that race cars will use it at this weekend's Indianapolis 500. Methanol burns more cleanly than gasoline, producing lower emissions of nitrogen oxide and hydrocarbons. Finally, methanol can be delivered at a price that is competitive with gasoline.

Mr. President, there are other alternative fuels that might be used for transportation, including ethanol, compressed natural gas, and propane. Ethanol is made from corn or agricultural wastes. Almost all of Brazil's automotive fleet operates either on pure ethanol or on ethanol-gasoline blends. Like methanol, ethanol burns more cleanly than gasoline and its increased uses would provide a major new market for American farmers, including the many corn growers in my home State of Missouri.

Compressed natural gas is currently used to power 30,000 vehicles in the United States and has been used even more widely overseas. Its use would also lower harmful emissions. Finally, propane, which is sometimes known as LP gas, is also a promising alternative fuel.

PRACTICAL, CLEAN-BURNING FUELS

These fuels are practical. Take methanol for example. Our Nation has almost unlimited methanol production potential. At the present time, methanol is made from natural gas and is primarily used as a chemical feedstock; it is an important source of formaldehyde for use in plywood and other building materials.

Natural gas is likely to meet the demand for methanol in the near term. Currently, the methanol equivalent of a gallon of gasoline can be produced from natural gas for $1.25. Indeed, an enormous amount of excess capacity for producing mathanol from natural gas exists in the world today.

Broad adoption of methanol by the immense American auto market would eventually exhaust excess natural gas supplies and require conversion of coal, at a slightly higher cost—the energy equivalent of less than $2 a gallon of gasoline. In my own State of Missouri, we have an abundance of coal. As much of it has a high sulfur content, it is undesirable for utility use. Since sulfur extraction is part of the coal to methanol conversion process, this coal could be used to meet our energy needs without adding excess sulfur to the atmosphere.

Methanol also has positive environmental consequencs. The California Energy Commission and the Bank of America have both conducted major fleet tests for methanol cars, with excellent results. Methanol-powered cars have operated significantly more cleanly than gasoline-powered cars. Emissions of nitrogen oxides and hydrocarbons are reduced substantially. Controlling emissions through uses of alternative fuels is particularly important for the 100 jurisdictions around the country that are in noncompliance with the Clean Air Act's air quality standards. For example, computer modeling predicts reductions of harmful pollutants by 15 to 25 percent in Los Angeles if methanol is substituted for gasoline and diesel fuels.

The other alternative fuels will have similar positive environmental consequences. Ethanol has been used as an additive to gasoline to reduce carbon monoxide in cities such as Denver. Natural gas use also reduces emissions.

In my judgment, we need to convert a portion of our automotive fleet to methanol and other alternative fuels. Such an effort would have positive consequences for our national security, our domestic economy, and for the environment. For these reasons, I have been working to promote alternative fuels since 1984. In 1988, Senator ROCKEFELLER and I were successful in obtaining legislation to provide automakers corporate average fuel economy [CAFE] incentives to produce alternative fuel cars. In the coming debate on CAFE legislation, I plan to seek an expansion of these incentives.

NEW INCENTIVES FOR ALTERNATIVE FUELS

I am pleased to join Senator ROCKEFELLER as the primary cosponsor of this legislation. The intent of this legislation is simple. We want to encourage the production of alternative fuels and the sale of vehicles that can run on these fuels.

This legislation provides tax incentives for the purchase of vehicles that use clean-burning fuels or for converting vehicles so that they can use such fuels. Both individuals and business owners would be able to expense up to $2,000 for a qualifying automobile or light truck, $5,000 for a medium size truck, and $50,000 for a heavy truck or bus. In addition, businesses would be able to expense up to $75,000 for expenditures made for the refueling stations

that must be available to service these vehicles.

CONCLUSION

Mr. President, alternative fuels can be produced from domestic sources. Their use can reduce our dependence on foreign suppliers of oil, which will have important economic and strategic consequences. It can reduce the pollution of our skies and stimulate our domestic economy. I believe we should move forward quickly to encourage the development and growth of transportation market for alternative fuels. I urge my colleagues to support this important legislation.●

● Mr. D'AMATO. Mr. President, I am pleased to be joining with Senators ROCKEFELLER and DANFORTH in introducing the Alternative Fuels Incentive Act of 1991.

The war in the Persian Gulf has served once again to highlight our dangerous reliance on imported oil. Since the 1970's our dependence on foreign oil has gotten worse. In 1973, we imported 37 percent of our oil. In 1990, we imported 50 percent of our oil. Now, more than ever, we must begin to focus on ways to reduce this dependency. One of our most viable options is alternative fuels.

Alternative fuels are beneficial for many reasons. While they can assist in reducing our appetite for imported oil, they are also good for the environment.

The transportation sector in the United States is the largest consumer of petroleum. The single largest contributor to the ozone and carbon dioxide problems in New York and the entire Northeast are emissions from mobile sources: cars, buses, and trucks. Recent analysis shows that in 1987, motor vehicles accounted for anywhere between 50 and 70 percent of the hydrocarbon, nitrogen oxide, and carbon monoxide emissions in the Northeast. The American Lung Association estimates that automobile emissions in New York State alone results in over $5 billion in health costs annually.

There is little doubt that alternative fuels will have a major role in helping our smog-choked cities reduce pollution. But while we all realize the potential presented by cleaner fuels, the problem becomes one of encouraging their use. Here we are faced with chicken-and-egg syndrome. How can we require auto manufacturers to build cars that run on alternative fuels when there is no refueling infrastructure to accommodate them. And how do we encourage the refueling infrastructure without the vehicles to use them.

The legislation we are introducing today is an attempt to help solve this problem. The Alternative Fuels Incentive Act provides tax incentives to purchase alternative fuel vehicles, for converting vehicles to run on clean fuels, and for the costs involved in building refueling stations. Under our legislation, both individuals and business owners would be allowed to expense up to $2,000 for purchasing or converting an automobile to run on an alternative fuel; $5,000 for medium trucks; and $50,000 for heavy trucks or buses. In addition, businesses would be able to expense up to $75,000 for costs incurred for installing refueling stations that would service these types of vehicles.

The Alternative Fuels Incentive Act incorporates the concept of a level playing field with respect to the variety of available alternative fuels. The legislation covers natural gas, methanol, ethanol, and liquefied petroleum gas. By the way, all of these fuels can be produced from domestic sources. Natural gas is found in great supply in the United States; methanol is made from natural gas or coal, and ethanol comes from corn, wheat, and barley.

Mr. President, last year's clean air legislation recognized the role that alternative fuels can play in cleaning up our polluted cities. Our proposal provides a way to meet the requirements of the Clean Air Act by offering an incentive for individuals and businesses to become part of the solution. This legislation deserves the attention of our colleagues, and I urge the Senate to move on its enactment.●

By Mr. JOHNSTON (for himself, Mr. BINGAMAN, and Mr. CRAIG):

S. 1179. A bill to stimulate the production of geologic map information in the United States through the cooperation of Federal, State, and academic participants; to the Committee on Energy and Natural Resources.

GEOLOGIC MAPPING ACT

● Mr. JOHNSTON. Mr. President, today I am introducing legislation, on behalf of myself and Senators BINGAMAN and CRAIG, to establish a national geologic mapping program. The purpose of the bill is to expedite the production of a geologic map information base to meet the goal of mapping the geology of the entire United States. Geologic maps are the principal sources of geologic information for nearly all basic and applied Earth-science research and decisionmaking.

Geologic maps provide data essential to assessing energy, mineral, and water resources; screening and characterizing sites for toxic and nuclear waste disposal; land-use planning; earthquake-hazard reduction; predicting volcanic hazards; mitigating effects of coastal and stream erosion; and basic Earth-science research. Conversely, the lack of proper geologic maps can lead to the poor design of such structures as dams and waste disposal facilities.

Despite the pivotal role that geologic maps play in the portrayal and dissemination of geologic information crucial to many of today's pressing issues, this Nation has never committed itself to a sustained, systematic effort to build a comprehensive national geologic data base. Instead, scientific effort has been directed away from the acquisition of long-term baseline information and toward the solution of single-issue problems.

Geologic maps are prepared from field surveys and other available information such as geophysical and remote-sensing data and drilling and mining records. Geologic mapping basically involves the gathering of information about surface occurrences of rocks, minerals and other materials at or near the surface of the Earth and plotting this data on maps. Users of geologic maps include Federal agencies, State and local governments, private industry, and the general public.

Most of the geologic mapping is carried out by the U.S. Geological Survey and by the State geologic surveys. Due to increasing costs and decreasing budgets, current combined geologic mapping is not adequate to meet the geologic mapping needs of the United States. According to the Association of American State Geologists, only two States and Puerto Rico have essentially complete geologic map coverage. To achieve important geologic mapping goals, a focused nationwide effort is required.

The bill I am introducing today would direct the Secretary of the Interior to establish a nation-wide geologic mapping program led by the U.S. Geologic Survey, with participation from State geological surveys and agencies and academia.

The mapping program is to be made up of a Federal mapping component to determine national geologic mapping needs and priorities, a State geologic mapping component to determine and fulfill State needs and priorities; a geologic mapping support component to provide interdisciplinary support in areas such as paleontologic, geochronologic and isotopic studies and geophysical and geochemical investigations, and an education component. Funding for the State component is to be matched on a one-to-one basis with non-Federal dollars.

I believe that this program will provide information necessary to assist in resolving many of today's energy and environment issues, and I urge your support of the legislation.

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

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

S. 1179

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Geologic Mapping Act of 1991".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) Geologic maps are the primary data base for virtually all applied and basic earth-science investigations, including: exploration for and development of mineral, en-

ergy, and water resources; land-use evaluation and planning for environmental protection; recognition and mitigation of geologic hazards; design and construction of infrastructure requirements such as utility lines, transportation corridors, and surface-water impoundments, and basic research into the composition, structure, and history of earth materials and formation processes.

(2) All fifty States require basic geologic-map information to plan and execute decisions that affect the social and economic welfare of the public and private sectors.

(3) Despite the pivotal role that geologic maps play in the portrayal and dissemination of geologic information, the Nation has never committed itself to a sustained, systematic effort to build a comprehensive national geologic-map data base; instead scientific effort has been directed away from the acquisition of long-term baseline information and toward the solution of short-term single-issue problems.

(4) A comprehensive, nation-wide program of geologic mapping based on Federal, State and private efforts is essential to systematically build the Nation's geologic-map data base at a pace that responds to increasing demand for data necessary for the long-term needs of the Nation.

SEC. 3. PURPOSE.

The purpose of this Act is to expedite the production of a geologic-map information base for the Nation which can be applied to resolution of issues related to land-use management, assessment, utilization and conservation of natural resources, groundwater management, and environmental protection.

SEC. 4. DEFINITIONS.

As used in this Act, unless otherwise provided:

(1) The term "association" refers to the group of participants, established by the Secretary of the Interior, conducting geologic mapping activities under the auspices of the nation-wide geologic mapping program established pursuant to this Act.

(2) The term "geologic framework" refers to the geologic architecture of an area or region, including its geologic composition, structure, and history.

(3) The term "geologic map" refers to a graphical information display that uses a combination of colors, lines, symbols, and information attributes to (A) depict the geologic setting of an area and (B) interpret the sequence of events and processes that have shaped that setting. The standard geologic map is a general-purpose map from which many different special-purpose maps can be derived.

(4) The term "geologic-map data base" refers to the national archive of geologic map-based information established pursuant to section 6 of this Act.

(5) The term "State" means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, and any other territory or posssession of the United States.

(6) The term "State Geological Survey" means a State or university organization, directed by the person designated as the State Geologist, recognized by the governor as the principal State unit responsible for geological mapping and investigations aimed at understanding the State's energy, mineral, environmental, and geological resources.

(7) The term "United States" means, when used in a geographical sense, all of the States as defined in section 4(8).

SEC. 5. GEOLOGIC MAPPING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of the Interior (hereafter referred to as the "Secretary") shall establish and maintain, in accordance with the provisions and policy of this Act, a comprehensive nation-wide geologic mapping program that shall—

(1) be designed and administered to achieve the objectives set forth in subsection (c) of this section;

(2) involve, where appropriate, each of the agencies listed in subsection (d) of this section;

(3) include each of the elements described in subsection (e) of this section, the implementation plan described in subsection (f) of this section, and assistance to the States for the State Geologic Mapping Program pursuant to subsection (e)(3) of this section.

(b) DUTIES.—The Secretary shall—

(1) within 30 days after the date of enactment of this Act, designate the U.S. Geological Survey as the lead Federal agency responsible for overall management of the nationwide geologic mapping program and direct the U.S. Geological Survey to develop the program implementation plan pursuant to subsection (f) of this section.

(2) within 90 days after the date of enactment of this Act, direct the U.S. Geological Survey, with the advice and consultation of the State Geological Surveys, to appoint an advisory group pursuant to subsection (d)(3) of this section;

(3) within 210 days after such date of enactment, submit to the Committee on Energy and Natural Resources of the United States Senate and to the House of Representatives the implementation plan described in subsection (f) of this section; and

(4) within 300 days after the date of enactment of this Act, submit a report to the Committee on Energy and Natural Resources of the United States Senate and to the House of Representatives identifying—

(A) how the U.S. Geological Survey will coordinate the development and implementation of the nation-wide geologic mapping program;

(B) how the association of geologic mapping partners will coordinate to jointly develop the national geologic-map data base;

(C) how the U.S. Geological Survey, in cooperation with all partners of the geologic mapping association, will establish goals, mapping priorities, and target dates for implementation of the geologic mapping program; and

(D) how long-term staffing plans for the various geologic mapping program components will lead to successful implementation of such program.

(c) PROGRAM OBJECTIVES.—The objectives of the geologic mapping program shall include—

(1) determination of the nation's geologic framework through systematic development of geologic maps, to be contributed to a national geologic map data base, at scales appropriate to the geologic setting and the perceived application, for the purpose of resolving issues related to land-use management, assessment, utilization and conservation of natural resources, groundwater management, and environmental protection;

(2) establishment of a geologic mapping association whose cooperating partners coordinate to identify national priorities and to develop the national geologic-map data base;

(3) development of complementary geophysical, geochemical, geochronologic, and paleontologic data bases that provide value-added descriptive and interpretive information to the geologic-map data base;

(4) application of cost-effective mapping techniques that assemble, produce, translate, and disseminate geologic-map information and that render such information of greater application and benefit to the public;

(5) development of public awareness for the role and application of geologic-map information to the resolution of national issues of land use management.

(d) PARTICIPATION.—(1) The nationwide geologic mapping program shall be directed by the U.S. Geological Survey and carried out by an association of geologic mapping partners. The association collectively shall identify mutual priorities, coordinate so as to maximize productivity and avoid redundancy, and maintain the long-term growth of the national geologic-map data base established pursuant to section 6 of this Act.

(2) The mapping association shall be established by the Secretary and shall consist of the U.S. Geological Survey, the individual State Geological Surveys, and scientists from the academic community. In developing the mapping association, the Secretary shall identify mechanisms to incorporate the various participants into the geologic mapping program while recognizing and protecting the participants' unique needs and missions.

(3) The Secretary shall appoint a 16-member geologic mapping advisory group to evaluate annually the scientific progress of the geologic mapping program. The advisory group shall consist of representatives from each of the mapping partners, including the U.S. Geological Survey, state Geological Surveys, and academia, a representative each from the Environmental Protection Agency, the Department of Energy, the Department of Agriculture, and other agencies as appropriate, as well as representatives from the private sector and a representative of the President's Office of Science and Technology. As its first task, the advisory group shall review and critique the implementation plan prepared by the U.S. Geological Survey pursuant to subsection (f) of this section. The advisory group shall provide an annual report to the Secretary, evaluating the progress of the Federal and State mapping activities and evaluating the progress made toward fulfilling the purposes of this Act. The Secretary shall incorporate the advisory group report in the report required pursuant to section 8 of this Act.

(e) PROGRAM ELEMENTS.—The geologic mapping program elements shall include—

(1) A Federal Geologic Mapping Component, the objective of such component to be to determine the geologic framework of areas determined to be vital to the economic, social, or scientific welfare of the Nation. Mapping priorities shall be based on:

(A) national requirements for geologic-map information in areas of multiple-issue need or areas of compelling single-issue need;

(B) national requirements for geologic-map information in areas where mapping is required to solve critical earth-science problems.

(2) A Geologic Mapping Support Component, the objective of such component to be to provide interdisciplinary support for the Federal Geologic Mapping Component. Representative categories of interdisciplinary support shall include:

(A) studies that lead to the implementation of cost-effective digital methods for the acquisition, compilation, analysis, cartographic production, and dissemination of geologic-map information;

(B) paleontologic investigations that provide information critical to understanding

the age and depositional environment of fossil-bearing geologic-map units; the results of such investigations shall be contributed to a National Paleontologic Data Base;

(C) geochronologic and isotopic investigations that (1) provide radiometric age dates for geologic-map units and (2) fingerprint the geothermometry, geobarometry, and alternation history of geologic-map units; the results of such investigations shall be contributed to a National Geochronologic Data Base;

(D) geophysical investigations that assist in delineating and mapping the physical characteristics and three-dimensional distribution of geologic materials and geologic structures; the results of such investigations shall be contributed to a National Geophysical-Map Data Base;

(E) geochemical investigations and analytical operations that characterize the major- and minor-element composition of geologic-map units, and that lead to the recognition of stable and anomalous geochemical signatures for geologic terrains; the results of such investigations shall be contributed to a National Geochemical-Map Data Base.

(3) A State Geologic Mapping Component, the objective of such component to be to determine the geologic framework of areas that the State Geological Surveys determine to be vital to the economic, social, or scientific welfare of individual States. Mapping priorities shall be determined by multi-representational State panels, and these priorities shall provide mapping targets for State-funded geologic mapping activities. Federal funding for the State component shall be matched on a one-to-one basis with non-federal funds.

(4) A Geologic Mapping Education Component, the objective of such component to be (A) to develop the academic programs that teach earth-science students the fundamental principles of geologic mapping and field analysis, and (B) to provide for graduate education, including support for field studies involving geologic mapping. Investigations conducted under the Mapping Education Component shall be integrated with the other mapping components of the geologic program, and shall respond to priorities identified for those components.

