

SENATE—Tuesday, February 4, 1992

(Legislative day of Thursday, January 30, 1992)

The Senate met at 9:10 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

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

Let us pray:

*So God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it * * *.—Genesis 1:27-28.*

Eternal God, our Founding Fathers conceived this Nation on the basis of the "self-evident" truth that we are created beings, "endowed with certain inalienable rights * * *." We were created "in his image * * * male and female," and mandated to "be fruitful, and multiply, and replenish the earth, and subdue it * * *."

Our present indifference as a society to this "self-evident" truth has led us to repudiate the mandate. We now treat being fruitful and multiplying as an enemy, and rather than replenish the earth and subdue it, we exploit the earth and are in the process of destroying it. Meanwhile, our indifference to God feeds our disobedience to his mandate.

Patient God, we desperately need a spiritual visitation—a mighty, cosmic touch of the Holy Spirit—lest in our indifference, our blindness, our Godlessness, we pursue our self-destruction. Forgive us, gracious Father in Heaven; lead us out of our mindless materialism, our incipient secularism, to spiritual and moral awakening.

In the name of Jesus, the Way, the Truth, and the Life. 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, February 4, 1992.

To the Senate:

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

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The acting Republican leader, Mr. JEFFORDS, is recognized.

Mr. JEFFORDS. Mr. President, I ask unanimous consent I be allowed 5 minutes of leader time.

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

THE JEFFORDS AMENDMENT

Mr. JEFFORDS. Mr. President, I would like to take a moment this morning to discuss the up and going energy bill. It is an extremely important bill, as we all know, and I previously voted against the motion to proceed. This morning, I intend to vote in favor of the motion to proceed, and I want to explain why I am going to do that.

First of all, I have an amendment which I want to make everyone aware of. It is an extremely important amendment. It is the only amendment which will put this Nation in a position where it may become energy independent. I approached the committee earlier last year with an amendment to let them know that there is a way that we can overcome the power that OPEC holds over us in dictating what our energy policy would be. At that time, I had good support for that amendment. The Energy Committee considered it. A majority of the Energy Committee even endorsed it initially.

However, several problems were raised with it. I will be very candid with you. The big oil companies recognized that it would take the energy policy of this Nation out of their hands and put it into the hands of the people of the country and this body. Thus, they now say that this amendment is worse, as far as their interests are concerned, than ANWR or CAFE; and that they must defeat it.

I come before you to, hopefully, suggest that perhaps we do want to put this Nation in charge of its own energy policy. Now, in fairness to the committee, there were some problems which were raised with my amendment, problems which we have since worked on, and I believe, cured.

Second, the committee did adopt the goals of my amendment, but they changed a plan of action into a voluntary plan of begging for compliance. Anyone who understands what the threat of OPEC does to anyone who wants to compete with it can readily recognize that the hope of voluntary compliance is not something which is likely to be achieved, because OPEC has the control over the price. Two-thirds of the world's oil supplies lie in that small area of the Middle East, so fraught with problems and difficulties that the chance of its becoming peaceful, such that we are no longer under that hammer, is very unlikely.

So to think we can do this by voluntarism is very unlikely. However, later on, after the motion to proceed was defeated, I did meet with those that were upset with not having the energy bill go forward. And I worked with them—the Department of Energy; the administration, in particular—to try and see if we could reach a middle ground and to correct some of the problems which were seen in my amendment.

I believe we have done that, but I would have to say that the administration has not come forward with the compromise which we hoped would be delivered. But we have come forward with changes which we believe meet the problems of the original amendment.

One of the requests that I was given in order to reach a compromise was: You have to do something for domestic oil. You have to do something to bring them into the picture.

This we have done. What we have done is to say that the mom-and-pop oil producers of this Nation need to be protected from the impact of OPEC. Thus we include in our definition of those that can take advantage of the free market—the free market we open up, free of OPEC's dominance—that stripper wells qualify. This means we will be setting a floor for the price of stripper oil, and allow them to compete with other alternative sources, which should raise over the course of time the price for their oil, and thus increase the amount of domestic oil which will be produced in the Nation.

We think because this is a declining resource, which is going to expire sometime within 10 years or so, that while that is decreasing, we can build the alternative fuels business and replacement fuels business necessary to reach the point where, after 20 years, we will have 30 percent of our alternative fuels for the motor fuels re-

ceived from domestic sources. And this will place us in a position where we will have the option to go forward and say we want to be totally energy independent.

Mr. President, in summary, I urge Members to look at my amendment and ask themselves this question: Do I want to be opposed to something which will place us in a position to be energy independent, which will reduce our dependence on foreign oil, which will decrease our trade deficit, which will decrease our own Federal deficit, which will create hundreds of thousands of jobs in this country? I believe you do not want to be opposed to this amendment.

I thank the President.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the remainder of 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 9:30 a.m., with Senators permitted to speak therein.

The Senator from Wisconsin [Mr. KASTEN] is recognized.

PASS GROWTH PLAN BY MARCH

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Mr. KASTEN. Mr. President, President Bush has proposed a future-oriented economic game plan that will help restore economic growth and put people back to work.

Specifically, his growth package would cut the capital gains tax to 15.4 percent and provide investment tax allowances to promote job-creating investment in new plant and equipment. It creates a new \$5,000 first-time homebuyer tax credit to get the housing sector of our economy moving again. And it takes an important first step in reducing the tax burden on families with children by increasing the personal tax exemption by \$500 per child.

During his State of the Union Address, the President issued a challenge to the Congress to put his economic growth plan on a fast track—and pass it by March 20, 1992. Despite complaints by some in Congress that this deadline is too soon, history shows that the Congress is able to act with great speed when presented with important issues:

For example, in response to the emergency of the Great Depression, Congress enacted the Emergency Banking Relief Act in 1 day. Congress enacted major legislation during the first months of the FDR administration.