(f) IMPLEMENTATION PLAN.—The Secretary shall direct the U.S. Geological Survey, with the advice and review of the advisory group, to prepare an implementation plan that shall identify the overall management structure and operation of the nationwide geologic mapping program. The plan shall be completed within 90 days of enactment of this Act. The plan shall provide for—

(1) the role of the cooperating partners within the geologic mapping association, with particular emphasis on development of a unified program that serves the public interest while simultaneously recognizing the unique needs and missions of each partner;

(2) the role of the United States Geological Survey in its capacity as overall management lead, including the responsibility for developing a balanced geologic mapping program that meets Federal needs while simultaneously fostering State needs;

(3) the responsibilities accruing to the State Geological Surveys, with particular emphasis on mechanisms that incorporate their needs, missions, capabilities, and requirements into the nationwide geologic mapping program;

(4) the specific role, responsibilities, and membership of the advisory group;

(5) mechanisms for identifying short-term and long-term priorities for each component of the geologic mapping program, including—

(A) for the Federal Geologic Mapping Component, a priority-setting mechanism that shall respond both to (1) Federal mission requirements for geologic-map information and to (2) critical scientific problems that require geologic-map control for their resolution;

(B) for the Geologic Mapping Support Component, a strong interdisciplinary research program plan in isotopic and paleontologic geochronology, geophysical mapping, and process studies to provide data to and interpret results from geologic mapping;

(C) for the State Geologic Mapping Component, a priority-setting mechanism that shall respond to (1) specific intra-State needs for geologic-map information and (2) inter-State needs shared by adjacent entities that have common requirements;

(D) for the Geologic Mapping Education Component, a priority-setting mechanism that shall respond to requirements for geologic-map information that are driven by Federal and State mission requirements;

(6) a U.S. Geological Survey staffing plan that ensures the utilization and recruitment, as appropriate, of scientists having the expertise to produce and interpret general-purpose geologic maps in a variety of geologic terrains;

(7) a mechanism for adopting scientific and technical map standards for preparing and publishing general-purpose and special-purpose geologic map to (1) assure uniformity of cartographic and scientific conventions and (2) provide a basis for judgement as to the comparability and quality of map products; and

(8) a mechanism for monitoring the inventory of published and current mapping investigations nationwide in order to facilitate planning and information exchange and to avoid redundancy.

SEC. 6. NATIONAL GEOLOGIC-MAP DATA BASE.

(a) ESTABLISHMENT.—The U.S. Geological Survey shall establish a national geologic-map data base. Such data base shall be a national archive that includes all maps developed pursuant to this Act, the data bases developed pursuant to section 5(e)(2)(B), (C), (D) and (E) of this Act, and other maps and data as the U.S. Geological Survey deems appropriate.

(b) STANDARDIZATION.—Geologic maps contributed to the national archives should have standardized format, symbols, and technical attributes so that archival information can be assimilated, manipulated, accessed, exchanged, and compared efficiently and accurately.

SEC. 7. ANNUAL REPORT.

The Secretary shall, within 90 days after the end of each fiscal year, submit an annual report to the Committee on Energy and Natural Resources of the Senate and to the House of Representatives describing the status of the nationwide geologic mapping program, and describing and evaluating progress achieved during the preceding fiscal year in developing the national geologic-map data base. Each report shall include any recommendations for legislative or other action the Secretary deems necessary and appropriate to fulfill the purposes of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1992.—There is authorized to be appropriated for the purposes of this Act for fiscal year 1992, the following—

(1) $12 million for the Federal Geologic Mapping Component;

(2) $9.5 million for the Geologic Mapping Support Component;

(3) $15 million for the State Geologic Mapping Component, subject to the matching requirement pursuant to Sec. 5(e)(3) of this Act;

(4) $0.5 million for the Geologic Mapping Education Component.

(b) FISCAL YEAR 1993.—There is authorized to be appropriated for the purposes of this Act for fiscal year 1993, the following—

(1) $14 million for the Federal Geologic Mapping Component;

(2) $10 million for the Geologic Mapping Support Component;

(3) $18 million for the State Geologic Mapping Component, subject to the matching requirement pursuant to Sec. 5(e)(3) of this Act;

(4) $0.75 million for the Geologic Mapping Education Component.

(c) FISCAL YEAR 1994.—There is authorized to be appropriated for the purposes of this Act for fiscal year 1994, the following—

(1) $16 million for the Federal Geologic Mapping Component;

(2) $10.5 million for the Geologic Mapping Support Component;

(3) $21 million for the State Geologic Mapping Component, subject to the matching requirement pursuant to Sec. 5(e)(3) of this Act;

(4) $1.0 million for the Geologic Mapping Education Component.

(d) FISCAL YEAR 1995.—There is authorized to be appropriated for the purposes of this Act for fiscal year 1995, the following—

(1) $18 million for the Federal Geologic Mapping Component;

(2) $11 million for the Geologic Mapping Support Component;

(3) $25 million for the State Geologic Mapping Component, subject to the matching requirement pursuant to Sec. 5(e)(3) of this Act;

(4) $1.5 million for the Geologic Mapping Education Component.●

By Mr. FOWLER (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr.

ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, Mr. WIRTH, and Mr. WOFFORD):

S.J. Res. 150. A joint resolution to designate June 15, 1991, as "Magna Carta Day"; to the Committee on the Judiciary.

MAGNA CARTA DAY

• Mr. FOWLER. Mr. President, I recently visited my home State of Georgia and had the opportunity to speak with my good friend and mentor, Dean Rusk.

He spoke of one event which struck me as unique. In 1965, while serving our Nation as Secretary of State under President Johnson, Dean Rusk had the privilege of traveling to Runnymede, the Field of Magna Carta, to receive an acre of ground from a woman who blessed us with her presence just last week, Her Majesty the Queen. The acre was a gift to the American people in memory of President John F. Kennedy. Many Americans do not realize that each one of us owns a little piece of this site. It is for this reason that I am introducing a resolution designating June 15, 1991 as "Magna Carta Day."

June 15, 1991 marks the 776th anniversary of the signing of Magna Carta by King John in 1215. Magna Carta was outstanding because of its prolonged influence on judicial and constitutional thought in England and among English-speaking nations as a declaration of fundamental law, expressing principles of human freedom and liberty. Magna Carta subsequently provided historical precedent for the powerful stream of thought emphasizing the natural rights of the individual expressed in our own Constitution of the United States of America.

Forever enshrined on the tablet presented back in 1965 to Secretary Rusk by the Queen are words spoken by President John F. Kennedy which proclaim the long abiding commitment of the American people to defend human liberties:

> Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty.

I invite my distinguished colleagues to remember Runnymede by joining as cosponsors in this effort.•

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor 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. 129

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 129, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer.

S. 140

At the request of Mr. WIRTH, the name of the Senator from California [Mr. SEYMOUR] 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. 153

At the request of Mr. COATS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 153, a bill to authorize States to regulate certain solid waste.

S. 392

At the request of Mr. LEVIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 392, a bill to amend chapter 23 of title 5, United States Code, to extend certain protection of the Whistleblower Protection Act of 1989 to personnel of Government corporations.

S. 463

At the request of Mr. HATFIELD, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 463, a bill to establish within the Department of Education an Office of Community Colleges.

S. 501

At the request of Mr. KOHL, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 501, a bill to establish a data collection, information dissemination, and student counseling and assistance network, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 603

At the request of Mr. GLENN, the names of the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 603, a bill to require the Administrator of General Services to establish procurement criteria for plastic products containing recycled material; to establish an interagency task force on plastic container coding to coordinate the expertise, responsibilities, and initiatives of Federal agencies to facilitate use of degradable plastics, without adversely affecting recycling of nondegradable plastic products, to require coding of plastic containers to facilitate separation of degradable plastic containers from nondegradable plastic containers and sorting of nondegradable plastic containers by resin type to promote recycling containers, and for other purposes.

S. 694

At the request of Mr. HARKIN, the names of the Senator from Nebraska [Mr. KERREY], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 694, a bill to amend title VII of the Public Health Service Act to increase the support provided to programs for the training of medical rehabilitation health personnel, to establish an Advisory Council on Allied Health, and for other purposes.

S. 709

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 709, a bill to amend the Internal Revenue Code to allow a deduction for qualified adoption expenses, and for other purposes.

S. 720

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 720, a bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes.

S. 756

At the request of Mr. DECONCINI, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 756, a bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

S. 765

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Ma-

hatma Gandhi in the District of Columbia.

S. 821

At the request of Mr. LIEBERMAN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 821, a bill to establish the Silvio Conte National Fish and Wildlife Refuge.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one dollar coins.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 844, supra.

S. 881

At the request of Mr. INOUYE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 881, a bill to amend title VII of the Public Health Service Act to provide educational support for individuals pursuing graduate degrees in social work, and for other purposes.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Wisconsin [Mr. KASTEN], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 935

At the request of Mr. KOHL, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 935, a bill to amend title 11, United States Code, to provide that certain liens under a marital property settlement may not be exempted.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 978

At the request of Mr. SYMMS, the names of the Senator from Utah [Mr. GARN] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 978, a bill to amend the Internal Revenue Code of 1986 to deposit all highway-related taxes in the Highway Trust Fund.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1107

At the request of Mr. SHELBY, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1107, a bill to amend title 38, United States Code, to provide for the payment, on an interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if their claims for those benefits are not decided by the Department of Veterans Affairs within specified time limits.

SENATE JOINT RESOLUTION 6

At the request of Mr. JOHNSTON, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Texas [Mr. BENTSEN], and the Senator from Illinois [Mr. DIXON] 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 36

At the request of Mr. PRESSLER, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Georgia [Mr. NUNN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 78

At the request of Mr. COHEN, his name was added as a cosponsor of Senate Joint Resolution 78, a joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nevada [Mr. REID], the Senator from Montana [Mr. BAUCUS], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 130

At the request of Mr. LAUTENBERG, the names of the Senator from Alabama [Mr. SHELBY], the Senator from North Carolina [Mr. SANFORD], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 130, a joint resolution to designate the second week in June as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 136

At the request of Mr. RIEGLE, the names of the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Illinois [Mr. DIXON], the Senator from Indiana [Mr. COATS], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 136, a joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes.

SENATE JOINT RESOLUTION 144

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 144, a joint resolution to designate May 27, 1991, as "National Hero Remembrance Day."

SENATE JOINT RESOLUTION 146

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. DASCHLE], the Senator from Illinois [Mr. DIXON], the Senator from Washington [Mr. GORTON], the Senator from Oregon [Mr. HATFIELD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Carolina [Mr. SANFORD], the Senator from Maryland [Mr. SARBANES], the Senator from South Carolina [Mr. THURMOND], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating July 2, 1991, as "National Literacy Day."

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CRANSTON, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principals.

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. GLENN, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Oklahoma [Mr. BOREN], the Senator from Texas [Mr. BENTSEN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. COATS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Kentucky [Mr. FORD], the Senator from Utah [Mr. GARN], the Senator from North Carolina [Mr. HELMS], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the re-

building of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait.

SENATE CONCURRENT RESOLUTION 40

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 40, a concurrent resolution expressing the sense of the Congress that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the distribution of neo-Nazi computer games and prosecute anyone found in possession of these materials to the full extent of the law.

SENATE CONCURRENT RESOLUTION 41

At the request of the Mr. PELL, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Concurrent Resolution 41, a concurrent resolution to express the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Uynnan, Gansu, and Qinghai that have historically been a part of Tibet, is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile as recognized by the Tibetan people.

AMENDMENTS SUBMITTED

SENATE ELECTION ETHICS ACT

EXON (AND OTHERS) AMENDMENT NO. 263

Mr. EXON (for himself, Mr. LEVIN, and Mr. KERREY) proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes, as follows:

On page 21, line 10, before the end period insert: ", except that no vouchers shall be issued to any eligible candidate unless Congress provides that the amounts in the Fund to pay for such vouchers are derived solely from—

"(A) voluntary contributions or tax check-off contributions that are not from any tax liability owed by the person to the Treasury; or

"(B) sources which do not affect individual taxpayers, corporate taxpayers, partnerships, and estates and trusts, other than with respect to their campaign activities or other activities with respect to influencing Federal legislation."

NICKLES AMENDMENT NO. 264

Mr. NICKLES proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 44, line 4, strike "50 percent" and insert in lieu thereof "100 percent".

HATCH AMENDMENT NO. 265

Mr. HATCH proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 88, between lines 12 and 13, insert the following:

SEC. 232. LABOR ORGANIZATIONS.

Title III of FECA, as amended by section 106, is amended by adding after section 304A the following new section:

"DISCLOSURE OF INFORMATION CONCERNING EXPENDITURE OF UNION DUES, FEES, AND ASSESSMENTS FOR POLITICAL ACTIVITIES

"SEC. 304B. (a) IN GENERAL.—Each labor organization shall, not later than January 30 of the year following the end of each Federal election cycle, provide to the Commission and to each employee within the labor organization's bargaining unit or units a written report disclosing the portion of the labor organization's income from dues, fees, and assessments that was expended directly or indirectly with respect to activities that, in whole or in part, were in connection with an election for Federal office during that election cycle.

"(b) CONTENTS.—(1) The report under subsection (a) shall disclose information on the dues, fees, and assessments spent at each level of the labor organization and by each international, national, State, and local component or council and each affiliate of the labor organization, showing the amount of dues, fees, and assessments spent—

"(A) on direct activities, such as cash contributions, to candidates and committees of political parties;

"(B) on internal and external communications relating to specific candidates, political causes, and political parties;

"(C) internally by the labor organization to maintain, operate, and solicit contributions for a separate segregated fund; and

"(D) on voter registration drives, state and precinct organizing on behalf of candidates, and political parties and get-out-the-vote campaigns.

"(2) For each of the categories of information described in paragraph (1) (A), (B), (C), and (D), the report shall identify the candidate for public office on whose behalf expenditures were made or the political cause or purpose for which expenditures were made.

"(3) The report under subsection (a) shall also list all contributions on expenditures made by separated segregated funds established and maintained by each labor organization.

"(c) DEFINITION.—For the purposes of this section, the term 'in connection with an election for Federal office' has the meaning that it has under section 325(b)."

BOREN AMENDMENT NO. 266

Mr. BOREN proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 10, line 21 strike "Commission" and insert "Secretary of the Senate".

On page 50, line 8 strike "Commission" and insert "Secretary of the Senate".

On page 50, line 14 strike "Commission" and insert "Secretary of the Senate".

On page 51, line 1 strike "Commission" and insert "Secretary of the Senate".

On page 54, line 8 after "title V" insert "(whenever a 24 hour response is required of the Commission)".

At the end of title IV, insert:

SEC. 405. TECHNICAL CORRECTIONS TO ETHICS IN GOVERNMENT ACT OF 1978

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 103(i) by striking "7-day" and inserting "30-day"; and

(2) in section 105(b)(1) by—

(A) striking "Each agency" and inserting "Except as provided in the second sentence of this subsection, each agency"; and

(B) inserting after the first sentence the following: "With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year, or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g).".

LOTT AMENDMENT NO. 267

Mr. MCCONNELL (for Mr. LOTT) proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 101, between lines 4 and 5, insert the following:

SEC. 405. SENSE OF THE SENATE REGARDING APPLICATION OF PROVISIONS RELATING TO PACS EQUALLY TO CANDIDATES FOR THE SENATE AND CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

It is the sense of the Senate that all provisions of this Act and amendments made by this Act that relate to multicandidate political committees and separate segregated funds shall apply in regard to candidates for the House of Representatives in the same manner and to the same extent as they apply to candidates for the Senate.

DOLE AMENDMENTS NOS. 268 THROUGH 270

Mr. DOLE proposed three amendments to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

AMENDMENT NO. 268

At the end of the amendment add the following:

TITLE V—TELEPHONE VOTING BY PERSONS WITH DISABILITIES

SEC. 501. STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.

(a) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(b) CONSULTATION.—The Federal Election Commission shall conduct the study described in subsection (a) in consultation with State and local election officials, representatives of the telecomunications industry, representatives of persons with disabilities, and other concerned members of the public.

(c) CRITERIA.—The system or systems developed pursuant to subsection (a) shall—

(1) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(2) propose procedures to identify persons who are so disabled; and

(3) describe procedures and equipment that may be used to ensure that—

(A) only those persons who are entitled to use the system are permitted to use it;

(B) the votes of persons who use the system are recorded accurately and remain secret;

(C) the system minimizes the possibility of vote fraud; and

(D) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(d) REQUESTS FOR PROPOSALS.—In developing a system described in subsection (a), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(e) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(f) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

AMENDMENT NO. 269

At the appropriate place:

TITLE V—ETHICS IN GOVERNMENT

SEC. 501. PUBLIC DISCLOSURE OF CONGRESSIONAL INTERVENTION IN ENFORCEMENT ACTIONS.

(a) UNWRITTEN CONTACTS.—

(1) IN GENERAL.—Each department and agency of the executive branch of the United States shall compile a monthly list of all unwritten communications from any Member, employee, or agent of the Congress received by the department or agency with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts.

(2) DETAILS OF LIST.—The list required by this subsection shall include—

(A) the source of the contact;

(B) the stated purpose of the contact;

(C) any information or actions requested; and

(D) any other pertinent information.

(3) FILING LISTS.—Not later than the 15th of each month, each department or agency of the United States Government shall submit the list required by this subsection for the preceding month to the committees of the House of Representatives and the Senate with jurisdiction over the department or agency. Each committee receiving lists pursuant to this subsection shall submit the lists to the Congressional Record on January 1st and July 1st of each year for publication on the next day the record is printed.

(b) WRITTEN CONTACTS.—Each department and agency of the executive branch of the United States shall—

(1) create a public file containing all written communications from any Member, employee, or agent of the Congress received by the department or agency and any written responses by the department or agency to the written communications with respect to—

(A) potential or ongoing enforcement matters before the department or agency; and

(B) any proceedings in the department or agency relating to the award of contracts; or

(2) include the information described in paragraph (1) in an appropriate existing public file.