In 1964, Congress took 2 days and President Lyndon Johnson 4 more days to adopt the Gulf of Tonkin resolution, which said the United States was prepared to use force to defend the countries of Southeast Asia.

On November 8, 1989, antidrug legislation was introduced to authorize funds for military and law enforcement assistance to Bolivia, Colombia, and Peru. It passed the House on November 13, 1989, and the Senate on November 15, 1989.

Last year, Congress enacted the authorization of aid to the Kurdish rebels in just 19 days.

Unemployed and underemployed Americans cannot wait another 3 or 6 months for Congress to act. They are not concerned about committee jurisdictions, floor procedures, points of order, and other Washington practices; the people across Wisconsin and the people across this country are worried about their jobs, their families, and their ability to pay their mortgages.

If Congress can pass an aid bill for Kurdish refugees in just 19 days, then it ought to be able to pass an economic aid package for Americans in less than 2 months.

I want to emphasize that President Bush has set the March 20 deadline to pass a growth package that will create jobs and promote upward mobility—not an income redistribution package that will destroy jobs and foster class envy.

Many of the so-called middle class tax plans are not tax cuts at all—but tax increases on people who have the resources to save and invest in our economic engine. These plans attempt to redistribute wealth, not create it.

The American people want—and need—new jobs. It is time to roll up our sleeves and pass a growth package that will spark investment and put unemployed Americans back to work.

I ask unanimous consent that my "Dear Colleague" letter listing examples of congressional action be printed in the RECORD.

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

FOREIGN POLICY EXAMPLES

1. Gulf of Tonkin Resolution (P.L. 88-408)

Incidents occurred in the Gulf of Tonkin on August 2, 1964, and August 4, 1964. President Johnson sent a message to Congress on August 5, 1964, regarding these incidents and the "Gulf of Tonkin Resolution" was introduced the same day (H.J. Res. 1145). It stated that the U.S. was prepared as the President determines to take necessary steps, including use of force, to assist Members or Protocol States of the Southeast Asia Collective Defense Treaty in the defense of freedom. The resolution passed both Houses of Congress on August 7, 1964, and was signed into law on August 11, 1964.

2. Desert Shield/Iraqi Invasion of Kuwait

On August 2, 1990, Iraq invaded Kuwait. That same day, the Senate passed S. Res. 318, which urged the President to seek international cooperation in applying sanctions against Iraq.

3. Authorization of Aid to the Khurdish Rebels (P.L. 102-45)

On April 25, 1991, the President sent a message to Congress regarding aid to the Khurds. On April 29, 1991, H.R. 2122 was introduced to authorize emergency assistance to Iraqi refugees displaced as a result of the Persian Gulf War. H.R. 2122 passed the House on April 30, 1991, and the Senate on May 9, 1991. It was signed into law on May 17, 1991.

4. Appropriation of Aid to the Khurdish Rebels (P.L. 102-55)

On May 8, 1991, H.R. 2251 was introduced to make dire supplemental appropriations for humanitarian assistance to refugees and displaced persons around Iraq as a result of the recent invasion of Kuwait. H.R. 2251 passed the House and the Senate on May 9, 1991. The conference report passed the House and the Senate on May 22, 1991. H.R. 2251 was signed into law on June 13, 1991.

DOMESTIC POLICY EXAMPLES

1. New Deal Legislation

Responding to the emergency of the Depression, Congress enacted major legislation during the first months of the Franklin Roosevelt Administration in 1933.

A. The Emergency Banking Relief Act (P.L. 73-1)

This legislation was enacted in one day, an all time record for that period. H.R. 1491 was introduced, passed by Congress, and signed into law on March 9, 1933, just five days after President Roosevelt took office.

B. Tennessee Valley Authority (P.L. 73-17)

On April 10, 1933, President Roosevelt proposed to Congress the creation of a Tennessee Valley Authority. The House passed H.R. 5081 which encompassed the President's plan on April 25, 1933, and the Senate approved a similar measure on May 3, 1933. The conference report was adopted by the Senate on May 16, 1933, and the House on May 17, 1933. H.R. 5081 was signed into law on May 18, 1933.

C. The Federal Securities Act (P.L. 73-22)

On March 29, 1933, President Roosevelt sent a measure to Congress to regulate the securities market. H.R. 5480 was passed by the House on May 5, 1933, and the Senate on May 8, 1933. The conference report passed the House and Senate respectively on May 22, and May 23, 1933. H.R. 5480 was signed into law on May 27, 1933.

2. Secret Service Protection for Major Presidential and Vice Presidential Candidates (P.L. 90-331)

After Robert Kennedy was assassinated on June 4, 1968, Congress quickly approved (voice vote) legislation with no hearings, no reports, and only abbreviated floor consideration to provide Secret Service protection for major presidential and vice presidential candidates, H.J. Res. 1292 was introduced, passed by both Houses, and signed into law on June 6, 1968.

3. Drug Fighting Assistance to Columbia, Bolivia, and Peru (P.L. 101-231)

On November 8, 1989, anti-drug legislation H.R. 3611 was introduced to authorize funds for military and law enforcement assistance to Bolivia, Columbia, and Peru. It passed the House on November 13, 1989, and the Senate on November 15, 1989. The House passed the conference report on November 21, 1989, and the Senate on November 22, 1989. H.R. 3611 was signed into law on December 13, 1989.

4. Amendments to the Drug-free Schools and Communities Act (P.L. 101-226)

On November 8, 1989, H.R. 3614 was introduced to revise provisions relating to drug

abuse education and prevention programs in schools. It passed the House on November 13, 1989, and the Senate on November 15, 1989. The conference report passed the House on November 21, 1989, and the Senate on November 22, 1989. It was signed into law on December 12, 1989.