AMENDMENT NO. 270

At the end of title II, subtitle C, add the following:

SEC. 224. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 223, is amended by adding at the end thereof the following new subsection:

"(m)(1) Notwithstanding any other provision of this Act, the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) that in the aggregate do not exceed the lesser of—

"(A)(i) $150,000, in the case of a candidate for the House of Representatives; or

"(ii) $250,000, in the case of a candidate for the Senate; or

"(B) the aggregate qualified matching contributions received by the candidate and the candidate's authorized committees.

"(2) A contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection—

"(A) the term "qualified matching contributions" means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time the contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held; and

"(B) the term "eligible candidate" means a candidate for election, or nomination for election, to Federal office (other than President or Vice President) who does not hold Federal office.".

DANFORTH (AND INOUYE) AMENDMENT NO. 271

Mr. DANFORTH (for himself and Mr. INOUYE) proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

Strike all on page 44, line 21, through page 45, line 5, and insert in lieu thereof the following:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) or (2) are in effect, of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to subsection (b)(1)(A) or (2).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

On page 45, after line 19, insert the following:

(d) APPLICABILITY OF LOWEST UNIT CHARGE REQUIREMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as so redesignated by subsection (c) of this section, is amended—

(1) by striking "forty-five" and inserting in lieu thereof "thirty";

(2) by striking "sixty" and inserting in lieu thereof "forty-five"; and

(3) by striking "class and".

On page 97, line 3, strike "broadcast" and insert in lieu thereof "television, radio and cable communication".

On page 97, line 7, line 14, and line 17, strike "broadcast" and insert in lieu thereof "communication".

On page 97, line 13, strike "broadcast" and insert in lieu thereof "message".

On page 97, line 11, after "I" insert the following ", (name of the candidate),".

MCCONNELL AMENDMENT NO. 272

Mr. MCCONNELL proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

At the end of the amendment, insert the following:

SEC. . RESTRICTIONS ON SOFT MONEY ACTIVITIES ON TAXEXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after the date of enactment of September 1, 1992, whichever is later.

SEC. . DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by the preceding section, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

"(1) IN GENERAL.—An organization shall not be treated as exempt from tax under subsection (a) if—

"(A) such organization devotes any of its operating budget to—

"(i) voter registration or get-out-the-vote campaigns; or

"(ii) participation or intervention in any political campaign or behalf of or in opposition to any candidate for public office; and

"(B) a candidate, or an authorized committee of a candidate, has—

"(i) solicited contributions to, or on behalf of, such organization; and

"(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

"(2) CANDIDATE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

"(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

"(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed, and

"(ii) such individual is not otherwise a candidate described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending the date of enactment of this Act, but only with respect to solicitations or

suggestions by candidates made after the date of the enactment of this Act.

McCONNELL AMENDMENTS NOS. 273 AND 274

Mr. McCONNELL proposed two amendments to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

AMENDMENT NO. 273

At the end of the amendment, insert the following:

SEC. . REPEAL OF FUNDING FOR PARTY CONVENTIONS.

(a) IN GENERAL.—Section 9008 of the Internal Revenue Code of 1986 (relating to payments for presidential nominating conventions) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 9006(c) of such Code is amended by striking ", 9008(b)(3),".

(2) Section 9009(a) of such Code is amended by inserting "and" at the end of paragraph (2), by striking the semicolon at the end of paragraph (3) and inserting a period and by striking paragraphs (4), (5), and (6).

(3) Section 9012(a)(1) of such Code is amended by striking the last sentence.

(4) Section 9012(c) of such Code is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(5) Section 9037(a) of such Code is amended by striking "and for payments under section 9008(b)(3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to conventions held after the date of the enactment of this Act.

AMENDMENT NO. 274

At the appropriate place in title I, insert the following new section:

SEC. 1. CAMPAIGN SUBSIDIES PROHIBITED UNTIL BUDGET IS BALANCED.

(a) FINDINGS.—The Congress finds that—

(1) according to section 2 of the Conference Report on the Concurrent Resolution on the Budget for Fiscal Year 1992 which was filed on May 21, 1991—

(A) the amounts of the deficits for the Government of the United States are—

(i) for fiscal year 1992, $351,200,000,000,

(ii) for fiscal year 1993, $302,300,000,000,

(iii) for fiscal year 1994, $268,100,000,000,

(iv) for fiscal year 1995, $183,400,000,000, and

(v) for fiscal year 1996, $197,100,000,000; and

(B) the appropriate levels of the public debt for the Government of the United States are—

(i) for fiscal year 1992, $3,982,200,000,000,

(ii) for fiscal year 1993, $4,353,200,000,000,

(iii) for fiscal year 1994, $4,696,600,000,000,

(iv) for fiscal year 1995, $4,955,800,000,000, and

(v) for fiscal year 1996, $5,226,600,000,000.

(2) payment of benefits provided under this title to candidates for election to the office of United States Senator will require millions of dollars in outlays from the Treasury of the United States Government.

(b) PROHIBITION.—No person shall accept, and no officer of the United States shall authorize or disburse, any—

(1) reduced rate for mail under section 3629 of title 39, United States Code (as added by section 104 of this Act);

(2) payment from the Senate Election Campaign Fund (as established by section 101 of this Act); or

(3) voter communication voucher (as authorized by section 101 of this Act)

for any election in any year in which the outlays of the United States Government are projected to exceed revenues to the United States Government.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "outlays" means "total budget outlays"; and

(2) the term "revenues" means "Federal revenues"

as those terms are defined and used for any year in the most recent concurrent resolution on the budget (as required by section 301 of the Congressional Budget Act of 1974, as amended), as such resolution was adopted by the Congress.

GRAMM AMENDMENT NO. 275

Mr. GRAMM proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 88, between lines 12 and 13, insert the following:

SEC. 232. LABOR ORGANIZATIONS, CORPORATIONS, AND TAX-EXEMPT ORGANIZATIONS.

Title III of FECA, as amended by section 106, is amended by adding after section 304A the following new section:

"DISCLOSURE OF INFORMATION CONCERNING EXPENDITURE OF UNION DUES, CORPORATE FUNDS, AND FUNDS OF TAX-EXEMPT ENTITIES FOR POLITICAL ACTIVITIES

"SEC. 304B. (a) IN GENERAL.—An organization that intends to make an expenditure of $5,000 or more on activities described in subsection (b)(1) shall, not later than 10 days prior to making the expenditure, file with the Commission a written report disclosing the intended expenditure.

"(b) CONTENTS.—A report under subsection (a) shall—

"(1) disclose the amount intended to be spent—

"(A) on direct activities, such as cash contributions, to candidates and committees of political parties;

"(B) on internal and external communications relating to specific candidates, political causes, and political parties;

"(C) internally by the organization to maintain, operate, and solicit contributions for a separate segregated fund; and

"(D) on voter registration drives, State and precinct organizing on behalf of candidates and political parties, and get-out-the-vote campaigns;

"(2) for each of the categories of information described in paragraph (1) (A), (B), (C), and (D), identify the candidate for public office on whose behalf the expenditure will be made or the political cause or purpose for which the expenditure will be made;

"(3) list all contributions made to the organization for purposes of activities described in subsection (b)(1) since the date of the most recent report of the organization under this section, stating the amount contributed and the contributor's name, address, and occupation; and

"(4) in the case of a labor organization, list all contributions and expenditures made by separated segregated funds established and maintained by the labor organization since the date of the most recent report of the organization under this section.

"(c) DEFINITIONS.—For the purposes of this section, the term 'organization' means a labor organization, a corporation, or an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986."

LUKE EASTER POST OFFICE

GLENN AMENDMENT NO. 276

Mr. BAUCUS (for Mr. GLENN) proposed an amendment to the bill (H.R. 971) to designate the facility of the U.S. Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office," as follows:

At the end of the bill, insert the following:

SEC. . LEAVE BANK FOR JUDICIAL BRANCH EMPLOYEES OF THE FEDERAL GOVERNMENT IN RESERVES WHO WERE ACTIVATED DURING PERSIAN GULF WAR

(a) JUDICIAL BRANCH EMPLOYEES.—The Director of the Administrative Office of the United States Courts shall establish a leave bank program under which—

(1) an employee of the Judicial Branch may (during a period specified by the Director of the Administrative Office) donate any unused annual leave from the employee's annual leave account to a leave bank established by the Director;

(2) the total amount of annual leave that has been donated under paragraph (1) shall be divided equally among the annual leave accounts of all employees who have been members of the Armed Forces serving on active duty during the Persian Gulf conflict pursuant to an order issued under section 672(a), 672(g), 673, 673b, 674, 675, and 688 of title 10, United States Code, and who return to employment with the Judicial Branch; and

(3) such Persian Gulf conflict participants who have returned to Judicial Branch employment may use such annual leave, after it is credited to their leave accounts, in the same manner as any other leave to their credit.

(b) DEFINITIONS.—For purposes of subsection (a), the term "employee" means an employee as defined in section 6301(2) of title 5, United States Code.

(c) DEADLINE FOR REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Director of the Administrative Office shall prescribe regulations necessary for the administration of subsection (a).

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing on the Circle of Poison: Impact on the Third World. The hearing will be on Wednesday, June 5, 1991, at 9:30 a.m. in SR-332. For further information please contact Carolyn Brickey or Jon Haber of the committee staff at 224-2035.

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 Full Committee on Energy and Natural Resources.

The hearing will take place Thursday, June 6, 1991, 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 from John Schrote,

nominee for Assistant Secretary of the Interior for Program, Budget, and Administration, and Mike Hayden, nominee for Assistant Secretary of the Interior for Fish and Wildlife and Parks.

For further information, please contact Rebecca Murphy at (202) 224-7562.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, June 11, 1991, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 433, the Mining Law Reform Act of 1991, legislation to provide for the disposition of certain minerals on Federal lands and on S. 785, the Minerals Policy Review Commission Act of 1991, legislation to establish a commission to study existing laws and procedures relating to mining.

Those wishing to submit written statements for the hearing record should deliver them to the Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, room 364, Washington, DC 20510. For further information, please contact Lisa Vehmas of the subcommittee staff at (202) 224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, May 23, at 9:30 a.m., for markup on: S. 533, S. 260, and other pending legislation.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 23, at 2:30 p.m., to hold a hearing on "Eastern Europe: Environmental and Energy Issues."

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, May 23, at 10:30 a.m., for a hearing on the legislation S. 20, performance standards.

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

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Thursday, May 23, 1991, at 2 p.m., to receive testimony on command, control, and communications issues in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992-93.

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

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, May 23, 1991, at 10 a.m., for a hearing on the Reauthorization of the Higher Education Act.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 23, at 2 p.m., to hold a hearing on the "Middle East: The Search for Peace."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 23, at 2 p.m., to hold a hearing on the nomination of Bruce S. Gelb, to be Ambassador to Belgium.

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

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Consumer and Regulatory Affairs of the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate Thursday, May 23, 1991, at 10 and continuing at 2 p.m. to conduct a hearing on the Bank of Credit and Commerce International as a case study revealing the inadequacies in our present regulation and supervision of foreign banks; and on S. 1019, the Foreign Bank Supervision Enhancement Act of 1991.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 23, at 10 a.m. to hold a hearing on "The Middle East: Regional Security Issues."

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 23, immediately following the first rollcall vote after 3 p.m., to hold a brief business meeting to consider and vote on pending items.

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

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, May 23, beginning at 2 p.m., to conduct a hearing on sections 511 and 512 of S. 570, the National Energy Strategy Act, to amend the Nuclear Waste Policy Act with respect to the procedures for the characterization of Yucca Mountain, NV, and the construction of a monitored retrievable storage facility for spent nuclear fuel.

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

FOREIGN, COMMERCE AND TOURISM SUBCOMMITTEE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Foreign, Commerce and Tourism Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 23, 1991, at 10 a.m. on the consolidating of the U.S. export functions.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 23, 1991, at 2 p.m. on the takeover of the First Capital Life Insurance Co.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on May 23, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building, on Indian Libraries, Archives and Information Services.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on May 23, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building, on S. 290, to establish an Indian Substance Abuse Program, and for other purposes.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BAUCUS. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on education and employment legislation including S. 868 and Veterans' Reemployment Rights, and Court of Veterans Appeals legislation, H.R. 153, on Thursday, May 23, 1991, at 9:30 a.m. in SR-418.

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

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on May 23, 1991 at 10 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. 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., May 23, 1991, to consider S. 341 and S. 244.

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

ADDITIONAL STATEMENTS

CURTIS-TUFTS ALTERNATIVE SCHOOL

• Mr. KERRY. Mr. President, today the Curtis-Tufts Alternative School of Medford, MA celebrates its 10th anniversary. As a progressive school, Curtis-Tufts is designed to meet the educational, behavioral, and emotional needs of those students who are not able to benefit from a traditional educational environment.

In the 10 years since the Curtis-Tufts Alternative School was founded, the program has grown by leaps and bounds, and hundreds of students have benefited. Rather than limiting the student's educational experience to the classroom, the Curtis-Tufts curriculum combines educational, vocational and community experiences, and incorporates intensive counseling and a responsible social behavior component into the student's life. For the past 10 years, this program has aimed to maximize student interest, involvement and motivation while providing the essential skills for obtaining a high school diploma, and those necessary for the pursuit of continued education and employment.

Today, in 1991, many of our schools are plagued with violence and substance abuse, and students must fight to say no. We must realize that not every student can benefit from a traditional educational framework. Options such as those offered by Curtis-Tufts are needed, and we must encourage them.

The Curtis-Tufts Alternative School serves as a model in alternative education throughout the Commonwealth of Massachusetts and the Nation. Its innovative approach to secondary education is second to none, as we have seen by the quality of its graduates over the past 10 years. Today, as the Curtis-Tufts Alternative School celebrates its 10th anniversary and its 10th commencement exercises, we must congratulate each and every student, faculty member, and administrator who has played a part in the success of this extraordinary educational institution.•

TRIBUTE TO MS. MARCIA ROTH

• Mr. McCONNELL. I rise, Mr. President and distinguished colleagues, to recognize a woman whose inner strength and moral conviction have literally helped save the lives of many victims of domestic violence—a crime that is so pervasive, yet so unreported, that it threatens our sacred familial bond.

Ms. Marcia Roth feels that her primary function as director of Jefferson County's Office for Women is to help victims cope with what appears to be an overwhelming, and somewhat frightening, morass of bureaucratic redtape.

"I want women to feel comfortable trying to gain access to this system," Roth said. "And all I'm trying to do is make it easier and smoother."

Ms. Roth's envisions her agency branching out into more of a proactive role, informing women of the services available to them with greater ease, and less fear and embarrassment.

"I'd like to see it—program information—in every Kroger store and Winn-Dixie, and any place that women go. It's not enough to have it available at social service agencies. I'd like them where a woman can pick it up and stick it in a drawer, and pull it out when she needs it," said Roth.

Her colleagues respect her. Her superiors praise her. I admire her.

Mr. President, Director Marcia Roth deserves the fullest recognition of this body, and I feel it is my duty as a representative of the great State of Kentucky to do so.

At this time, I request that the Courier-Journal piece on Ms. Roth be inserted into the RECORD.

The article follows:

[From the Louisville (KY) Courier-Journal, Apr. 8, 1991]

A WOMAN'S PLACE

(By Leslie Ellis)

After a month as director of Jefferson County's new Office for Women, Marcia Roth has learned how overwhelmed, frightened and confused victims of domestic violence can be.

And Roth also has spent hours probing for the gaps and cracks in the system that is supposed to help and protect them.

"It's such a confusing system. It has so many pieces to it," she said, the ever-present note pad tucked under her arm as she hurried out of the courthouse after a morning full of meetings.

She had just finished a one-hour meeting with the county attorney, similar to dozens of others she has had in recent weeks with prosecutors, social workers, administrators of state agencies, victim advocates and counselors, as she peels away at the layers of the system. She was rushing to have lunch with a district court judge, to get still another perspective.

"I want women to feel comfortable trying to gain access to this system," she said. "All I'm trying to do is make it easier and smoother. . . . I didn't want to take this job if I didn't have a chance of making changes or a difference."

Roth, 44, has spent the last month setting up the new office, created in the wake of widespread attention focused on domestic violence after Pamela Fortney, a schoolteacher, was gunned down by her estranged husband, Robert Fortney Jr., in January.

The first task of the office will be to coordinate efforts among agencies and to find out what additional services are needed to help abused women.

When tapped for the director's job by Jefferson County Judge-Executive David Armstrong, Roth didn't have any particular expertise in domestic violence, the office's first priority.

Armstrong said he chose Roth because of her long history of community involvement and concern for women's issues.

Eventually, the office will branch out into issues affecting women's economic status, such as health care, child care, job training and housing.

Roth's 20 years of experience as a civic activist and volunteer have frequently required her to analyze programs, offer remedies and aggressively pursue answers to questions.

She has been described as "a problem solver" and "fierce advocate" by those who have worked with her on civic projects.

"She's really a strong leader," said Sally Erny, director of Court Appointed Special Advocates, a program that trains volunteers to monitor foster children in court and social-service system. Roth helped launch that program when she was president of the local chapter of the National Council of Jewish Women from 1983 to 1985.

"She's able to motivate people," Erny said. "The positions of leadership she's held are more than a full-time job that require every single administrative skill you need to run an agency. Sometimes it's tougher because you have to motivate people who aren't paid."

"She's very inquisitive and has a very outspoken attitude," said David Karem, executive director of the Waterfront Development Corp. Appointed to that agency's board by Mayor Jerry Abramson, Roth currently serves as its treasurer.

She's straightforward and expects others to be the same; she's not afraid to say a report or memo is incomprehensible.

Her directness is balanced, admirers say, by a refreshing sense of humor. Lynn Meckler, local president of the Council of Jewish Women, recalls Roth's term as president as "lots of hard work couched in good jokes, witty puns and plenty of smiles."

Roth's community involvement is rooted in a childhood spent in a small town in upstate New York called Herkimer. "There's a sense of family in a small town which pervades the air," she said. "If you're not interested in the community, then you're out of the family, and I think it must be a terribly isolated feeling."

She married her husband, Bruce, between her junior and senior year at Northwestern University. She finished school, had a son and in 1970 the family moved to Louisville, Bruce's hometown, where he joined his father's accounting firm, Louis T. Roth & Co.