5. *Special Senate Independent Counsel (S. Res. 202)*

Following the reopening of the Clarence Thomas Supreme Court confirmation hearings on October 11-13, 1991, Judge Thomas was confirmed by the Senate on October 15, 1991. On October 24, 1991, the Senate adopted S. Res. 202, to appoint a special independent counsel to investigate unauthorized disclosures of confidential information from this case and the case of the so-called "Keating Five."

Source: Preliminary information compiled by Congressional Research Service, January 30, 1992.

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

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

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. 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.

If the Senator will suspend for just a moment, as the Senator is aware, at 9:30 under the previous order the time is scheduled for debate on the motion to invoke cloture. Does the Senator seek unanimous consent to extend his own time?

Mr. DECONCINI. Mr. President, I ask unanimous consent that I have up to 5 minutes.

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

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI, pertaining to the introduction of S. 2182 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. I thank the Chair and yield the floor.

TRIBUTE TO JUSTICE ERIC EMBRY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to my friend and former colleague, Eric Embry, who died on January 12 after an extended illness. The retired justice, who successfully defended the New York Times in a landmark libel case brought by a Montgomery, AL, Police Commissioner, was one of the finest justices ever to serve on the Alabama Supreme Court. His quick mind and ability to immediately get to the heart of an issue were invaluable to the court. Through his trial practices, he developed a reputation of excellence in the courtroom.

The son of a circuit judge, Eric Embry served as an infantryman in the Pacific theater during World War II,

and obtained his undergraduate and law degrees from the University of Alabama shortly thereafter. He first practiced law in Pell City, where he was born, and later with Beddow, Embry & Beddow in Birmingham, among the city's most prominent firms. He was elected to Alabama's Supreme Court in 1974, serving there with distinction for 11 years.

Judge Embry gained notice in the early 1960's when he was the attorney for the New York Times at the trial stage in Montgomery in a libel case brought by L.B. Sullivan, the police commissioner in the State capital. The case eventually went to the U.S. Supreme Court, which established new standards in libel law in its 1964 ruling in favor of the newspaper. The High Court held that public officials could not recover in libel suits unless they prove actual malice, showing that false statements were made with prior knowledge they were false, or reckless disregard for whether they were false or not. The Alabama court had originally awarded the commissioner a \$500,000 judgment.

Of course, the professional and moral courage exemplified by Judge Embry during the case is even more remarkable given the period of bitter racial conflict in which it took place. Sullivan's suit against the Times was over an advertisement printed in the paper by supporters of the Reverend Martin Luther King, Jr., and other civil rights activists alleging abuses by State officials against demonstrators. Judge Embry's representation of the New York paper was, obviously, a very unpopular, even dangerous, cause in Alabama during the early 1960's.

Mr. President, Eric Embry possessed the kind of moral character which carried with it a social obligation to do what was right regarding his fellow man. When we honor the life and achievements of Dr. King and the civil rights movement each January, we can be proud of Alabamians like Judge Embry, whose brave and selfless leadership truly embraced those early dreams of equality. I was proud to have served with him and to have counted him among my friends.

I extend my sincere condolences to his daughters, Corinne Embry Vickers of Birmingham and Alden Embry Burchfield of Theodore, and their families. I ask unanimous consent that an editorial by the Montgomery Advertiser on the late justice's life be printed in the RECORD following my remarks.

ERIC EMBRY: JURIST HELPED SHAPE LIBEL LAW

Former Alabama Supreme Court Justice Eric Embry contributed greatly to expanded discussion of vital public issues when he played a major role in a landmark libel case.

Justice Embry died of cancer Sunday at age 70 in Birmingham after a distinguished legal career.

When racial passions were at their height here in 1964, Embry defended The New York

Times at the trial level in libel case brought by L.B. Sullivan, then police commissioner of Montgomery.

A former state official, Sullivan claimed he had been libeled by a Times advertisement submitted by supporters of the Rev. Martin Luther King Jr. and other civil rights activists.

The advertisement alleged that state officials abused demonstrators. It contained some factual errors.

A jury here awarded \$500,000 to Sullivan, but the U.S. Supreme Court threw out that verdict.

Embry, who had defended the Times initially, assisted at the appeal level.

In deciding the case, the court wrote new libel law standards which said that public officials could recover libel damages only if they could prove "actual malice"—could show that false statements were made with knowledge that they were false or a reckless disregard of whether they were true or false.

The new, expanded landmark libel standard greatly broadened public affairs reporting.

Embry's reputation as an excellent trial lawyer was later enhanced by his election to the Alabama Supreme Court.

Justice Embry was an Alabamian who made a difference to all Americans and his contributions should be remembered.

TRIBUTE TO WITT STEPHENS

Mr. BUMPERS. Mr. President, I rise today to pay tribute to a man who became, not just an Arkansas legend, but a national legend.

Witt Stephens was the personification of the classic rise from poverty to riches and political power. He started his career selling belt buckles and wound up, with his brother, Jack, owning the biggest off-Wall Street investment banking house in America.

He was not just a financial power in Arkansas, he was a political power, and, I believe, loved politics above everything else. In his declining years, he hosted lunches 5 days a week for a chosen few friends, many of whom disagreed with him on many issues, and, in effect, moderated a roundtable discussion on topical subjects of the day.

Like all strong-willed people, he accumulated a few diehard opponents, but even those were always respectful.

I found him to be one of the most engaging men I have ever known. His vision was always unique, and nobody discarded his ideas out of hand, because he had been right too many times.

His humor was dry and poignant. Father George Tribou, a well-known Catholic priest in Little Rock, told a wonderful story at Witt's funeral. He said he asked Witt, generally reputed to be a billionaire, about the well-known Biblical Scripture which says it would be "easier for a camel to go through the eye of a needle than for a rich man to get into heaven." Witt replied, "I'd sure hate to be Sam Walton."

He was a devoted husband, adoring father, and loved his native Grant County and the State of Arkansas almost to a fault.

Crossword puzzles often use clues such as a-one or topnotch. The answer is "oner." Witt Stephens was, indeed, a oner.

Witt Stephens died December 2, 1991, and his death leaves a big void in the lives of thousands all over the State of Arkansas. I am one of them.

THE 100TH ANNIVERSARY OF THE CREIGHTON UNIVERSITY SCHOOL OF MEDICINE

Mr. EXON. Mr. President, I rise to give special recognition to the 100th anniversary of the Creighton University School of Medicine; 1992 marks the centennial year of the medical school. What started as a dream of Omaha philanthropist, John A. Creighton, has grown into an international leader in medical education, research, and care.

The university will soon kick off the medical school's centennial celebration to honor the teachers, scholars, and students of the last century who have made the Creighton University School of Medicine the great school that it is. Nearly 6,000 physicians, scientists, and health educators learned their professions at Creighton University. There are presently over 4,000 living Creighton medical school alumni healing the Nation.

Many medical landmarks have been posted by the Creighton University School of Medicine. Creighton was the first 4-year medical school in the west, one of the first to use x-ray technology, and one of the earliest to establish an air ambulance system.

The university has gained international recognition for its research in cancer genetics, hypertension, immunology, osteoporosis, medical ethics, and pet diagnosis to name just a few areas.

The Creighton ethic has always been one of service. Each year scores of Creighton medical students travel to the Dominican Republic to provide health care for the poor. In Omaha, the medical school assures that the city's indigent receive care. The school of medicine and its primary teaching hospital provide more than \$3 million in free health care to Omaha's poor annually.

I am pleased to bring the 100th year anniversary of Creighton University School of Medicine to the attention of the U.S. Congress and am certain that my colleagues join me in wishing the Creighton University School of Medicine hearty congratulations on the occasion of their centennial.

OZONE DEPLETION OVER THE UNITED STATES

Mr. PELL. Mr. President, yesterday we received a stern warning from science: namely that despite efforts to reduce ozone depletion the problem appears to getting worse.

According to scientists, if weather conditions over New England persist in historical patterns, a new ozone hole could form over the region. In that region, we could see total column depletion of 20 percent and up to 30 or 40 percent depletion at certain altitudes.

Reports on measurements taken over New England and eastern Canada have shown that the level of chlorine monoxide—a significant ozone depleting substance—is at the highest level recorded anywhere in the world. Moreover, a group of substances—known as nitrogen oxides—which protect the ozone layer from damaging compounds was also found to be depleted.

James G. Anderson, a Harvard scientist involved in ozone research succinctly summed up the findings as follows: "None of the news is good."

Fortunately, unlike some other environmental problems, the science of ozone depletion is fairly well understood. We know what we need to do to stop it. The question before us now and that has been before us for some time is, do we have the political will to take those actions?

In the Clean Air Act amendments passed by Congress in 1990, the Congress provided the Administrator of the Environmental Protection Agency with the authority to accelerate the phase-out of ozone depleting chemicals in the United States. Internationally, the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer provide a framework for multinational action to protect the ozone layer.

Last year, the Foreign Relations Committee reported out the London amendment to the Montreal Protocol with a strong endorsement. The amendment has two principal features: the addition of new substances to be controlled and the creation of a financial mechanism to assist developing countries comply with the protocol's requirements. In addition, the amendment urges developed countries to promote the transfer of environmentally safe substitutes for CFC's and related technologies to developing countries.

In its report, the Committee noted that additional action was necessary to protect the ozone layer. Among the Committee's recommendations:

The Administrator of the Environmental Protection Agency should make use of authority granted him in Section 606 of the Clean Air Act of 1990 to accelerate the phaseout of ozone depleting chemicals in the United States.

The Secretary of State should make use of the fourth meeting of the contracting parties to the Montreal protocol to strengthen efforts to reduce emissions of ozone-depleting substances.

The administration should move to: First, phaseout as quickly as possible long-lived chlorofluorocarbons;

methylchloroform, carbon tetrachloride, and halons; Second, substitute long-lived CFC's with hydrochlorofluorocarbons with the lowest possible ozone depleting potential—generally those with short lifetimes; Third, recycle HCFC's to the maximum extent possible; Fourth, substitute CFC's on a not-in-kind basis wherever practical; and Fifth, accelerate and expand actions to facilitate the participation and earliest possible phaseout by developing countries.

Mr. President, I believe yesterday's report makes action on these recommendations more urgent.

I would also note that last year, the committee reported out Senate Resolution 95, a resolution introduced by Senator GORE, calling for the accelerated phaseout of ozone depleting substances. Unfortunately, the Senate was not able to act on that resolution last year; I believe that it would be appropriate to do so now.

Mr. President, as I said before, what we need now is political leadership and political will. We know what we need to do, now we need to take action.

THE 150TH ANNIVERSARY, CITY OF CLEVELAND, TN

Mr. SASSER. Mr. President, today I rise to pay tribute to the city of Cleveland, TN, and join its citizens in celebrating the 150th anniversary of that fine community.

Cleveland was named to honor Benjamin Cleveland, a veteran of the Revolutionary War who saw action at the Battle of King's Mountain. The city was fashioned by settlers out of the Ocoee District, which had been part of the Cherokee Nation. In 1838, the Tennessee Legislature authorized a group of commissioners to survey the town, assign site numbers, and sell lots at a public auction. Proceeds from the sale were to pay the State for two sections of land upon which the town was to be located, and to raise an additional amount of up to \$8,000 to build a courthouse and jail. Cleveland was incorporated by the State legislature on February 4, 1842, 150 years ago today. The first election was held on Monday, April 4, 1842, and a mayor and six aldermen were elected. Thus, the municipality we know today as the city of Cleveland was born.