She quickly was inducted into the whirl of Louisville volunteer activities. A family friend, Minx Auerbach, "joined the National Council of Jewish Women for me."

"I remember her calling on the phone and saying, 'You are now a member and I expect you to be active.'"

It turned out to be a wonderful gift, Roth said. "That gave me a window into the world of Louisville because the NCJW is involved in so many community services. It opened up a new world for me. That was my postgraduate education."

Roth held offices ranging from assistant treasurer to vice president. Through local and national workshops, she learned about women's issue and leadership skills. She helped launch ParkSide, a day-care program for the elderly. And she serves on the NCJW national board of directors.

She's a United Way board member and a longtime volunteer at Channel 15, and has been chairman of the Community Relations Council of the Jewish Community Federation. She also was volunteer coordinator for Armstrong's election campaign in 1989.

Roth has three children: Evan is a junior at the University of Pennsylvania; Daniel is a senior at Atherton High School; and Jessica is a sixth-grader at Collegiate School.

As the children were growing up, she worked almost full time as a volunteer, and she laughingly recalls toting babies and toddlers to meetings with her.

Now, for the first time, she is earning a salary: The director's job pays $35,000 a year.

"I've been very fortunate," said Roth, explaining that she didn't feel the economic pressures that force other mothers to find paying jobs when their children are young. She said she has "great parents, a wonderful husband and terrific kids."

"I feel like I have an obligation to give something back to the community," she added. "I really do want to give something back."

Roth sees her new job as one of her biggest challenges. She is in the process of selecting members for an advisory board, and she has learned that many good programs are in place but changes and new services are needed to shore them up.

She sees a need for an easy-to-read, widely dispersed pamphlet telling victims how to seek help and what to expect.

"I'd like to see it in every Kroger store and Winn-Dixie, and any place that women go. It's not enough to have it available at social-service agencies. I'd like them where a woman can pick it up and stick it in a drawer and pull it out when she needs it," Roth said.

Victims need support from the beginning, she continued.

"From the first person the victim calls to the last one they talk to, they all need an understanding of the psychology of the victim, of the laws and what options she has," Roth said. "It only takes one person to either turn you on or tune you out."

She's looking at volunteer programs in other communities where former victims guide women through the system.

She's considering suggestions that victims' families receive services, including housing, food and counseling, to help them get back on their feet after separation or divorce.

Joanne Weis, program director at the Center for Women and Families, which runs a spouse-abuse shelter and counsels domestic-violence victims, is encouraged by Roth's work.

"A real strength is her willingness to learn. The first day on the job, she was here. That's very encouraging to me," Weis said.

Because of her volunteer work, Roth has contacts throughout the community, Weis said. And the Office for Women and its advisory panel can mean fresh voices and possibly extra political clout lobbying for changes.

"What is frightening to think about," said Roth, "is that domestic violence is a tremendously underreported crime.

"I hope with the publicity, more women will realize they are not alone and they can do something to change their lives."

She added, however, that the task sometimes seems daunting.

"The system," she said, "is so overloaded now, it's scary."

If more women do come forward, she said, the community must be adequately prepared to help them.•

SENATE JOINT RESOLUTION 49—YEAR OF PUBLIC HEALTH RESOLUTION

• Ms. MIKULSKI. Mr. President, the current activities surrounding health care are important ones. Access to health-care services is one of the most important issues we can address. But I am happy to be cosponsor of Senate Joint Resolution 49, which designates 1991 as the Year of Public Health.

Public health is just what it sounds like—the health of the entire public. The focus is not just on one disease or one tragic event in a part of the world, but the preservation and improvement of health for both individuals and communities. It includes a range of issue from immunization programs and hunger relief projects to industrial and environmental health.

As one of the principal architects of the Johns Hopkins School of Hygiene and Public Health, Dr. William H. Welch put it, "It is a well-known fact that there are no social, no industrial, no economic problems which are not related to health." Everything we do from the food we eat to the way we live out our lives contribute to our own personal health.

Over the last 50 years, we have learned to balance our diets and make water safe to drink. Milk is pasteurized and immunization programs are common. These were all public health problems of the past. Some are recurring. Others have been licked. We are now facing new problems, such as AIDS, substance abuse, disgracefully high infant mortality rates and injuries, as well as new challenges including controlling health care costs and providing care to those in need.

The Year of Public Health not only highlights our successes, but points out we still have a long way to go in meeting our public health goals.

I am proud to sponsor this bill with the senior Senator from Maryland, Senator SARBANES, and thank my colleagues for supporting the resolution.•

1990 FINANCIAL STATEMENT AND INCOME TAX INFORMATION

• Mr. KASTEN. Mr. President, I ask unanimous consent that my 1990 financial statement, my Federal income tax form 1040 for 1990, and my Wisconsin income tax, form 1 for 1990 be printed in the RECORD.

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

Robert W. Kasten, Jr. Financial Statement—December 31, 1990

Assets:	
Washington, DC, home	$580,000
Household goods/personal property	40,000
Automobile (Ford 1986 Taurus)	4,700
Life insurance policy (net cash value)	4,345
Credit union account	864
Checking account	246
Stocks	12,532
IRA	5,503
Offset Civil Service Retirement Program	35,613
Total	683,804
Liabilities:	
The Riggs National Bank, Washington, DC	361,549
Henry and Wendy Raymont, Brookline, MA	100,000
Total	461,549
Net Worth	222,255
1990 taxes paid:	
Federal	32,148
State (Wisconsin)	11,144
	43,292
1990 income:	
Senate salary	97,658
Honoraria	27,075
Total	124,733

FORM 1040 U.S. INDIVIDUAL INCOME TAX RETURN, 1990

Robert W. Kasten, Jr. Your social security number 391-40-2870.

Eva J. Nimmons-Kasten. Spouses' social security number 300-52-6007.

9765 N. Port Washington Lane.

Mequon, Wisconsin, 53092.

Presidential Election Campaign: Do you want $1 to go to this fund? No. If joint return, does your spouse want $1 to go this fund? No.

FILING STATUS

2. Married filing joint return (even if only one had income).

EXEMPTIONS

6a. Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a. But be sure the box on line 33b on page 2,

b. Spouse.

c. Dependents: Nora Kasten, 578-15-1638, Child, 12 Mo.

e. Total number of exemptions claimed, 3.

INCOME

7. Wages, salaries, tips, etc. (attach Form(s) W-2) (See statement 1), $172,010.

8a. Taxable interest income (also attach Schedule B if over $400), $2,497.

9. Dividend income (also attach Schedule B if over $400), $1,690.

10. Taxable refunds of state and local income taxes, if any, from worksheet on page 14, $1,094.

12. Business income or (loss) (attach Schedule C), $38,875.

13. Capital gain (or loss) (attach Schedule D), $3,000.

22. Other income (list type and amount—see page 16 (see statement 1), $2,250.

23. Add the amounts shown in the far right column for lines 7 through 22. This is your total income, $215,416.

ADJUSTED GROSS INCOME

31. Subtract line 30 from line 23. This is your adjusted gross income. If this amount is less than $20,264 and a child lived with you, see page 23 to find out if you can claim the "Earned Income Credit" on line 57, $215,416.

TAX COMPUTATION

32. Amount from line 31, (adjusted gross income), $215,416.

34. Enter the larger of: Your itemized deductions (from Schedule A, line 27). If you itemize, attach Schedule A and check here, $85,731.

35. Subtract line 34 from line 32, $129,685.

36. Multiply $2,050 by the total number of exemptions claimed on line 6e, $6,150.

37. Taxable income, Subtract line 36 from line 35. (If line 36 is more than line 35, enter -0-), $123,535.

38. Enter tax. Tax Rate Schedules, $32,628.

40. Add lines 38 and 39, $32,628.

CREDITS

41. Credit for child and dependent care expenses (attach Form 2441), $480.

46. Add lines 41 through 45, $480.

47. Subtract line 46 from line 40 (if line 46 is more than line 40, enter -0-), $32,148.

OTHER TAXES

49. Alternative minimum tax (attach Form 6251), none.

54. Add lines 47 through 53. This is your total tax, $32,148.

PAYMENTS

55. Federal income tax withheld, $38,877.

62. Add lines 55 through 61. These are your total payments, $38,877.

REFUND AMOUNT YOU OWE

63. If line 62 is more than line 54, enter amount overpaid, $6,729.

64. Amount of line 63 to be refunded to you, $6,729.

WISCONSIN INCOME TAX

Kasten, Jr., Robert W. Social security number 391-40-2870.

Nimmons-Kasten, Eva J. Social security number 300-52-6007.

9765 N. Port Washington Lane.

Mequon, Wisconsin, 53092.

1. Federal adjusted gross income (from line 31 of federal Form 1040 or line 16 of Form 1040A), $215,416.

2. Additions. Complete Schedule 1 on page 2, $2,500.

3. Add lines 1 and 2, $217,916.

4. Subtractions (state income tax refunds, etc.). Complete Schedule 2 on page 2, $2,648.

5. Subtract line 4 from line 3. This is your Wisconsin income, $215,268.

6. Tax. Tax Table, $14,677.

7. Dependent credit. Fill in number of dependents, 1 x $50=$50.

9. Wisconsin itemized deduction credit, $2,983.

10. School property tax credit: b: Property taxes paid on home in 1990, $2,640 find credit from table, page 11, $200.

11. Adds lines 7 through 10b, $3,233.

12. Subtract line 11 from line 6. If line 11 is larger than line 6, fill in zero (0), $11,444.

13. Alternative minimum tax. Attach Schedule MT, none.

14. Add lines 12 and 13, $11,444.

16. Married couple credit. Complete Schedule 4 on page 2, $300.

16. Subtract line 15 from line 14. If line 15 is larger than line 14, fill in zero (0). This you net tax, $11,144.

20. Add lines 16 through 19, $11,144.

21. Wisconsin income tax withheld. Attach readable withholding statements, $7,067.

25. Net income tax paid to other states (See statement 1), $6,408.

8. Add lines 21 through 27, $13,475.

29. If line 28 is larger than line 20, subtract line 20 from line 28. This is the amount of your refund, $2,331.●

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

● Mr. HARKIN. Mr. President, as you know the Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the U.N. General Assembly in 1979 and signed by President Carter in 1980. To date, 103 countries have ratified the Convention, including the Soviet Union. Yet, despite the leadership the United States has demonstrated in promoting human rights, we have failed to ratify this treaty and our beliefs that sexual discrimination has no place in the community of nations.

I believe the Senate must vote on this issue and let its voice ring loud and clear. In practice, the United States has enacted many laws which have placed us on a path toward achieving the goals purported by the convention. Still, we have a long road ahead of us before sexual discrimination is completely eradicated from our society. We have come a long way but need to go further in advancing women's rights and human rights. The United States must continue to demonstrate leadership in these areas. For this reason, I believe it is unconscionable and inexcusable that 11 years after it was signed by the President and ratified by 103 countries, The Convention on the Elimination of All Forms of Discrimination Against Women has not become the law of the land.

Sexual discrimination is something which affects all people and all nations. It is a problem we share in common with the developing world and a problem we must overcome together. It is not, as some might suggest, a problem which only developed nations have the luxury of addressing. It is not a problem that has arisen as nations have developed but rather, a reason why many nations fail to develop. How can a nation and society advance when over half the population is denied their fundamental rights? How can a nation advance when governments fail to provide opportunities which allow women to reach their full potential and freely contribute to the betterment of society? How can the world advance when over half of its intellectual capacity and artistic genius lays waste due to prejudice? Sexual discrimination is detrimental to development. It has been detrimental to our development as a nation and as a people and will continue to be detrimental as long as it permeates the different facets of our society. The Senate could take a great stride forward in demonstrating its firm commitment to ending sexual discrimination by ratifying the Convention on the Elimination of All Forms of Discrimination Against Women. I urge my Senate colleagues to take that step and swiftly ratify this treaty.

Mr. President, I ask that the House concurrent resolution, adopted by the State of Iowa's General Assembly, relating to the ratification of the U.N. Convention on the Elimination of All Forms of Discrimination Against Women be printed in the record.

The concurrent resolution follows:

HOUSE CONCURRENT RESOLUTION NO. 15

Whereas the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly on December 18, 1979, became an international treaty on September 3, 1981, and by 1991, 104 nations have agreed to be bound by the Convention's provisions; and

Whereas the United States supports and has a position of leadership in the United Nations, and has been an active participant and signatory to the Convention; and

Whereas the spirit of the Convention is rooted in the goals of the United Nations to affirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women; and

Whereas the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based on sex and the nations in support of the present Convention have agreed to follow Convention prescriptions; and

Whereas although women have made major gains in the struggle for equality in social, business, political, legal, educational, and other fields in this century, there is much yet to be accomplished and through its support and leadership, the United States can help create a world where women are no longer discriminated against and have achieved one of the most fundamental of human rights, equality; Now Therefore,

Be It Resolved by the House of Representatives, the Senate concurring, That the Iowa General Assembly strongly urges President George Bush and Secretary of State James

Baker to place this treaty, the United Nations' Convention on the Elimination of All Forms of Discrimination Against Women, in the highest category of priority in order to accelerate the treaty's passage through the Senate Foreign Relations Committee; and

Be It Further Resolved, That the Iowa General Assembly exhorts the Senate Foreign Relations Committee to pass this treaty favorably out of committee; and

Be It Further Resolved, That the Iowa General Assembly strongly urges the Congress of the United States to ratify the United Nations' Convention on the Elimination of All Forms of Discrimination against Women and supports the Convention's continuing work.

Be It Further Resolved, That the Chief Clerk of the House of Representatives send a copy of this resolution to the President of the United States, the Secretary of State of the United States, the President of the United States Senate, the chair of the Senate Foreign Relations Committee, Claiborne Pell, and to all members of the Iowa congressional delegation.•

RULES OF THE SPECIAL COMMITTEE ON AGING

• Mr. COHEN. Mr. President, in accordance with rule XXVI, section 2, of the Standing Rules of the Senate, I hereby submit for publication in the CONGRESSIONAL RECORD, the rules of the Special Committee on Aging:

The rules follow:

RULES OF THE U.S. SENATE SPECIAL COMMITTEE ON AGING

The rules are as follows:

I. CONVENING OF MEETINGS AND HEARINGS

1. Meetings: The Committee shall meet to conduct Committee business at the call of the Chairman.

2. Special meetings: The members of the Committee may call additional meetings as provided in Senate Rule XXVI(3).

3. Notice and agenda:

(a) Hearings. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least 1 week before its commencement.

(b) Meetings. The Chairman shall give the members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) Shortened notice. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the ranking minority member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

4. Presiding officer: The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the ranking majority member present shall preside. Any member of the Committee may preside over the conduct of a hearing.

II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. Procedure: All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in rule II.3. Immediately after such discussion, the meeting or hearing may be closed by a vote in open session of a majority of the members of the Committee present.

2. Witness request: Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. Closed session subjects: A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) Committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation or to invade the privacy of the individuals; (4) Committee investigations; (5) other matters enumerated in Senate Rule II(VI)(5)(b).

4. Confidential matter: No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part by way of summary, unless specifically authorized by the Chairman and ranking minority member.

5. Broadcasting:

(a) Control: Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may, for good cause, terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) Request: A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his/her testimony, cameras, media microphones, and lights shall not be directed at him/her.

III. QUORUMS AND VOTING

1. Reporting: A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. Committee business: A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority member is present. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. Polling:

(a) Subjects: The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) Procedure: The Chairman shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls; if the Chairman determines that the polled matter is one of the areas enumerated in rule II.3, the record of the poll shall be confidential. Any member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. INVESTIGATIONS

1. Authorization for investigations: All investigations shall be conducted on a bipartisan basis by Committee staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the ranking minority member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the ranking minority member agree that there exists temporary cause for more limited knowledge.

2. Subpoenas: Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other member of the Committee designated by him. Prior to the issuance of each subpoena, the ranking minority member, and any other member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. Investigative reports: All reports containing findings or recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the members of the Committee.

V. HEARINGS

1. Notice: Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least 48 hours' notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. Oath: All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any member, may request and administer the oath.

3 Statement: Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and ranking minority member determine that there is good cause for a witness' failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

4. Counsel:

(a) A witness' counsel shall be permitted to be present during his/her testimony at any public or closed hearing or deposition or staff interview to advise such witness of his/her rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation, or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

(b) A witness who is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness' appearance, and the Committee will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. Transcript: An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness' testimony in public or closed session shall be provided to the witness. Upon inspecting his/her transcript, within a time limit set by the Committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact; the Chairman or a staff officer designated by him/her shall rule on such request.

6. Impugned persons: Any person who believes that evidence presented, or comment

made by a member of staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the Committee to testify in his/her own behalf; and

(c) submit questions in writing which he/she requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witness by a member or by staff.

7. Minority witnesses: Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least 1 day of the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than 3 days before the completion of the hearing.

8. Conduct of witnesses, counsel and members of the audience: If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing or meeting, the Chairman or presiding member of the Committee present during such hearing or meeting may request the Sergeant at Arms of the Senate, his representative, or any law enforcement official to eject said person from the hearing room.

VI. DEPOSITIONS AND COMMISSION

1. Notice: Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. Counsel: Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of rule V.4.

3. Procedure: Witnesses shall be examined under oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a member of the Committee. If the member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a member of the Committee.

4. Filing: The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than 5 days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. Commissions: The Committee may authorize the staff, by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, of systems or records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

VII. SUBCOMMITTEES

1. Establishment: The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the ranking minority member shall be ex-officio members of all subcommittees.

2. Jurisdiction: Within its jurisdiction, as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. Rules: A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one-third of the subcommittee membership, and for hearings shall be one member.

VIII. REPORTS

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: "Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee."

IX. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceded by at least 3 days notice of the amendments or revisions proposed.●

FISCAL YEAR 1992 BUDGET RESOLUTION CONFERENCE REPORT

● Mr. WIRTH. Mr. President, last night the Senate passed, with my support, the 1992 budget resolution by a vote of 57 to 41. I want to take this opportunity to discuss that legislation and why that was the right thing to do.

Last month in the Senate Budget Committee, in a strong bipartisan vote, we set some priorities. We said that it is important for the Federal Government to support the critical programs that help kids be prepared to learn. We said that it is important for the Federal Government to support valuable, time-tested programs in education. We made a choice. We said that our kids deserve our support.

By a vote of 15 to 6, the Budget Committee accepted an amendment that would provide $4.4 billion new dollars for proven, cost-effective programs that will make ours a healthier—in every sense of the word—and better educated Nation.

The conference report on the fiscal year 1992 budget resolution we are considering today preserves these priorities for the domestic discretionary side of the budget. For functions 550 and 600, which contain the child health and nutrition programs, the full Senate increase over fiscal year 1991 levels is maintained. For function 500, the education programs, 65 percent of the Senate increase is included. I believe that the compromises reached by the conferees are reasonable and supportable.

Mr. President, the membership of the Senate Budget Committee comprises nearly one-quarter of the entire Senate, and includes a number of members of the Appropriations Committee. Clearly, the priorities set forth in the budget resolution should act as a guide to the appropriators as they carry out their difficult and important work during the remainder of the fiscal year.

If we in Congress are able to maintain and carry out the priorities outlined in the conference agreement on the 1992 budget resolution—

We will increase funding for Head Start by $500 million, allowing us to serve only 38 percent of those eligible;

We will educate 1,400,000 more disadvantaged children under the chapter 1 program, raising the percentage of all those eligible from 60 percent to 70 percent;

We will continue on the track toward full funding for WIC, the Women, Infant, and Child nutrition program. Due to the recession, this program is needed now more than ever and for every dollar we spend, we save $3 in future health care costs. There are over 4 million women and kids who are eligible but not served under this program;

We will immunize 71 percent of those eligible children against preventable childhood diseases. In my State alone, this means 18,000 more children will be protected.

Mr. President, I just want to underscore to the Senate that the biggest problem with the funding levels set forth in the conference report for these programs is that we recognized the very constrained domestic discretionary playing field created by last year's budget agreement. We all know that it only makes sense to be immunizing 100 percent of our children, not just 71 percent; that all mothers and children eligible under the WIC Program are served, not just the 59 percent that make it through the door first.

Last year, the Nation embarked on a decade long effort to improve education. We have set ambitious, yet attainable goals. Achieving them will play a major role in reinvigorating our economy and recapturing our position in the world market. If we fail to have the best educated and most skilled work force, our position in the world economy will continue to decline and our society will never be able to shed the costs of untrained workers—who strongly wish to work but for whom there are simply no jobs for which they are qualified.

Our Federal and State budgets must reflect the importance of these goals. We cannot merely demand results—we must provide the means to attain them.

Last month, the President presented his education strategy to the Nation. While some of his recommendations warrant thoughtful consideration, I feel that something obvious is missing.

If we were fully funding programs that are proven and cost-effective, and that meet the needs of the students, would not we now have a country that was closer to meeting the goals outlined by the administration? If every Federal commitment were filled and every eligible child served, would not we have progressed more than we have?

Certainly, there are changes to be made and certainly we need to reinvigorate the system, but I say we have to also support the programs we know work. I disagree with the President: I say good can come from new money in education—new money devoted to the programs that have served students well. We just needed to serve more of them.

As we continue debating the needs of our children, I hope my colleagues will keep this in mind: All the answers are not hidden away with a few new experiments and creating the best for the few. We already have many of the answers—we need to provide the means to see them actualized.

I thank Senator SASSER, chairman of the Budget Committee—who holds one of the most thankless jobs around here—and the other 13 Senators who joined me in passing this amendment in committee by a bipartisan margin of 15 to 6. While this budget resolution conference report is not perfect—few bills are—it does contain the homefront initiative and so deserved our support.•

COAST GUARD RECREATIONAL BOAT TAX REPEAL

• Mr. D'AMATO. Mr. President, I am pleased to join a number of my colleagues in cosponsoring S. 843.

This bill would repeal the Coast Guard indirect user fee to be imposed on recreational boaters under last fall's Omnibus Budget Reconciliation Act of 1990. The proposed fees range from $25—for vessels over 16 feet, but less than 20 feet—up to a maximum of $100 for vessels over 40 feet in length. The penalty for noncompliance is $5,000. I voted against last year's reconciliation bill in large part because it was a broad-based tax increase, hitting disproportionately at middle Americans. This Coast Guard recreational boat fee is an example of such misguided taxation.

This so-called user fee is in fact nothing more than a tax increase selectively imposed on certain individuals who receive no benefit from any new services provided by the Government. The funds will not be used to improve Coast Guard services for recreational boaters. They will simply be used to augment the Federal Government's tax and spend policies. In fact, if anything, the impact on Coast Guard operations is detrimental, due to the resources they may expend simply to collect and enforce payment of the fee. As with many other miscellaneous tax increases, the cost to collect may offset a significant portion of the revenues brought in through collection.

Finally, it should be pointed out that recreational boat owners already pay State fees and Federal excise and fuel taxes for the privilege of boating. Last year's budget reconciliation bill, for example, raised the motor boat fuel tax 5 cents per gallon. Imposing this new Coast Guard boat tax on top of these other fees and taxes is burdensome and unfair. Therefore, I look forward to working with my colleagues to overturn this tax.•

COMMON SENSE ON VIETNAM

• Mr. SIMON. Mr. President, I compliment my colleague on the Foreign Relations Committee, RICHARD LUGAR, for his insightful column about United States policy toward Vietnam in the April 5 Christian Science Monitor. I ask that the column be inserted in the CONGRESSIONAL RECORD.

I agree that we need a rethinking of our policy toward the countries of Indochina. Senator LUGAR has correctly pointed out that changing circumstances—and our own interests in Vietnam—suggest that the time is right for a reassessment of our policy. The administration is moving in the right direction by opening an office in Hanoi to help resolve the status of those missing in action from the Vietnam war, and by providing a token amount of aid—$1 million of humanitarian assistance for prosthetic devices for the people of Vietnam. But we can and should do more. I saw in Hong Kong recently the plight of the thousands who have fled Vietnam and fear to return; I recounted some of their stories in remarks on the floor May 20. Lifting the trade embargo and recognizing the government in Hanoi will help to stem that tragic tide of refugees out of Vietnam. At the same time our actions will allow us to press Vietnam more effectively to improve its record on human rights and to address fully our questions about those missing in action during the war.

The column follows:

[From the Christian Science Monitor, Apr. 5, 1991]

IT'S TIME FOR NEW THINKING ON VIETNAM

(By Richard G. Lugar)

For more than 15 years, United States-Vietnam relations have been frozen in enmity and isolation. The scars created by the Indochina war prompted a U.S.-led international embargo to punish Vietnam. These sanctions are still in place, even though most nations ignore them. It is time for a change.

The U.S. is virtually alone in prohibiting trade with Vietnam. Foreign competitors are positioning themselves for a promising Vietnam market, including development of its lucrative off-shore oil tracts. The best construction contracts, banking concessions, oil leases, and consumer markets may go to our competitors.

Today, Vietnam has widespread poverty, a steady exodus of people, and human environmental deprivation matched in the region only by neighboring war-torn Cambodia. These dreadful symptons are testimony to a filed system in need of profound reform. The U.S. can help lessen this human suffering by encouraging reform.

During my visit to Hanoi last August, I learned that market economic principles had seeped into official thinking, especially in the agricultural sector. The liberal reforms introduced in the late 1980s, for example, were responsible for moving Vietnam from a net rice importer to the world's third largest rice exporter. We should encourage these trends toward market economics through engagement with the Vietnamese reformers, instead of continued disengagement.

One of the core elements of the new world order articulated by President Bush contends that friendly economic competition among nations can be a healthy alternative to military confrontations. Trade and commerce are closely linked with traditional security concerns.

In our relations with other countries, American self-interest in the new order argues for new attitudes on increased trade. There must be new instruments of policy rooted as much in carrots as sticks. Efforts to improve relations in the late 1970s were dashed by Vietnam's invasion and occupation of Cambodia. Our policy rightly conditioned improved ties with Hanoi on its withdrawal of forces from Cambodia and on cooperation on POW/MIA issues. When Vietnam's forces were pulled out of Cambodia last year, we conditioned improved relations on Hanoi's cooperation in fostering peace in

Cambodia and resolving outstanding POW/MIA matters.

There are sound foreign policy reasons for following this course. Hanoi must cooperate in the Cambodian peace process and must provide tangible progress in the POW/MIA cases. Absent real progress on both, it will be difficult to shift US policy.

But there are compelling arguments for revising US policy toward Indochina. We should build on the lessons of Eastern Europe, where Western economic and cultural presence helped hasten democratic change and accelerate the demise of centrally planned economies. Exposure to Western ideas and American capitalism, through example, can subvert communist control. Our self-imposed isolation from Vietnam—intended to extract favorable behavior—now amounts to economic and political self-denial.

It is time to modify regulations restricting American business and related activities. This should be followed by a lifting of the embargo on non-strategic trade and movement toward normalization of ties. At each step, we should judge whether these unilateral initiatives prompt reciprocal concessions by Hanoi in the Areas of interest to us: POW/MIAs, human rights, Cambodia peace, and economic and political reform.

Our Vietnam war is over. It has receded further in the aftermath of the Gulf war. The new world order calls for reshaping priorities, with enhanced economic interaction that furthers our goals of spreading democracy and creating new opportunities for Americans.●

THE NATIONAL BICENTENNIAL COMPETITION ON THE CONSTITUTION AND THE BILL OF RIGHTS

● Mr. GRASSLEY. Mr. President, I would like at this time, to recognize the achievements of a remarkable group of Cedar Falls, IA, students and educators.

For the third consecutive year the sophomore government class from Cedar Falls High School has proudly represented the State of Iowa in the National Bicentennial Competition on the Constitution and Bill of Rights. The competition, which was held April 27–29, 1991, in Washington DC, enabled students to demonstrate their academic abilities while supporting their community and Nation.

The following students participating in the competition were: Michael Ackerman, Lori Boleyn, Brian Buenger, Martin Burgess, Christopher Cawelti, Anne Corley, Sarah Durchenwald, Jodi Graham, Mark Herold, Mohib Hussain, Heather Jay, Amy Jensen, Todd Johnston, Jenna Juel, Mattew Keiser, Wendy Schultz, Zachary Wolf, and educators: Superintendent Dan Smith, Principal Dean Dreyer, Secondary Curriculum Director Floyd Winter, and project chair of the Third Congressional District, Linda Martin. Mr. President, I commend these individuals and wish them all the best in future.●

SENATE QUARTERLY MAIL COSTS

● Mr. FORD. Mr. President, in accordance with section 318 of Public Law 101–520, I am submitting the summary tabulations of Senate mass mail costs for the quarter ending March 31, 1991, to be printed in the RECORD, along with the quarterly statement from the U.S. Postal Service setting forth the Senate's total postal costs for the quarter. The population figures used in the calculation of the per capita amounts are those from the 1990 census.

The tabulations follow:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING MARCH 31, 1991

Senators	Total Pieces	Pieces per capita	Total cost	Cost per capita
Adams	23,500	0.00483	$17,711.98	$0.00364
Akaka	850	.00077	243.91	.00022
Armstrong	0	0		0
Baucus	31,100	.03892	6,123.94	.00766
Bentsen	215,125	.01266	41,753.40	.00246
Biden	0	0		0
Bingaman	13,475	.00889	2,579.35	.00170
Bond	6,999	.00137	3,036.18	.00059
Boren	0			0
Boschwitz	0			0
Bradley	2,950	.00038	701.25	.00009
Breaux	333,750	.07909	52,336.46	.01240
Brown	0	0		0
Bryan	83,050	.06910	10,893.20	.00906
Bumpers	48,200	.02050	7,617.29	.00324
Burdick	783	.00123	151.26	.00024
Burns	0	0		0
Byrd	0	0		0
Chafee	32,400	.03229	5,570.97	.00555
Coats	0	0		0
Cochran	0	0		0
Cohen	37,866	.03084	8,265.98	.00673
Conrad	0	0		0
Craig	3,050	.00303	520.11	.00052
Cranston	1,085,235	.03647	203,479.24	.00684
D'Amato	1,566,350	.08707	227,709.75	.01266
Danforth	0	0		0
Daschle	213,500	.30675	31,342.70	.04503
DeConcini	0	0	0	0
Dixon	120,825	.01057	24,587.07	.00215
Dodd	0	0		0
Dole	0	0		0
Domenici	5,650	.00373	959.17	.00063
Durenberger	900	.00021	218.71	.00005
Exon	0	0		0
Ford	0	0		0
Fowler	2,580	.00040	816.11	.00013
Garn	0	0		0
Glenn	0	0		0
Gore	24,718	.00507	4,676.78	.00096
Gorton	3,100	.00064	691.21	.00014
Graham	72,150	.00558	12,194.87	.00094
Gramm	119,000	.00701	17,162.83	.00101
Grassley	42,450	.01529	8,670.71	.00312
Harkin	0	0	0	0
Hatch	1,200	.00070	213.69	.00012
Hatfield	0	0		0
Heflin	0	0		0
Heinz	299,150	.02518	42,580.06	.00358
Helms	0	0		0
Hollings	0	0		0
Humphrey	0	0		0
Inouye	0	0		0
Jeffords	0	0		0
Johnston	0	0		0
Kassebaum	0	0		0
Kasten	124,900	.02553	25,042.64	.00512
Kennedy	0	0		0
Kerrey	936	.00059	841.46	.00053
Kerry	182,450	.03033	30,060.44	.00500
Kohl	0	0		0
Lautenberg	14,925	.00193	2,721.85	.00035
Leahy	24,030	.04270	4,868.83	.00865
Levin	31,000	.00334	6,779.26	.00073
Lieberman	104,911	.03192	22,711.21	.00691
Lott	931,500	.36200	120,049.68	.04665
Lugar	14,355	.00259	3,034.03	.00055
Mack	12,535	.00097	2,954.43	.00023
McCain	3,300	.00090	769.03	.00021
McClure	0	0		0
McConnell	16,000	.00434	3,272.96	.00089
Metzenbaum	0	0		0
Mikulski	1,275	.00027	632.57	.00013
Mitchell	0	0		0
Moynihan	49,825	.00277	9,833.58	.00055
Murkowski	0	0		0
Nickles	173,800	.05525	31,059.45	.00987
Nunn	0	0		0
Packwood	107,351	.03777	22,824.69	.00803
Pell	118,000	.11759	22,239.54	.02216
Pressler	1,200	.00172	154.85	.00022
Pryor	65,123	.02770	11,900.28	.00506

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING MARCH 31, 1991—Continued

Senators	Total Pieces	Pieces per capita	Total cost	Cost per capita
Reid	38,300	.03187	5,087.75	.00423
Riegle	17,625	.00190	3,635.92	.00039
Robb	0	0		0
Rockefeller	19,885	.01109	6,224.23	.00347
Roth	299,575	.44970	46,236.83	.06941
Rudman	0	0		0
Sanford	173,600	.02619	25,821.81	.00390
Sarbanes	86,000	.01799	15,117.03	.00316
Sasser	0	0		0
Seymour	0	0		0
Shelby	1,032,760	.25560	146,431.43	.03624
Simon	719,750	.06297	106,544.31	.00932
Simpson	73,150	.16127	9,346.63	.02061
Smith	0	0		0
Specter	1,707,200	.14368	243,110.45	.02046
Stevens	71,550	1.3008	15,326.03	.02786
Symms	87,930	.08734	17,512.94	.01740
Thurmond	0	0		0
Wallop	675	.00149	137.88	.00030
Warner	0	0		0
Wellstone	0	0		0
Wilson	0	0		0
Wirth	309,656	.09399	51,893.91	.01575

Other offices	Pieces	Cost
The Vice President	0	
The President pro-tempore	0	
The majority leader	0	
The minority leader	0	
The assistant majority leader	0	
The assistant minority leader	0	
Secretary of majority conference	0	
Secretary of minority conference	0	
Agriculture Committee	0	
Appropriations Committee	0	
Armed Services Committee	0	
Banking Committee	0	
Budget Committee	0	
Commerce Committee	0	
Energy Committee	0	
Environment Committee	0	
Finance Committee	0	
Foreign Relations Committee	0	
Governmental Affairs Committee	0	
Judiciary Committee	0	
Labor Committee	0	
Rules Committee	0	
Small Business Committee	0	
Veterans Affairs Committee	0	
Ethics Committee	0	
Indian Affairs Committee	1,605	$1,670.02
Intelligence Committee	0	
Aging Committee	640	273.77
Joint Economic Committee	0	
Joint Committee on Printing	0	
Democratic Policy Committee	0	
Democratic Conference	0	
Republican Policy Committee	0	
Republican Conference	0	
Legislative Counsel	0	
Legal Counsel	0	
Secretary of the Senate	0	
Sergeant at Arms	0	
Narcotics Caucus	0	

U.S. POSTAL SERVICE,
DEPARTMENT OF THE CONTROLLER
Washington, DC, May 22, 1991.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Detailed data on franked mail usage by the U.S. Senate for the second quarter, Fiscal Year 1991, is enclosed. Total postage and fees for the quarter is $1,915,765.

A summary of Senate franked mail usage based upon the first two quarters of actual data for Fiscal Year 1991 is as follows:

Volume	17,621,212
Revenue per piece	$.2001
Revenue	$3,526,747.00
Provisional payments to date	$10,000,000.00
Excess in provisional payments	$6,473,253.00

The first two Postal Quarter results, when projected to an annual figure based upon historical trends for Senate franked mail activity, provide the following estimates for FY 1991:

Volume	86,378,490
Revenue per piece	$.1949

Total revenue	$16,832,935
Current appropriation	$30,000,000
Estimated surplus	$13,167,065

However, the validity of these projections does remain questionable due to substantial variances in Senate quarterly mailing patterns over the past several years.

If you or your staff have any questions, please call Tom Galgano of my staff on 268-3255.

Sincerely,

JAMES S. STANFORD,
General Manager, Official and International Mail Accounting Division, Office of Accounting, Washington, DC.