Cleveland's growth in the early 1800's can be attributed to its status as a religious center for the area and the arrival of the railroad. The city's first newspaper was the Cleveland Dispatch, a Whig journal, which premiered 2 weeks before its Democratic rival, the Cleveland Banner. The Cleveland Banner continues to report the daily news. The town's first financial institution, the Ocoee Bank, was chartered in 1854. Growth and recovery from the Civil War was slow; however, by 1866 the population was 1,500 and was double that

only a decade later. In 1879, Hardwick Stove, Cleveland's oldest industry, brought the city into the Industrial Revolution along with Cleveland Woolen Mill, Cleveland Chair Co., Dixie Foundry, and Magic Chef.

By the late 1800's, Cleveland was fast putting on city airs. They had a street-car line, a telephone exchange system, a water works system, free mail delivery, electric lights on the way, and numerous fine schools. By 1900, there was not a more desirable location for a home in the South than Cleveland, TN. Many outstanding leaders have committed time and service to the city, including Mayors W. J. Parks, W.J. Campbell, J.C. Tipton, F.E. Hardwick, J.H. Gant, James F. Corn, Sr., Jay Y. Elliott, W.K. Fillauer, and Bill Schultz. Perhaps one of the most loved was the Honorable Harry Dethero, who served for 17 years. Today, Cleveland is governed by Mayor Tom Rowland and commissioners Mitchell Lyle, Sonny Hicks, Steve Ratterman, and Eddie Botts.

Cleveland continues to earn the reputation as the most desirable location for a home in the South due to its diverse social and economic base. It is the 11th largest city in Tennessee with a population of 30,470. Its citizens are good, hard working people. It gives me great pleasure to salute the city of Cleveland and its residents on this important milestone in their history.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time set for morning business is closed.

NATIONAL ENERGY SECURITY ACT

MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. The remainder of the time until 10 o'clock this morning will be for debate on the motion to invoke cloture on the motion to proceed to S. 2166, the time to be equally divided and controlled by the Senator from Louisiana [Mr. JOHNSTON] and by the Senator from Wyoming [Mr. WALLOP].

Who yields time?

The Senator from Louisiana [Mr. JOHNSTON] is recognized.

Mr. JOHNSTON. Mr. President, at 10 o'clock we vote on cloture on the motion to proceed. Let me say for the benefit of my colleagues that we hope cloture on the motion to take up will pass overwhelmingly and we will then proceed to the bill itself.

We have some dozen amendments, largely relating to energy efficiency, all of which we have cleared, I think most of which will take very little time. Senator GLENN has three amendments, all of which have been cleared, which should not take a great deal of time since we have agreed to them on

both sides. Those are some dozen amendments which I hope collectively we could deal with this morning in rather rapid succession. The only amendment other than that of which we are aware is Senator JEFFORDS' amendment, which I hope he would put in today. I have been discussing that with him, and I think perhaps that will be available today.

So that I expect at the time we have finished with the Jeffords amendment, which I hope to be sometime today, the bill would be open—of course, it is open for further amendment at any time, but it would then be open for further amendment if there are amendments or, other than that, for third reading.

I hear rumors that there are possibly many amendments, but no Senator has communicated to us or the floor staff that they have an amendment. And so I would beseech Senators, if they have amendments, to please let us know of them. Then we cannot only protect them but possibly clear those amendments. I hope they will let us know rather than simply let the majority leader's staff know, because we have to clear the bill, and only we can clear those amendments and schedule them for consideration.

So I hope, in short, Mr. President, that progress on this bill will proceed very rapidly and we can help reach President Bush's desire to deal with legislative matters quickly and we can have this bill substantially disposed of before the recess. I see no reason why that should not be possible, and I hope it is. I urge Senators to let us know about their amendments in order that we may do so.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming [Mr. WALLOP] is recognized.

Mr. WALLOP. Mr. President, I join with Senator JOHNSTON in hoping we can. I do not know of any plan to utilize the 30 hours between the invoking of cloture and the actual getting onto the bill. I hope no Senators have that in mind, but I must also say that Senators know it is their right, if they wish to seek to utilize that 30 hours.

The issues that will need to be decided—although we have not seen amendments, and I agree with Senator JOHNSTON none have been shown to us—we knew of from the last time and know them from rumor. There are some very contentious issues. The only way I know to resolve them is through the process which the Founding Fathers devised for it, and that is to debate them on the floor of the Senate and to vote them up or down. We cannot get to an energy policy without doing that.

In the 15 years in which I have been in the Senate—and I come from an energy-producing State—one of the first things on which I first ran for office was the need for an established energy policy. I have never seen a comprehen-

sive strategy offered until last year when Senator JOHNSTON and I began to work on this piece of legislation.

I have seen Presidents offer bits and pieces. I have seen various Members of Congress offers bits and pieces. I have seen the most complicated things go to committees and never come out. I have seen the least complicated things go to committees and get passed, and then distort the whole energy picture because the natural reaction of a society such of ours is to do what is permitted and to steer away from what is prohibited.

And by working on all these fringe areas, and accomplishing the simple and avoiding the complicated, we have so distorted America's energy picture that only by the passage of such a comprehensive strategy as has been devised by the two of us, and as will be modified by the Congress, can America begin to sort of right its ship and sail with the winds. I hope that we do that.

Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally between the two of us.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. 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.

Mr. WALLOP. Mr. President, what is the time circumstance?

The ACTING PRESIDENT pro tempore. The Senator from Wyoming has under his control 9 minutes. The Senator from Louisiana has 6 minutes.

Mr. WALLOP. Mr. President, I yield 6 minutes to the Senator from Alaska [Mr. MURKOWSKI].

The ACTING PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI] is recognized for 6 minutes.

Mr. MURKOWSKI. Mr. President, I thank the Chair. I thank my colleagues.

Mr. President, I think it is an extraordinary set of circumstances that we are faced with as we contemplate the disposition of the energy legislation. What we have before us is in one sense either fish or fowl. We have no provision for the major exploration program in the United States where significant discoveries of oil might be made namely on the North slope of ANWR. On the other hand we do not have the CAFE one.

One wonders just what we are fearful of. We have an economy that is in decline. And as we address the energy bill before us we have an automobile industry in decline. We are importing over half our crude oil today. We are exporting our dollars. We are exporting our jobs.

I would like to commend the chairman of the Energy Committee and the ranking member respectively for their continued commitment to ANWR and the reality that this Nation must reduce its dependence on imported oil. Nevertheless the harsh realities of where we are in this body must be examined because, Mr. President, we are truly hypocritical in relationship to the objectivity of recognizing you cannot have one without the other. You cannot reduce your dependence on imported oil without increasing domestic production.

CAFE implies savings. That is the good news. But it is bad news to the automobile industry. ANWR provides less dependence, more jobs.

It is kind of interesting to note, Mr. President, that this time the Independent Petroleum Association of America is prepared to come to Washington. They are running ads, Mr. President, "317,000 Jobs Lost." The statement is that there is no energy policy. They indicate that more jobs have been lost in the U.S. oil and natural gas-producing industry than almost any other industry over the last 10 years, more than in steel, chemical, electronics, textile, or the automobile industry.

What are we doing about it? We are not stimulating the greatest expectations that we might have nor lessening our dependence.

I think it is appropriate also, Mr. President, to recognize the continued support base from our President. I ask unanimous consent to have printed in the RECORD a letter from the White House signed by President Bush of February 3.

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

THE WHITE HOUSE,
Washington, February 3, 1992.

Hon. FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR FRANK: As I stated in my State of the Union address, I am continuing to call on Congress to act on my National Energy Strategy. Opening access to a discrete portion of the Arctic National Wildlife Refuge coastal plain, with environmental safeguards, to oil development is a critical component of my energy strategy. Congress' failure to act on this vital legislation, thus far, is at the expense of American jobs and energy security. This is why I have repeatedly called on Congress to take action.

ANWR development will provide additional domestic oil resources to reduce our dangerous dependence on imported oil. The coastal plain offers our best prospect for a major oil discovery. It will provide hundreds of thousands of desperately needed jobs spread throughout nearly every State in the Nation. It will add \$50 billion to our gross national product. The environmentally responsible development of this area potentially could save \$250 billion in payments to foreign oil producers and governments while providing \$125 billion in revenues for Federal and State governments.

When the Senate once again deliberates legislation to implement the National En-

ergy Strategy, it is my strong hope that the ANWR provision will be included in the final bill. The development of a small portion of ANWR as a potential source for oil is simply too important to leave out of any comprehensive energy plan.

Sincerely,

GEORGE BUSH.

Mr. MURKOWSKI. I am going to read this, Mr. President, because I think it is germane to where we are and what the administration stands for.

It reads as follows:

DEAR FRANK: As I stated in my State of the Union address, I am continuing to call on Congress to act on my National Energy Strategy. Opening access to a discrete portion of the Arctic National Wildlife Refuge coastal plain, with environmental safeguards, to oil development is a critical component of my energy strategy. Congress' failure to act on this vital legislation, thus far, is at the expense of American jobs and energy security. This is why I have repeatedly called on Congress to take action.

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Sincerely,

GEORGE BUSH.

Mr. President, truly, we are at a watershed in this regard. The arguments have been presented over an extended period of time. Mr. President, it is inconceivable to this Senator from Alaska that if we can send a man to the Moon and return him safely, we ought to be able to open up ANWR safely.

Where is the spirit that made America great, the spirit that said we can overcome challenges by advanced technology?

As we reflect on America's role today, we are concerned about our competitiveness. The spirit of competitiveness is the challenge, and the challenge here is to open ANWR safely. It is a challenge to engineers, and it is a challenge to America. If America is to succeed in the coming decades, we must regain that spirit of competitiveness, and to suggest that we cannot open up ANWR safely with advanced technology has no sound scientific basis of any kind.

I urge my colleagues to reflect on the merits of the legislation before us, and to recognize the significance of what we are doing here. We are not addressing the potential of relieving our de-

pendence on imported oil. We are not rising to the realization that we can create 735,000 jobs in 47 States.

These are the issues before us, and I find it just incredible, as we reflect on the status of this bill, that there is not enough support, there is not every Member of this body standing before us saying we want to relieve our dependence on imported oil, and we want to stimulate our economy with the largest single identified project that we might have in this country.

Well, Mr. President, Senator STEVENS and I are somewhat alone in this regard, but I think our message is clear. It is a challenge to America, and it is a challenge that we ought to be up to, because if we are not, clearly, we are going to be exporting jobs. Our balance of payments will increase, and as a consequence, we will see our domestic industry move overseas where they are moving now because of the climate associated with taxes and environmental concerns prevailing.

I thank the Chair, and I thank my colleagues for allowing me the extra time. I thank, particularly, the chairman for his continued encouragement against some very significant odds.

I ask unanimous consent to have an article printed at this point in the RECORD.

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

317,000 JOBS LOST—THAT'S NO ENERGY POLICY

More jobs have been lost in the U.S. oil and natural gas producing industry than almost any other U.S. industry over the last ten years. More than in the steel, chemical, electronics, textile or automobile industries.

More than 317,000 families lost their paychecks. Thousands of small businesses have closed—because America's energy policy doesn't make sense.

Why fight another desert war to protect America's energy future? Let's put Americans back to work developing energy here at home by eliminating the tax penalty on domestic drilling. We think that makes more sense.

We are the Independent Petroleum Association of America. We are visiting Congress this week with a plan to help put America's natural gas and oil workers back to work. Won't you help?

There are 317,000 reasons why you should. (Independent Petroleum Association of America, Washington, D.C.)