SENATE FRANKED MAIL, POSTAL QUARTER II, FISCAL YEAR 1991

Subcategories	Pieces	Rate	Amount
1. Letters: 1st class (total)	1,011,511	$0.2573	$260,236
2. Flats: 1st class (total)	91,443	1.0061	92,004
Parcels:			
Priority—up to 11 oz			
Priority—over 11 oz	10,814	4.4983	48,645
4th class—regular	22,978	3.4117	78,394
Total	33,792	3.7594	127,039
4. Orange bag pouches:			
First class	49,315	.3536	17,436
Priority—up to 11 oz	1,152	2.8290	3,259
Priority—over 11 oz	6,152	4.8114	29,600
Total	56,619	.8883	50,295
5. Agriculture bulletins:			
First class			
Priority—up to 11 oz			
Priority—over 11 oz			
3d class			
4th class special (bk)			
4th class regular	79	8.2278	650
Total	79	8.2278	650
6. Yearbooks: 4th class special (bk) (total)	56	1.4286	80
7. Other (odd size parcels):			
Priority—up to 11 oz			
Priority—over 11 oz	415	33.1494	13,757
4th class special (bk)			
4th class regular	2,560	11.7742	30,142
Total	2,975	14.7560	43,899
Total outside DC	259,515	.4594	119,227
3rd class bulk rate	8,741,307	.1163	1,016,580
Parcel post—interbmc—pi	317	23.6056	7,483
First class single pc—pi			
Address corrections (3547's)	1,032	.3091	319
Address corrections (3d cl)	1,876	.2585	485
Mailing list corrections (10 names or less)			
Mailing list corrections (more than 10 names)			
Mailgrams			
IPA—international priority airmail			
Mailing fees (registry, certified, etc.)			
Postage due/short paid mail			133
Permit fees			
Miscellaneous charges/adj			
Express maill service			197,335
Subtotal	10,200,552	.1878	1,915,765
Adjustments	0		0
Grand total	10,200,552	.1878	1,915,765

TREES AND SOIL CONSERVATION

• Mr. DASCHLE. Mr. President, one of the most important tools this country has at its disposal for soil conservation and wildlife protection is the planting of trees on agricultural lands. Tree planting programs have made dramatic contributions to conservation, but we now face a situation where those benefits are threatened.

Many of the shelterbelts and other windbreaks that were established in the 1930's and 1940's are being lost due to age and lack of maintenance. Congress should recognize the important role the tree has played and take action to maintain the continued vitality of this productive resource.

The mere mention of "Dust Bowl" conjures up stark images in the minds of all of us. Most Americans' experience with the phenomenon is limited to the haunting pictures and films we have seen in the era. Those who lived through the darkness of those days carry with them memories that last a lifetime.

In the intervening decades we have gone though periods of drought, but none of these droughts prompted the unprecedented rate of soil erosion that occurred during the Dust Bowl. It often seems as though we have developed a somewhat cavalier attitude toward those times, believing that another Dust Bowl cannot occur.

Our successes in reducing erosion since the 1930's have been the result of hard, diligent work. American agriculture adopted new farming practices and management techniques to keep soil on the fields instead of in rivers, ditches, and the air. This effort is an ongoing proposition that we cannot afford to relax.

One of the most important practices that was adopted in response to the Dust Bowl was the establishment of tree rows, shelterbelts, living snow fences, and other windbreaks. The list of positive effects resulting from these practices is impressive.

Tree rows cut wind erosion to a fraction of what it is on unprotected fields. Windbreaks create habitat that fosters a wide variety of wildlife by providing cover and undisturbed nesting grounds. They promote higher yields by sheltering crops and livestock from wind and by trapping moisture in the form of snow. Shelterbelts also help moderate energy consumption by reducing the amount of fuel needed to heat homes and by helping to control snow accumulations on highways and roads.

In recent years trees have also been touted for the positive effects they have on atmospheric conditions. Studies have shown that each mature tree removes an average of 13 pounds of carbon monoxide from the air every year and converts it to oxygen. This is highly significant when we consider that carbon monoxide is cited as one of the atmospheric gases most responsible for global warming and the greenhouse effect. Every living tree, therefore, plays a quantifiable role in lessening the impact of global warming.

Trees are also being recognized as offering other new benefits. A project sponsored by the Leopold Center for Sustainable Agriculture at Iowa State University found that poplar trees help remove excess nitrates in the soil that might otherwise run off into nearby water systems. The expansive root system of the poplar acts as a filter that absorbs nitrates from groundwater. At the site where the study was conducted, 77 milligrams of nitrate per liter of groundwater were found under a normal corn field. In groundwater that filtered through the roots of poplar trees, the concentration was seven milligrams of nitrate per liter—one-tenth the normal amount.

The value of the nitrate-reducing characteristics of the poplar will take on increased significance during Congress' consideration of the Clean Water Act. It seems certain that one of the items up for discussion will be pollution problems stemming from nonpoint sources. Some will point to agriculture as the leading contributor to nonpoint source pollution.

While evaluation of these claims will be the subject of a future debate, I would like to point out that tree planting offers us a means of addressing the issue in a constructive way. At the same time trees reduce nitrate concentrations, they will also provide the added benefits of erosion control, improved wildlife habitat, snow control, and much more.

The planting of the trees in the 1930's and 1940's was inspired by Government incentives. As Government incentives withered, so did the establishment of new stands. Not only is it important to encourage the planting of new shelterbelts, it is vital that we maintain the ones we already have.

Our country now has a tree population that consists largely of older trees. Many of the stands that were established through the enactment of Government programs in the 1930's and 1940's are now in trouble.

During the Dust Bowl period and in the years immediately in its aftermath, over 200 million trees and shrubs were planted on 30,000 farms in the Prairie States, in roughly 18,600 miles of windbreak. Those trees are now over half a century old. While trees may be noted for their longevity, they do not live forever, especially if they are not cared for properly. A study in my home state of South Dakota showed that over 60 percent of the windbreaks were only in fair to poor condition, meaning that their canopy was diminished by 40 percent or more.

The Nation is in danger of losing a resource whose benefits have far outweighed the cost to establish them. The problem is not a lack of interest in planting trees. Landowners want to plant trees, but it is very expensive and time consuming to plant and maintain them.

When landowners are asked what is needed to get more trees planted, the response is always the same—more cost-share assistance. In this time of budget constraints, it is vital that the dollars we do spend are spent wisely. There is no question in my mind that

we get far more back from the tree than we put into it.

During the debate on the 1900 farm bill, I introduced an amendment that was designed to encourage the establishment of new shelterbelts and the maintenance of existing ones. Some of the amendment's provisions were adopted; however, others that would have increased cost-share assistance and other incentives were not.

If we become complacent, the quantity and quality of windbreaks will gradually decrease. This is something that we must not allow to happen if we are to avoid a return to the days when there was nothing standing between our soil and the wind. Congress must take the lead in providing the resources necessary to preserve and expand the gains that have been made. As chairman of the Agriculture Committee's Subcommittee on Agricultural Research and General Legislation, I will be working toward that end. I urge my colleagues to join me in that effort.•

RUST VERSUS SULLIVAN SUPREME COURT RULING

• Ms. MIKULSKI. Mr. President, I heard today that the Supreme Court handed down its decision on family planning and I am shocked. The decision, decided on a 5 to 4 vote with the only woman on the Court dissenting, essentially eliminates proper discussion of women's options at a family planning clinic.

The Supreme Court decided this was proper because, in their eyes, it is OK to tell rich women of all the options they should consider if they find they are pregnant, but it is OK to dictate to poor women what their choices are.

Both our governmental system and our medical system have relied, up until now, upon the tenet of informed consent—with all the information before the individual, that individual makes a choice—on candidates, on medical treatments, on doctors and on Presidents. But now, politics can interfere with a woman's most personal and private decision.

The family planning clinics I have visited are some of the last health care providers around in the poorer areas of my State. They provide health care services to people most doctors have forgotten. But now, because they provide a legitimate, sometimes needed service—they perform safe, legal abortions—they could go out of business in the next few months denying access to health care services for many in these communities.

Where does this end, Mr. President? Are we going to tell people that because they go to a publicly funded clinic, they cannot receive information about child care services available in the community because some well-placed politicos in the administration think that moms should not be allowed in the workplace? That is absurd, and this ruling is too.•

IN RECOGNITION OF RAYMOND R. MAGGI'S ACCOMPLISHMENTS IN THE APARTMENT INDUSTRY

• Mr. SEYMOUR. Mr. President, I rise in recognition of a constituent of mine from my home of Orange County, CA. Mr. Ray Maggi's contributions to the apartment industry, especially his tireless efforts to help disadvantaged and disabled individuals, are well known in Orange County.

Ray has decided to step down from his active efforts on behalf of the Apartment Association of Orange County, where he has served in numerous capacities over the past 17 years. I want to congratulate Ray and to thank him, and I ask my colleagues to join with me in recognizing his service to his community.

I ask that the statement detailing Ray's years of service be inserted into the RECORD:

The statement follows:

Mr. Ray Maggi has been a member of the Apartment Association of Orange County for over 17 years, serving as President for four years (1977 to 1981) and as a Director for the past 16 years.

Ray's involvement in the apartment industry has stretched far beyond Orange County. He has been an active member of the California Apartment Association (CAA) and served as CAA President in 1983. His service on the state level includes his Chairmanship of CAA's Legislative Council and CAA's Political Action Committee as well as numerous other committee assignments. Ray has also been active with the National Apartment Association (NAA) in Washington D.C. and is a past NAA Treasurer.

Throughout his years of service to AAOC and the apartment industry, Ray Maggi has devoted a great deal of time and energy toward the legislative arena at all levels of government. Serving as Vice President of AAOC's Legislative Council since its inception, Ray has become a well recognized figure in Orange County Political circles and has served in numerous political campaigns. He is often called upon to serve as Chairman or as a Steering Committee Member for both issue and candidate campaigns.

Over the years, Ray has become recognized throughout the county as a leading advocate of private property rights and an outspoken supporter of the housing industry. Always an innovator, Ray has been constantly engaged in finding public and private sector solutions to the many housing problems facing the people of Orange County. Mr. Maggi has often demonstrated the unique ability to pull together principal segments of the housing industry as well as key government agencies in efforts to solve problems of mutual concern.

Whenever Mr. Maggi discovered a community problem which the Apartment Association was in a unique position to solve, he wssted little time in devoting his full attention and that of the association towards the immediate resolution of the problem. An example of this came in 1982 when the Association recognized the need for the installation of smoke detectors in multi-family residential buildings throughout Orange County. Ray led the charge by drafting a "model smoke detector ordinance" for adoption by cities countywide.

Currently Ray is again working to address a concern shared by communities countywide—overcrowding. Mr. Maggi is one of those who believes that a whole host of problems (i.e. crime, drugs, graffiti, traffic, parking, deterioration . . .) result when neighborhoods are overcrowded. Under Ray's leadership, AAOC has drafted a "model Occupancy Ordinance" which is designed to help cities deal with the problem of overcrowded dwelling units and homes.

Throughout his career in the apartment industry and in his work with AAOC, Ray has worked tirelessly to eradicate blighted and slum conditions wherever they exist. When cities in Orange County have called upon the association to help revitalize particularly run-down areas, Ray has aided them by developing a cooperative partnership with area apartment owners. Examples of this public/private effort and its successful application were best seen in the "Buena-Clinton" area in Garden Grove and the "Patrick-Henry" area in Anaheim. In both cases, Ray Maggi played an instrumental role.

A different example of Ray's industry involvement came in the early 1980's, when he heard of a couple who was having a difficult time finding a place to live because one of them was handicapped and in a wheelchair. Ray stepped in and rented to them and completely retrofitted one of his apartment units to accommodate this couple's unique needs. In the process he pioneered handicapped access design for rental units and Ray used the publicity gained by this incident to lobby for greater handicapped access in multi-family buildings.

Ray also served the County of Orange as a member of the John Wayne Airport Commission for over seven years, serving as Chairman for two.

Mr. Maggi has always been gracious when it comes to sharing his knowledge and expertise with others in the Housing Industry. He has conducted numerous educational seminars on property management, specializing in rehabilitation and community improvement projects.

He is also a well recognized expert on the housing industry and his insight into legislative and market trends has led to his appearance before such well recognized groups as the: Building Industry Association, Western Mobilehome Assoc., California Housing Council, Realty Investment Association of California, Industrial League of Orange County as well as numerous Chambers of Commerce and Boards of Realtors.

These are but a sprinkling of the numerous accomplishments of Ray Maggi. While not all inclusive, they exemplify well the philosophy and convictions which have governed his involvement in the housing industry.•

MICHIGAN RELAY CENTER

• Mr. RIEGLE. Mr. President, the Michigan Relay Center, a ground breaking service operated by Michigan Bell on behalf of all the 37 telephone companies in Michigan, is scheduled to open May 29, 1991. I rise today to commend this effort as well as the dedicated and talented people who have made it possible.

I can't think of a better way to celebrate National Deaf Awareness Month

and I know Michigan is proud to participate in this celebration by joining the other twenty-three States that now provide relay services for persons with hearing and speech difficulties.

In accordance with the Americans with Disabilities Act [ADA], Michigan Bell with the help of the Division on Deafness, developed a system whereby the estimated 600,000 Michigan residents who are unable to utilize conventional telephone services can communicate with anyone in the State with the ease and dignity that persons without hearing or speech difficulties have always enjoyed. The ADA is about the quality of access and independence. So is the Michigan Relay Center.

The center will enable people who are deaf, hearing, or speech impaired to call hearing people 24 hours a day, every day of the year. It will also make it possible for any hearing person to call any deaf person who has a telephone equipped with a special computer called a "telecommunication device for the deaf [TDD]—a device that allows differently able persons to use a keyboard and screen in the same manner one would use a telephone. A person with a TDD can simply contact an operator at the center who places a call to the called party and relays the message by voice. Or one might contact the center by conventional telephone and have his voice message relayed via TDD. The service is free and the calls are confidential.

Although access to communication has only recently become a national priority, here in the Midwest the Michigan Association for Deaf, Hearing, and Speech [MADHS] has been providing this type of service, on a local level, for nearly 20 years. It was the diligent effort of the MADHS staff, their advocacy and lobbying, which directly contributed to the inclusion of title V to the ADA. Title V requires phone companies to provide this telephone relay service by 1992.

Michigan Bell, MADHS, the Division on Deafness, of the advocacy groups around this State, and the deaf community, should all take great pride in their pioneering spirit, foresight, and conviction. I congratulate them on their willingness to fight to bring this issue, a long-time concern in Michigan, to the national consciousness and am proud of their participation in making this service possible.•

THE 75TH RUNNING OF THE INDIANAPOLIS 500

• Mr. COATS. Mr. President, it is with great pride that I rise today to pay tribute to a very special event that will be taking place this weekend in my home State of Indiana. On Sunday, May 26, 33 brave drivers will climb into their cars and race in pursuit of the checkered flag at the 75th running of the Indianapolis 500-mile race.

Since 1911, with the only exceptions being the war years of 1917–18 and 1942–45, the Indianapolis Motor Speedway has been the site of the "Greatest Spectacle in Racing" every Memorial Day weekend. This great American classic has touched nearly every citizen, young and old, in some way. Just say the name, "Indy" and memories of speed, thrills and courage come to the minds of all who have been fortunate enough to come in contact with this extraordinary event.

For years, Americans at home and abroad, have listened to the race on the Indianapolis Motor Speedway Radio Network, and watched the race on TV. The events, history and drama of this race have been shared with us through the enthusiasm and knowledge of such immortal announcers of the past as the late Sid Collins, and today in Bob Jenkins and Paul Page. Those of us fortunate enough to have attended qualifications, or the race itself, cannot forget Tom Carnegie's call each day at the track, or nights with Donald Davidson's "The Talk of Gasoline Alley" on WIBC radio. These are the voices and personalities who have brought Indy into our lives and helped to make the month of May a very special time for all of us.

The Speedway itself has continued to stand and grow through the years. The track was built in 1909 by Carl G. Fisher, James A. Allison, Arthur C. Newby and Frank H. Wheeler as a proving ground for the then fledgling automobile industry. The current 2½ mile oval remains in the same dimensions as when it was built. For safety reasons, the four owners decided to resurface the crushed rock and tar track with over 3,200,000 bricks shortly after the Speedway opened. It is from this original race surface that the course got its now famous nickname, "The Brickyard," a term that is still used today as the track maintains a 1-yard strip of original bricks at the start/finish line.

What few realize is that Indy has been an important influence in the development of passenger automobiles, as well as the site of 74 500-mile classics. Many refinements found in modern cars can be traced directly to innovative testing done at this outdoor laboratory. The first Indy 500 winner, Roy Harroun in 1911, installed what is believed to be the first rearview mirror on an automobile. Important improvements in safety and economy such as: seat belts, shoulder harnesses, power steering, disc brakes, low pressure tires, hydraulic brakes, and shock absorbers, and improvements in motor oil viscosity were all first tested and instituted at "The Brickyard."

All of these wonderful traditions would have come to an end after World War II had it not been for the vision and dedication of one man, Anton (Tony) Hulman of Terre Haute. Hulman bought the dilapidated Speedway in 1945 from then owner Eddie Rickenbacker. Rickenbacker, the former Indy driver and World War I "Flying Ace," bought the track in 1927 from his old friends, Fisher and Allison and ran the track enthusiastically at first, but less so later on. During World War II, with its tight rationing of rubber and oil, the track was not only out of use, but also fell into disrepair. Hulman bought the track with the hope of restoring its tradition and importance back to the racing and State community. Hulman returned the Speedway, and the 500, to its former glory in very little time. He ran the Speedway with vigor and skill until his death in 1977 and is credited with making the Speedway, and the race, the world-renowned spectacle it currently is.

Today, members of Tony Hulman's family carry on the tradition and serve as a proud legacy to his foresight and commitment. Tony George, grandson of Hulman and the current president of the Speedway, is now in charge of a facility, open year-round, with seating for over 250,000 people, space for just as many in its spacious infield, two golf courses, a Hall of Fame Museum, a motel, the Hanna Medical Center and, of course, the famous Gasoline Alley. This 559-acre complex on Indianapolis' northwest side is a marvel to all its visitors before, during and after the month of May.

Mr. President, the aforementioned individuals are the ones whose work through 81 years have made Indy the most prestigious race in motorsports and who have made it possible for the Speedway to be named a National Historic Landmark. However, it is the drivers who every year risk their lives to thrill us with their feats of skill on the oval track who are the heroes most famous to us all.