Mr. JOHNSTON. Mr. President, I congratulate the Senator from Alaska on a very persuasive statement with respect to ANWR. At least it persuades me. Unfortunately, it does not persuade a majority of the Senate or, to be more specific, it does not persuade 60 Senators, which it takes in order to pass ANWR. And it is for that reason that we have taken ANWR out of this bill, along with the CAFE issue, because both of those require cloture in order to pass. And 60 votes are not here.

So it is not out of a lack of conviction or lack of being persuaded by the

argument of the distinguished Senator from Alaska with respect to ANWR, but it is a recognition of the fact that as part of this bill, it cannot pass, and that this bill, without ANWR and without CAFE, is a very excellent comprehensive balance and effective energy policy, one that ought to pass.

So I do not want the best to be the enemy of the good. This is a very good bill, and I hope that the Senators from Alaska will begin to think that ANWR is not a battle that should be given up on, it is not a lost cause, but it is a cause that ought to be delayed and not pursued in the context of this bill.

I think the fact that it should not be pursued as part of this bill is illustrated by the fact that I think at the appropriate time the opponents of ANWR will allow a vote up or down. I do not speak for them, but I believe they would; such is their confidence in the ability to beat ANWR on an up-or-down vote. Part of the reason is, I think, there is a pervasive sense that it cannot pass as part of this bill.

So, therefore, many Senators who might otherwise be inclined to vote for it should vote against it, because they see no reason to sacrifice themselves politically in the cause of ANWR when it has no chance of winning.

These are familiar arguments. Everyone on both sides is familiar with them.

Mr. President, I yield, at this point, 2 minutes to the distinguished Senator from New Mexico.

Mr. DOMENICCI. Mr. President, I think it is high time we proceed with the bill before us. I am sure we are going to get the issues that were discussed in due course.

I rise today to remind the Senate that just a few days ago on January 31, 1992, the rig count in the United States reached an all-time low. There has never been a day in the recorded history of rig count activity—which is a pretty good indicator of domestic oil activity—where it was lower. On that day the rig count reached 635, I say to my friend, the chairman of the Energy Committee.

And I am prepared today with a few remarks to indicate to the U.S. Senate that in addition to the bill which we ought to pass, we ought to pass the bill because alternative fuels, clean fuels and other things will be pursued with more vigor, if it is adopted.

I think it is time that the tax-writing committees take a look at the alternative minimum tax as it applies to independent producers in the United States. It is clear that it has now become counterproductive, and when independent producers avail themselves of the tax deductions that are reasonable and thrown into an alternative minimum tax, they are paying a punitive tax. We can cite cases where they are paying 60 to 70 percent effective tax rate, as compared with the

various brackets that other Americans are confronted with. I think that it is punitive, counterproductive, and we can change it.

During this debate we ought to point out areas where the tax-writing committees of the Congress must supplement the intentions and desires under this bill, or many of the proposals will go nowhere. Increasing domestic production will go nowhere unless the 15-percent investment tax credit for enhanced oil recovery is continued. It has only a few months remaining. We are asking the tax-writing committees to put that into effect for a couple years to see that we get that oil in production.

TAX INCENTIVES FOR THE OIL INDUSTRY ARE NEEDED FOR ENERGY STRATEGY AND ECONOMIC GROWTH

Mr. President, it appears that a tax bill is on a very fast track. I want to urge the Finance Committee to seriously look at the problems the alternative minimum tax is causing independent oil and gas producers and to urge the committee to extend meaningful oil and gas tax incentives.

The Senate is beginning to debate the energy strategy and tax writing committees are beginning work on an economic growth package. Energy tax incentives are a necessary complement to both.

When Congress enacted the alternative minimum tax [AMT] in 1986, fairness was the objective. All taxpayers should pay their fair share. We didn't intend to create a punitive alternative minimum tax system. The AMT acts as a second system of taxation, under which tax payers are required to pay the higher of the regular tax on AMT liability. Yet, when a recession coincides with sustained low oil and gas prices, the AMT works like a severe penalty that gets progressively worse the longer a taxpayer falls under the AMT. The longer prices are low and profits thin, the harsher is the AMT's impact.

Today's bad news is that the rig count statistics are the worst ever. Baker Hughes reports that the rig count stands at 653 for week ending January 31. This is the lowest level of drilling activity since records were begun in the 1940's.

But the rig count is not just a statistic. It is an important economic indicator that relates to our prospects for economic growth because energy is an indispensable input. It is the barometer that measures our future ability to produce domestic energy.

A rig count of 653 indicates that the industry has entered a period of accelerated decline. The Nation's domestic oil production is falling at an annual rate of 300,000 barrels a day and foreign imports are rapidly approaching 50 percent of our domestic needs.

We have lost 326,000 jobs, almost half of the oilfield worker jobs since the

peak in 1982 when the rig count was 3,105. The number of oilfield workers in the United States declined to 382,000 in November, from the yearly peak of 708,300 in 1982 according to the Bureau of Labor Statistics.

The Independent Petroleum Association of America believes that tax relief is needed to save the domestic industry from collapse. I tend to agree.

In 1990, Congress enacted a package of oil and gas tax incentives for enactment in the Omnibus Budget Reconciliation Act. These incentives included modest relief for stripper wells with marginal production, enhanced oil recovery incentives and the reform of the nonconventional fuels credit. These provisions expire at the end of this year.

At the time we were developing the oil and gas package, I urged that the new incentives be creditable or applicable against alternative minimum tax. This issue was discussed but AMT was, for the most part, left out of the package.

Two years of experience have led me to believe that AMT relief is the single most important agenda item for the oil and gas industry. It does little good to talk about extending incentives unless we also remove AMT impediments.

Intangible drilling costs [IDC's], can make up to 80 percent of the costs of drilling a well. IDC's are the ordinary and usual expenses that other businesses are allowed to take expenses such as labor, fuel, repairs, and supplies. Yet IDC's and percentage depletion are add-backs or preference items under the AMT. Since most independent producers are AMT taxpayers their IDC's and percentage depletion allowances are worse than useless because as add-backs they contribute significantly to the punitive nature of the AMT.