Names such as Wilbur Shaw, A.J. Foyt, Jr., Louie Meyer, Rick Mears, and Ralph DePalma, have become legends through their victories and sportsmanship. Families with names such as Unser, Bettenhausen, Vukovich and Andretti have qualified as many as three generations in this race. All have been fortunate enough to race, many have been blessed with victory, while some have paid the ultimate price while driving at Indy. It is a proud testament to these families that they continue to follow their dreams and race in memory of their loved ones. This year, one Unser, two Bettenhausens, and a remarkable four Andrettis will be in the field on raceday.

As stated before, Indy is a place for many milestones in both racing and testing. Four significant achievements will be celebrated during the running of this, the 75th race. This year's starting field is the fastest ever—averaging a speed of over 218 miles per hour in qualifying. A.J. Foyt's 34th and last 500 will be a bittersweet moment for all fans close to the race. Hiro Matsushita

will be the first Japanese driver at Indy and will serve as a reminder of the international appeal and flavor of the event. And, Willy T. Ribbs will be welcomed as the first black American to qualify and race at Indy.

Therefore Mr. President, I salute all those involved with Indy over the years. From the staff, to the pit crews, to the drivers, and especially to the fans who continue to visit each year—nearly one-half million of them will fill the grandstands and infield on May 26 to witness the "Greatest Spectacle in Racing" being held for the 75th time. To all involved, I wish a safe and exciting "Diamond Jubilee" at the "The Brickyard."

Happy Birthday Indy. "Gentlemen, start your engines."•

TRIBUTE TO LT. GEN. DONALD L. CROMER

• Mr. SEYMOUR. Mr. President, I rise to salute Lt. Gen. Donald L. Cromer, commander of the Space Systems Division, Air Force Systems Command, Los Angeles Air Force Base, CA.

General Cromer is retiring from the U.S. Air Force after nearly 32 years of service to his Nation. His contributions to our national security have particularly been welcomed in California, where the general has served many of his years of active duty.

I ask the U.S. Senate to join me in commending Lt. Gen. Donald L. Cromer for a lifetime of dedicated service to his country and extending to him our best wishes for a long and happy retirement.

I ask that the general's biography be printed in the RECORD.

The biography follows:

LT. GEN. DONALD L. CROMER

Lieutenant General Donald L. Cromer is commander of Space Systems Division, Air Force Systems Command, Los Angeles Air Force Base, Calif. He is responsible for managing the research, design, development and acquisition of space launch, command and control, and satellite systems.

General Cromer was born Jan. 23, 1936, in Grand Junction, Colo., and graduated from Lewis and Clark High School, Spokane, Wash. He attended Washington State University and graduated with a bachelor's degree from the U.S. Naval Academy in 1959. He earned a master's degree in electrical engineering from the University of Denver in 1969. The general completed Squadron Officer School in 1967 and was a distinguished graduate of Air Command and Staff College in 1973. He also attended the executive program at Stanford University's Graduate School of Business and the National Security Management Course at Harvard University.

Upon graduation from the academy in June 1959, he was commissioned in the Air Force. He then was assigned to Strategic Air Command's 549th Strategic Missile Squadron (Atlas D) at Offutt Air Force Base, Neb., as a guidance control officer and deputy missile combat crew commander. From January 1963 to August 1965 he served as an engineer analyst in the 4000th Aerospace Applications Group at Offutt.

The general was assigned to Kennedy Space Center, Cape Canaveral, Fla., and worked with the National Aeronautics and Space Administration on the Project Gemini Manned Spacecraft Program as a spacecraft test conductor. In December 1967 he returned to SAC headquarters in the Future Systems Division, Directorate of Plans. From December 1969 to August 1972 General Cromer served as chief of the Payload Branch, Satellite Data Systems Program Office, Space and Missile Systems Organization, Los Angeles Air Force Station (now Los Angeles Air Force Base).

In June 1973 he was assigned to the Directorate of Space, Office of the Deputy Chief of Staff for Research and Development, Headquarters U.S. Air Force, Washington, D.C., as program element monitor for the Satellite Data System and Defense Dissemination System programs. He then became project director, Office of the Secretary of the Air Force, Fort Belvoir, Va.

From May 1977 to June 1978 General Cromer served as deputy for Defense Meteorological Satellite Systems and director of the Defense Meteorological Satellite Program Office, Space Division, Los Angeles Air Force Station. He later was assigned as director of advanced technology for the Secretary of the Air Force's Special Projects Office there. In May 1982 he became director of space systems, Office of the Secretary of the Air Force, Washington, D.C. He returned to Los Angeles Air Force Station in June 1984 as deputy commander for launch and control systems, Space Division, and in January 1985 became vice commander.

In June 1986 General Cromer became commander of the Space and Missile Test Organization, Vandenberg Air Force Base, Calif. He was responsible for the management of test, launch and on-orbit control activities of Air Force space and ballistic missile systems. He also was responsible for the Western Space and Missile Center at Vandenberg, the Eastern Space and Missile Center at Patrick Air Force Base, Fla., and the Consolidated Space Test Center at Onizuka Air Force Base, Calif. He assumed his present command in June 1988.

The general's military decorations and awards include the Distinguished Service Medal, Legion of Merit with oak leaf cluster, Meritorious Service Medal with oak leaf cluster, and Joint Service Commendation Medal. He wears the Master Missile and Master Space badges.

He was promoted to lieutenant general July 1, 1988, with same date of rank.

General Cromer is married to the former Barbara Ann Jergens of Colorado Springs, Colo. They have four children: Clay, Colin, Cathleen and Melinda.•

CALIFORNIA'S DRUG-FREE SCHOOLS: WELDON ELEMENTARY AND SIERRA VISTA HIGH

• Mr. SEYMOUR. Mr. President, I ask the Senate to join me today in honoring the American schools which were recently designated as winners in the 1990-91 Drug-Free School Recognition Program.

Two California schools were honored by Secretary of Education Lamar Alexander among the 56 schools nationwide chosen as winners for their efforts to prevent or substantially reduce student alcohol, drug, and tobacco use.

The California schools chosen included Weldon Elementary School in Clovis, CA, and Sierra Vista High School in Dinuba, CA.

The students, faculty, parents, and administration of these two outstanding schools have my congratulations. They will serve as a model for schools throughout California and the Nation making similar attempts to stem the plague of drug and alcohol abuse afflicting our Nation's young people.

I thank my colleagues for joining with me in extending the congratulations of the U.S. Senate to America's drug-free schools.•

ENVIRONMENTAL PROTECTIONS IN ANTARCTICA

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 82, Senate Concurrent Resolution 26, a concurrent resolution calling on the United States to support an Antarctic Treaty.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 26) calling for the United States to support a new agreement among the Antarctic Treaty Consultative Parties which would provide comprehensive environmental protection of Antarctica and would prohibit indefinitely commercial mineral development and related activities in Antarctica.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Foreign Relations with an amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. KERRY. Mr. President, Antarctica plays an important and unique role in our global ecosystem and it must be protected. I rise today to commend my colleagues for passing so quickly this resolution urging the U.S. representatives at the final meeting of the Antarctic Treaty negotiators in June to adopt a new agreement which would ban indefinitely mineral mining activities in Antarctica; conserve and protect permanently the natural environment of Antarctica; grant Antarctica special protective status as a world park dedicated to wilderness protection, international cooperation, and scientific research; and agree to comprehensive measures for the overall protection of the Antarctic environment. I am pleased to note that this resolution enjoys bipartisan support.

Mr. President I want to commend the U.S. negotiators and other representatives from the consultative parties for the excellent tentative agreement they reached 2 weeks ago in Madrid, on a protocol to the Antarctic Treaty on Environmental Protection. On April 30 the Antarctic Treaty nations tentatively agreed to an indefinite prohibition on mineral mining activities unless a consensus of the consultative parties agrees to lift the moratorium after 50 years. In order to ratify lifting the prohibition three-fourths of the consultative parties, including all of the original treaty nations must agree to modify the prohibition. Furthermore, the consultative parties reached agreement on several additional critical issues important to the environmental protection of Antarctica that were embodied in the law Congress passed last year.

It is important that we pass this resolution today and show our support for the quality agreement reached recently in Madrid. The consultative parties will be meeting again in June to officially sanction it. It is my understanding that all of the nations except the United States have agreed to support the tentative agreement worked out in Madrid; and by passing this resolution today Congress in effect is endorsing the agreement reached on April 30.

In passing this resolution we are urging the U.S. negotiating team to follow the directive of Congress last year to provide comprehensive environmental protection of Antarctica and prohibit indefinitely commercial mining development on the continent. These measures, Public Law 101-594 introduced by the late Honorable Silvio Conte and myself and Public Law 101-620 introduced by Senator GORE and Congressman OWENS, direct the United States to pursue an indefinite prohibition on all mineral exploration and development and to reject the Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA], because it does not guarantee protection to the fragile Antarctic environment.

What would be more fitting to the memory of our great friend, Sil Conte, than to honor him for his work on the environment by having our negotiators push for the effort Sil Conte worked on tirelessly over the past few years. What is now the law of our land should be the language of the new international treaty on Antarctica.

By passing this resolution we are in effect reminding the administration of the support that exists in Congress for a long-term indefinite ban on mining, and the support for a more comprehensive environmental shield over the continent.

Similar to the agreement reached on April 30, our resolution urges an indefinite ban on mining unless a consensus is reached among the parties to the treaty to modify the treaty in a way that would provide comprehensive environmental protection to the area. There is no doubt in my mind that this is a fair and equitable approach to address the issue.

Mr. President, the Antarctic ecosystem is precious and fragile and it is imperative that we negotiate a treaty that will protect it from any future development which may be hazardous to its long-term health.

Mr. President, Antarctica is precious for many reasons. Chief among them, however, is its near pristine wilderness which serves as a perfect laboratory for studying global warming trends. Many scientists believe that development is likely to cause ice caps to melt, which would not only cause sea levels to rise, but would also reduce the ocean's capacity to absorb carbon dioxide—one of the main greenhouse gases. Altering this ability of our ocean to absorb CO_2, is clearly counterproductive to the findings in the report issued yesterday by the National Academy of Science on global warming trends. If the Antarctic environment gets sullied, we will lose a perfect testing ground for measuring global change and other critical scientific issues.

In closing, Mr. President, let me reiterate my belief that the final meeting in Madrid provides the United States with a great opportunity to take a leadership role in the protection of Antarctica. I urge the negotiators to adopt the strong position which a majority of the other consultative parties have already agreed to and which is the position already reflected in the laws passed by Congress last year.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 26), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, and the preamble, are as follows:

S. CON. RES. 26

Whereas Antarctica, like the great oceans and the atmosphere, is part of the global commons;

Whereas Antarctica is the Earth's last near-pristine continental wilderness and is, thus, a critical area in the study of global change;

Whereas the exploitation of minerals resources in Antarctica could severely degrade the Antarctic environment and threaten its fragile marine ecosystem;

Whereas the Protection Act of 1990 (Public Law 101-594) and Public Law 101-620 call for an indefinite prohibition of all Antarctic minerals activities and for the permanent protection of the Antarctic environment;

Whereas significant progress was made toward achieving these goals at the special consultative meeting of parties to the Antarctic Treaty in November 1990; and

Whereas the upcoming consultative meetings of parties to the Antarctic Treaty provide opportunities for the United States to exercise leadership toward the protection and sound management of Antarctica: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that Antarctica, as a global ecological commons, should be subject to a new agreement or protocol among the Antarctic Treaty Consultative Parties which would supplement the Antarctic Treaty (signed at Washington on December 1, 1959; 12 UST 795 et seq.) by providing for comprehensive environmental protection of Antarctica and by establishing Antarctica as a region closed, for an indefinite period, to commercial minerals development and related activities, unless a consensus is reached among the parties to the Treaty to modify its terms for such purposes.

(b) Such agreement would also—

(1) conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(2) grant Antarctica special protective status as a world park dedicated to wilderness protection, international cooperation, and scientific research; and

(3) would include other comprehensive measures for the protection of the Antarctic environment.

(c) The prohibition on all minerals activities in Antarctica in such a new agreement would fully support and strengthen the Antarctic Treaty's fundamental objective of keeping Antarctica free of international discord and activities of a military nature.

(d) It is further the sense of the Congress that, at the upcoming special consultative meeting of parties to the Antarctic Treaty, ending June 23, 1991, in Madrid, Spain, the President should support efforts to conclude the international agreement described in subsection (a).

Mr. BAUCUS. I move to reconsider the vote by which the concurrent resolution, as amended, was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JESSE OWENS BUILDING OF THE U.S. POSTAL SERVICE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 831 regarding a post office designation in Ohio; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times and passed, and the motion to reconsider be laid upon the table.

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

LUKE EASTER POST OFFICE

Mr. BAUCUS. Mr. President I ask unanimous consent that the committee on Governmental Affairs be discharged from further consideration of H.R. 971, a bill to designate a Postal Service facility in Cleveland, OH, as the Luke Easter Post Office and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 971) to designate the facility of the U.S. Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office".

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

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

AMENDMENT NO. 276

Mr. BAUCUS. Mr. President, on behalf of Senator GLENN, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. GLENN, proposes an amendment numbered 276.

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

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

The amendment is as follows:

At the end of the bill, insert the following:

SEC. . LEAVE BANK FOR JUDICIAL BRANCH EMPLOYEES OF THE FEDERAL GOVERNMENT IN RESERVES WHO WERE ACTIVATED DURING PERSIAN GULF WAR.

(a) JUDICIAL BRANCH EMPLOYEES.—The Director of the Administrative Office of the United States Courts shall establish a leave bank program under which—

(1) an employee of the Judicial Branch may (during a period specified by the Director of the Administrative Office) donate any unused annual leave from the employee's annual leave account to a leave bank established by the Director;

(2) the total amount of annual leave that has been donated under paragraph (1) shall be divided equally among the annual leave accounts of all employees who have been members of the Armed Forces serving on active duty during the Persian Gulf conflict pursuant to an order issued under section 672(a), 672(g), 673, 673b, 674, 675, or 688 of title 10, United States Code, and who return to employment with the Judicial Branch; and

(3) such Persian Gulf conflict participants who have returned to Judicial Branch employment may use such annual leave, after it is credited to their leave accounts, in the same manner as any other annual leave to their credit.

(b) DEFINITIONS.—For purpose of subsection (a), the term "employee" means an employee as defined in section 6301(2) of title 5, United States Code.

(c) DEADLINE FOR REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Director of the Administrative Office shall prescribe regulations necessary for the administration of subsection (a).

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 276) was agreed to.

Mr. BAUCUS. I move to reconsider the vote by which the amendment was agreed to and I also move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments? If not, without objection, the bill is deemed read the third time and passed.

Mr. BAUCUS. I move to reconsider the vote by which the bill was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTIONS 121, 132, 129, AND SENATE CONCURRENT RESOLUTION 41

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the following Senate Resolutions 121, 132, 129, and Senate Concurrent Resolution 41, just reported by the Foreign Relations Committee; that the committee amendments where appropriate be agreed to; that the resolution be agreed to, and the preambles be agreed to; and that the motions to reconsider be laid upon the table; that any statements relating to these items be printed in the RECORD at the appropriate place, and the consideration of these items appear individually in the RECORD.

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

The resolutions considered and agreed to are as follows:

BREAKTHROUGHS FOR PEACE IN ANGOLA

The resolution (S. Res. 121) supporting the breakthrough for peace in Angola, and for other purposes, was considered and agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The resolution, and the preamble as amended, are as follows:

S. RES. 121

Whereas the people of Angola have never enjoyed the right to select their own government through free and fair elections;

Whereas on May 1, 1991, representatives of the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola (UNITA) initialed an agreement establishing a permanent cease-fire in May 1991 and the holding of free and fair elections during the period of September through November 1992;

Whereas the agreement would not have been achieved without the effective mediation of the Government of Portugal and the participation of the governments of the United States and the Soviet Union; and

Whereas it is the bipartisan support of the United States Congress which enabled the President effectively to encourage dialogue and compromise with the Soviet Union, the Government of the People's Republic of Angola, and UNITA: Now, therefore, be it

Resolved, That (a) the Senate supports the historic transition to mulitparty democracy in Angola.

(b) It is the sense of the Senate that such support should continue to be bipartisan and be dedicated to implementing the cease-fire in Angola and ensuring a free and fair election in that country, including—

(1) support for United Nations Peacekeeping Forces, handling of the census, voter education, democratic institution-building, and election monitoring; and

(2) humanitarian support to the civilian population in Angola.

(c) It is further the sense of the Senate that, upon the completion and validation of free and fair elections, the President should, on behalf of the United States, recognize and establish full diplomatic relations with the duly elected Government of Angola.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

COMMENDING HUMANITARIAN RELIEF EFFORTS FOR IRAQI REFUGEES

The resolution (S. Res. 132) commending the humanitarian relief efforts for Iraqi refugees, was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 132

Whereas beginning on March 28, 1991, nearly two million Kurdish and Shia men, women, and children in Iraq fled to their nation's borders in the aftermath of the failed uprising against Saddam Hussein;

Whereas the past policies of Saddam Hussein against the Iraqi people and attacks on the population since the defeat of Iraqi forces instilled terror in the population and led to the largest and swiftest flight of refugess in modern history;

Whereas an estimated 700,000 Kurdish refugees sought safety from Iraqi forces in the mountains along the Turkish-Iraqi border; 1.3 million Kurdish refugees sought safety along the Iranian-Iraqi border; 100,000 Shiites sought refuge along the Iranian-Iraqi border and 25,000 Shiites—who sought refuge along the Kuwaiti-Iraq border have been relocated to Saudi Arabia;

Whereas an unknown number of Iraqis have been displaced internally inside Iraq;

Whereas an estimated 1,000 Kurdish refugees died each day in the early days of the refugee crisis along the Turkish-Iraqi border from exposure, malnutrition, and disease;

Whereas on April 5, 1991, President Bush ordered United States forces to begin providing assistance to the refugees along the Turkish-Iraqi border;

Whereas on April 16, 1991, in response to the overwhelming humanitarian needs of the Kurdish refugees along the Turkish-Iraqi border, President Bush, following consultations with Prime Minister Major of the United Kingdom, President Mitterand of France, President Ozal of Turkey, Chancellor Kohl of Germany, and the United Nations Secretary General Perez de Cuellar, announced a greatly expanded relief effort, named "Operation Provide Comfort", to provide adequate food, medicine, clothing, and shelter to the Kurds living in the mountains along the Turkish-Iraqi border;

Whereas, consistent with United Nations Security Council Resoluton 688 and in con-

junction with European nations, the United Nations and international relief organizations, the United States forces established encampments in northern Iraq to provide relief supplies to the refugees;

Whereas "Operation Provide Comfort" saved the lives of more than 20,000 Kurdish refugees in northern Iraq and Turkey by reducing the death rate to less than 10 per day; and

Whereas the performance of the allied forces involved in this effort have accomplished an extraordinary humanitarian relief effort in a brief period of time: Now, therefore be it

Resolved, That (a) The Senate—

(1) commends the United States and allied troops who are participating in Operation Provide Comfort in northern Iraq and Turkey and those who ably assisted thousands of refugees in Kuwait and southern Iraq, and who have demonstrated exceptional dedication, professionalism, and compassion in accomplishing this humanitarian task;

(2) supports the continuation of the benefits enacted by Congress for "Operaton Desert Storm" to the participants of "Operation Provide Comfort" for the duration of that operation;

(b) It is the sense of the Senate that—

(1) the United States and the international community should continue to assist and protect refugees and to support the goal of enabling all the refugees, including those along the Turkish-Iraqi border, the Iranian-Iraqi border, and in Saudi Arabia, to return home with adequate assurances of peace and security;

(2) increased efforts should be made to assist the remaining 900,000 refugees in Iran and the Iranian Government should cease impeding international relief efforts; and

(3) the United States should respond immediately to the United Nations appeal for increased assistance to the refugees.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. SIMPSON. Mr. President, I rise to join my colleague in support of this resolution commending the performance of our military and the other allied forces in providing emergency relief to the Kurdish and Shia refugees who fled the depredations of Saddam Hussein's army.

Operation Provide Comfort has saved the lives of tens of thousands of refugees, and that is something that every participating country can be proud of.

I also want to pay tribute to President Bush for his decisive and resolute action in ordering our forces to provide the lifesaving assistance to the Kurds in the mountains along the Turkish-Iraqi border.

I know that President Bush told our military to determine what could be done to help—not what could be done "if we had the money," but what could be done. Well, what was done was effective, lifesaving and another example of the superb skills, training and ability possessed by our men and women in uniform.

What our troops did was historic. Never before have our military forces taken on a humanitarian assistance task of this scale and under such harsh conditions as existed in the mountains along the Iraqi-Turkish border.

Our forces carried out their duties in Operation Provide Comfort with the same dedication, professionalism and effectiveness that we saw in Operation Desert Storm.

Our troops fought two extraordinary campaigns, and won them both. We are all so proud.

I urge my colleagues to support this resolution which recognizes this fine humanitarian accomplishment of our Armed Forces.

Mr. KENNEDY. Mr. President, yesterday, Senators SIMPSON, DECONCINI and I introduced a resolution to commend the extraordinary humanitarian relief mission of our troops in aiding the Iraqi refugees. The Senate Foreign Relations Committee reported the resolution unanimously earlier today, and I urge my colleagues to join in paying tribute to this historic relief operation.

I am grateful to the chairman of the Senate Foreign Relations Committee for considering this resolution in such an expedited manner. The strong support it received today in the committee underscores the overwhelming appreciation in this body and across the Nation for the lifesaving mission our forces carried out to save Kurds and other refugees fleeing Saddam Hussein's murderous retribution and violence.

Only a month ago, the world watched a massive tragedy unfold, as hundreds of thousands of Iraqi Kurds and Shia fled their homes and villages. Never before in modern times has such a massive and sudden exodus of innocent men, women, and children occurred. Their flight is a chilling testament to the brutal and ruthless regime of Saddam Hussein.

None of us will ever forget the heart-wrenching pictures night after night on the evening news of starving Kurds rushing to grab the initial deliveries of relief supplies, or the faces of the dying children, and grief stricken parents. Rather than face Saddam Hussein, the Kurds preferred to face death and disease in the harsh mountains along the Turkish-Iraqi border.

At first, the administration hesitated to come to the assistance of these innocent victims of the war. But the plight of the Kurds touched the conscience of the Nation and the world. On April 16, President Bush ordered the United States to act, and sent troops into northern Iraq in an unprecedented military mission of mercy. Within days, the number of Kurds dying in the mountains dropped from 1,000 a day to less than 50. Today, the rate is less than 10.

This extraordinary effort, Operation Provide Comfort, saved an estimated 20,000 lives, as United States and allied troops provided food, clothing, shelter, and medicine to the Kurds. The only regret is that we did not act sooner and save an even larger number of lives.

In addition, beginning in the early days after the war, the United States, together with the allied forces and international relief agencies, assisted the 40,000 mostly Shia refugees in southern Iraq. In one aspect of that most impressive operation, the United States military airlifted 25,000 Iraqi refugees to a camp in Saudi Arabia. We have now turned over the responsibility of the remaining refugees to the United Nations within a demilitarized military zone along the Iraqi-Kuwait border. The committed men and women involved in this impressive effort deserve recognition for their extraordinary performance and the tremendous success of their operation.

The resolution before us commends these men and women for their skill, courage and dedication. It also urges that the benefits enacted by Congress for Operation Desert Storm be extended to the participants of Operation Provide Comfort for the duration of the relief mission.

Trained for war, our troops demonstrated the outstanding capability and flexibility of our military to adapt to changing circumstances and changing missions. Never before has the military conducted such a massive humanitarian relief effort. And never before have relief efforts been so extraordinarily successful and saved so many lives so quickly.

The resolution also urges the United States and the international community to continue to assist and protect the refugees and to support the goal of enabling all the refugees to return home with adequate assurances of peace and security. The arrival of allied troops in the critical city of Dahuk and the eventual transfer of authority to the United Nations officials provide a needed sense of security for the returning Kurds. That action, coupled with the ongoing autonomy negotiations between the Kurdish leadership and the Iraqi Government, will enable the vast majority of the Kurds along the Turkish-Iraqi border to return home.

But long-term problems persist and the United States has a responsibility to remain engaged in the process of establishing peace and stability throughout Iraq. Secret police remain active throughout the country, even in the allied controlled areas, and threaten and harass the Iraqi people. One million Kurdish and Shia refugees remain along the Iran-Iraq border and another 25,000 Shia remain in the refugee camp in Saudi Arabia. No one knows how many more Iraqis are displaced within Iraq. We must continue to work for conditions that will enable them to return home, too.

Finally, our policy toward Iraq cannot be based solely on the overthrow of Saddam Hussein. Peace and stability

will never come to Iraq until all the people of that troubled country have a role in choosing their own leaders. Our current policy of supporting an internal coup within the Ba'ath party structure disenfranchises 80 percent of the population. The Shia, who make up 55 percent of Iraq's people, and the Kurds, who make up another 25 percent, must also participate in governing the nation. The United States must put itself clearly on the side of democracy and human rights in Iraq.

I thank the majority leader for allowing this important resolution to be considered by the Senate, and I urge my colleagues to join in giving the suport of the Senate to this historic relief effort and to our forces who made it all possible.

RECENT PARLIAMENTARY ELECTIONS IN ALBANIA

The resolution (S. Res. 129) regarding the recent parliamentary elections in Albania, was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 129

Whereas on March 31, 1991 Albania conducted its first open, multiparty parliamentary elections since the 1920's;

Whereas a fair election is a process, not a single event, which includes the formulation of rules governing the election, the conduct of the campaign prior to the actual voting and finally, the voting, tabulation and release of results.

Whereas the Document of the June 1990 Meeting of the Conference on the Human Dimension of the Conference on the Security and Cooperation in Europe (CSCE) states that participating States will "ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence or intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution";

Whereas although the election itself appeared to have been conducted properly with few reports of fraud, some irregularities were noted such as disparities in the number of registered voters per precinct; and there were credible reports that during the campaign preceding the election some intimidation of voters and harassment of opposition party activities occurred:

Whereas the monopoly over election rulemaking enjoyed by the Communist Party of Labor, in addition to its greater access to government-supplied resources such as transportation, office space and printed material, contributed to the Party of Labor's ability to win over two-thirds of the seats in the new 250-member parliament;

Whereas the opposition did well in the cities, defeating many leading Party of Labor candidates such as President Alia, and Foreign Minister Kapliani;

Whereas the Party of Labor won decisively in rural areas very likely because rural voters had little contact with international observers, had limited access to media coverage of the campaign, feared the effects of agricultural decollectivization, and were conditioned by decades of repression to vote for communist candidates;

Whereas on April 2, when the election results were announced, peaceful opposition demonstrations occurred in the capital city of Tirana as well as in other cities;

Whereas during one of these demonstrations, which the government sought to suppress, in the northern city of Shkoder, four unarmed opposition members, including Arben Broci, a leader of the Democratic Party of Albania were killed, reportedly by Albanian security forces;

Whereas the Albanian people are in dire need of medical and other humanitarian assistance: Now, therefore, be it

Resolved by the Senate, That—

(1) the Senate condemns the use of violence to break up peaceful demonstrations and calls on the government of Albania promptly to complete a full and objective investigation of the April 2 killings in Shkoder, as requested by the Democratic Party of Albania and to deal appropriately with those found responsible;

(2) the Senate regrets that the organization and conduct of the campaign preceding the March 31 election did not permit opposition political parties to compete fairly with the governing Party of Labor;

(3) the Senate commends the President for his decision to re-establish full diplomatic relations with Albania and urges him to utilize this new relationship (a) to encourage a dialogue between the government and the opposition regarding the future of the country and (b) to urge the government to honor its expressed commitments to make political and market-oriented economic reforms and to meet European political and human rights standards;

(4) the Administration should support Albania's application for CSCE membership, provided that Albania unequivocally accepts all of the obligations of the Helsinki Final Act of 1975 and subscribes to the objectives set forth in the Document of the June 1990 Meeting of the Conference on the Human Dimension of the CSCE;

(5) if Albania becomes a CSCE member, the United States should use the CSCE forum to monitor and encourage Albania's compliance with its CSCE obligations;

(6) the United States should be as responsive as possible to Albania's genuine humanitarian needs, which should be addressed through private voluntary organizations;

(7) other economic assistance and economic relations should be directly related to Albania's progress in making political and economic reforms and in improving its human rights performance;

(8) the Administration should encourage and support programs of the National Democratic and Republican Institutes to assist in Albania's democratic development; and

(9) the Voice of America and/or Radio Free Europe should expand Albanian language broadcasting to Albania, and the United States Information Agency should establish a strong information program at the new Embassy in Tirana.

Mr. DOLE. Mr. President, I am pleased to cosponsor this resolution with the distinguished chairman of the Senate Foreign Relations Committee. Senator PELL was an observer of the historic elections in Albania 2 months ago—the first open, multiparty parliamentary elections in over 70 years—and his first hand observations are reflected in this resolution.

Mr. President, many of us in this body never thought we would see the day when the light of democracy would shine on the darkest of Communist states, Albania. And, while there is a long, long way to go, we can say that a few rays of democracy's light are now shining on Albania.

The multiparty parliamentary elections held on March 31 were the first step. Now, as this resolution points out—a fair election is a process—and the evidence shows that as a process, these elections fell short of Western standards. And the primary reason for this is that the Communist Government of Albania had a monopoly over election rulemaking which it utilized—along with its access to means of communicating with the Albanian people—to its great advantage. The effects of the government's monopoly and the opposition's lack of access—were apparent in the election results: the renamed Communist Party—the Party of Labor—won two-thirds of the seats in the Parliament. It is not surprising that the Party of Labor did best in rural areas where there was limited media coverage of the campaign, little information about the alternatives proposed by the opposition, limited contact with international observers, all set against a historical backdrop of repression under forced collectivization.

It is also not surprising that the opposition did well in the cities and even defeated leading labor candidates, including President Alia and his Foreign Minister.

This resolution is important because it lets everyone know that the United States Senate clearly understood the election process in Albania and the events that followed. This resolution is also important because it indicates that the United States is still watching.

On April 2, the day the election results were announced, peaceful opposition demonstrations occurred in the Capital of Tirana and in other cities. The Albanian Government sought to brutally and forcibly suppress these demonstrations—and as a result, four opposition members—all unarmed—were killed by Albanian security forces.

Mr. President, the events of April 2 proved that one election does not a democracy make. And, this resolution condemns the use of violence to break up these peaceful demonstrations.

In addition, this resolution urges that United States economic assistance to Albania, and economic relations between the United States and Albania be directly related to Albania's progress in making political and economic reforms and in improving its human rights performance. The United States should not subsidize repression.

Now, the Government of Albania has made some promises to reform eco-

nomically, politically, and in the critical area of human rights.

Mr. President, we will be watching to see if the Albanian Government lives up to these promises—for the future of the people of Albania—I sincerely hope it does.

Mr. PELL. Mr. President, we have before us today a resolution that Senator DOLE and I submitted earlier this week regarding the recent elections in Albania.

At the end of March, I traveled to Albania to observe that country's first multiparty parliamentary elections since the 1920's. I concluded that although the voting procedures were orderly and ballot counting took place with a low incidence of fraud or procedural irregularities, there were other severe defects in the election process.

The ruling party possessed a monopoly over election rulemaking, as well as a distinct organizational advantage, through its access to transportation, the media, and party headquarters buildings in virtually every city, town, and village. There also were reports of voter intimidation and harassment, but since international observers were not permitted to enter the country until the last week of the campaign—which also raises questions about election procedures—the extent of this harassment has been difficult to determine.

Moreover, on April 2, when the election results were announced, peaceful opposition demonstrations occurred in several cities throughout Albania. During a demonstration in Shkoder, four unarmed opposition members, including a leader of the Democratic Party, were killed, reportedly by Albanian security forces.

Mr. President, a delegation of the Commission on Security and Cooperation in Europe [CSCE], led by the Commission's chairman, Senator DECONCINI, also observed the Albanian elections. The delegation agreed that "taken as a whole, the Albanian elections cannot be considered free and fair. This does not mean, however, that the irregularities, intimidation, and other problems encountered were necessarily sufficient to invalidate the results * * * the very holding of these multiparty elections was a definite step forward."

Mr. President, the resolution that I am introducing acknowledges both of these facts: That there were disturbing problems with the election, and that the election in itself was an important milestone. Now that Albania has taken this major step forward, I believe that there is much that we in the United States can do to encourage further reform in Albania.

Accordingly, this resolution urges the United States administration, among other things, to support Albania's application for CSCE membership; to encourage and support programs of the National Democratic and Republican Institutes to assist in democratic development; and to establish a strong information program at the new United States Embassy in Tirana. It also calls upon the Albanian Government to complete promptly a full and objective investigation of the April 2 killings.

Mr. President, this week, Dr. Sali Berisha, the chairman of the Democratic Party of Albania, is in Washington. The Albanian Democratic Party, which made a strong showing in urban areas, is the first legal political party in Albania, and is by far the largest and best organized of the opposition groups. Its program espouses privatization, decollectivization, and foreign investment.

Dr. Berisha has also called for a thorough investigation of the April 2 events. I believe that it would be most fitting for the Senate to act upon this resolution while Dr. Berisha is in the United States, and accordingly, I urge my colleagues to support it.

OCCUPATION OF TIBET

The concurrent resolution (S. Con. Res. 41) to express the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Quinghai that have historically been a part of Tibet, is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan Government in exile as recognized by the Tibetan people, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 41

Whereas Tibet has maintained throughout its history a distinctive national, cultural, and religious identity separate from that of China;

Whereas Chinese archival documents and traditional dynastic histories, including those pertaining to periods of Manchu and Mongol rule, never refer to Tibet being made "an integral part" of China;

Whereas several countries, including Mongolia, Bhutan, Nepal, British India, and Czarist Russia recognized Tibet as an independent nation or dealt with Tibet independently of any Chinese government;

Whereas in 1949–50, China launched an armed invasion of Tibet in contravention of international law;

Whereas at the time of the Chinese occupation, Tibet possessed all the attributes of statehood under international law including a defined territory and population, an independent government, and the ability to conduct domestic affairs and independent international relations, as found in 1960 by the International Commission of Jurists;

Whereas it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another;

Whereas in the 1950's and 1960's, the United States repeatedly condemned what it characterized as China's aggression against Tibet and actively supported the United Nations in both condemning China and calling for Tibet's right to self-determination in General Assembly Resolutions 1353 (1959), 1723 (1961), and 2079 (1965);

Whereas on December 16, 1961, at the United Nations, United States Ambassador Plimpton summarized the official United States' position on Tibet, stating: "The United States believes that our objectives must include the restoration of human rights of the Tibetan people and their natural right of self-determination";

Whereas China's illegal occupation of Tibet continues to this day;

Whereas the United States should not condone aggression by accepting China's claim to sovereignty over Tibet; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Quinghai, is an occupied country under the established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile as recognized by the Tibetan people.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 173 AT 3 P.M., MONDAY, JUNE 3, 1991

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 3 p.m., Monday, June 3, the Senate proceed to the consideration of Calendar Order 67, S. 173, a bill to permit the Bell Telephone Cos. to engage in the manufacture of telecommunications equipment.

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

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair on behalf of the Vice President, pursuant to the provisions of Public Law 99–93, as amended by Public Law 99–151, appoints the Senator from California [Mr. SEYMOUR], to the U.S. Senate Caucus on International Narcotics Control.

ORDERS

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m., Friday, May 24; that following the prayer, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day.

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

RECESS UNTIL 9 A.M.

Mr. BAUCUS. Mr. President, if there is no further business to come before the Senate today, and if the acting Republican leader has no further business, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9 a.m., Friday, May 24, 1991.

There being no objection, the Senate, at 12:55 a.m., recessed until Friday, May 24, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 23, 1991:

THE JUDICIARY

ANDREW J. KLEINFELD, OF ALASKA, TO THE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT VICE ALFRED T. GOODWIN, RETIRED.

HARVEY E. SCHLESINGER, OF FLORIDA, TO THE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA VICE HOWELL W. MELTON, RETIRED.

RALPH W. NIMMONS, JR., OF FLORIDA, TO THE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.