Under current law, when percentage depletion and IDC's are added back to income in calculating AMT tax liability, it can result in a 70- to 80-percent effective tax rate for some producers. The result is indisputably punitive, if not confiscatory.

Intangible drilling costs and percentage depletion must be removed as preference items under the AMT. Mr. President, this is a tight budget year and AMT relief will have to be paid for consistent with the "pay as you go provisions" of the budget agreement. I will work with the tax writing committees to find ways to pay for these provisions.

In 1990, the alternative minimum tax was a problem for the oil and gas industry and the same is true now, only more so. The President has put AMT reform on the agenda and I urge the Congress to provide some equitable relief to the oil and gas industry.

Another issue is enhanced oil recovery.

We leave behind 70 percent of the oil when we drain proven fields using pri-

mary and secondary oil recovery techniques. To stop this wasteful management of our natural resources, Congress enacted a 15-percent investment tax credit for enhanced oil recovery. This incentive expires at the end of the year. Since the regulations for implementing this provision were only recently published in the Federal Register, I urge the chairman of the tax writing committee to include an extension of this credit high on the list of must do items.

I look forward to working with the members of the Finance Committee to craft a package of oil and gas incentives that will enhance economic growth and correct the AMT inequity. I yield the floor.

Mr. DURENBERGER. Mr. President, today the Senate will vote on a cloture motion on the motion to proceed to S. 2166, the National Energy Security Act of 1992. I will vote against cloture. I do not believe this bill to be the energy policy that the Nation needs.

REACTIVE "POLICIES"

On several occasions over the past 20 years this Nation has tried to establish a comprehensive energy policy. Each of these efforts has come after turmoil in the Middle East that disrupted our energy supplies and damaged our economy. American hostages and American troops have been at the center of some of these events.

In response to each new crisis, there has been a demand for energy independence. "Let us free America from this entanglement in the Middle East. Let us be energy independent so that we need not risk American lives for foreign oil. No blood for oil."

And Presidents and the Congress have responded. President Nixon gave us "Operation Independence." President Ford called it "Project Independence." President Carter called it the "Moral Equivalent of War." And now we have the National Energy Security Act of 1992.

THE SIREN CALL OF "INDEPENDENCE"

During the debate on this bill we will hear the now familiar refrains time and again. "We need to do everything we can to reduce our dependence on foreign oil. We have plenty of domestic energy—coal, natural gas, corn power—to replace foreign oil. We are the Middle East of coal. And, if we were just more efficient we could save as many barrels of oil as we import from the Middle East." The premise that we can and should strive to be energy independent is behind each of these slogans.

But in our drive to be energy independent, we have made some colossal errors over the years. President Nixon put price controls on domestic oil, encouraging its use and actually increasing our dependence. The 1977 spasm of energy policy brought us the Powerplant and Industrial Fuel Use Act that tried to limit the use of natural gas, es-

pecially to generate electricity. The Industrial Fuel Use Act was repealed and the Clean Air Act passed last year tries to encourage the use of natural gas to produce electricity.

Many of us were here for the windfall profit tax, a centerpiece in our response to the Iranian Revolution and attendant oil problems in 1979 and 1980. It has also been repealed. And most of the solar energy and conservation tax credits that went with it have also been allowed to lapse.

And who can forget the Energy Security Act of 1980? It created the Synthetic Fuels Corporation that was authorized to spend up to \$80 billion subsidizing energy from shale oil and liquid fuels from coal. A truly excessive proposal that was also repealed.

The purpose of reciting this history is to remind the Senate of what has so often happened when we have taken up big energy bills in response to Middle East turmoil. We have made very big mistakes. Very costly mistakes in judgment and policy. Let me review that list again. Price controls on domestic oil. The Powerplant and Industrial Fuel Use Act. The windfall profit tax. The Energy Security Act of 1980. The Synthetic Fuels Corporation.

These are pieces of comprehensive energy policies that failed miserably and have since been repealed. These policies were generated in the heat of war or in the malaise of economic collapse and were offered to the American public as ways to achieve that elusive goal of energy independence. They were designed to insulate us from the realities of the world energy economy. The National Energy Security Act of 1992 has germinated in that same climate of dependence hysteria, it is held out to us with that same promise of energy independence and it contains the same kinds of mistakes we have so often voted for in the past.

ALTERNATIVE FUELS

For instance, this bill has a national goal of 30 percent alternative fuels in the transportation sector by the year 2010. That is an example of excess. One of the problems that goes with importing oil is a negative balance of trade. Importing a million barrels of oil per day imposes a \$9 billion per year penalty in our trade balance. It is a cause for concern. As a nation we need to find ways to reduce that imbalance or offset it with exports.

But simply setting our sights on 30 percent alternative fuels does not necessarily qualify as a reasonable response to the problem. It would cost about \$60 billion in capital investment to replace 1 million barrels per day of oil with natural gas. It would cost 80 billions of dollars—equivalent to the now repealed authorization for the Synthetic Fuels Corporation—to replace that million barrels of oil with ethanol or methanol. And it would cost \$240 billion in capital investment to re-

place 1 million barrels of oil per day with electric vehicles. Those costs are staggering. They are excessive. They are the very same excesses that we have voted for in the past and that have subsequently been repealed.

ENERGY DEPENDENCE

We have a tendency to see our dependence on foreign oil as a sickness, as an addiction. Middle East oil is the heroin of the American economy. Whenever there is turmoil in the Middle East, we resolve to come to our senses and break this dependence.

We are willing to try the most extravagant cures to get well.

No scheme is too expensive.

Every untried proposition is a potential magic bullet.

The more exotic the solution—shale oil, fusion, hydrogen fuels—the more we are willing to spend to replace foreign oil.

That mentality has led us astray so many times in the past. And that is the mentality that continues to inform this bill. Excess in the name of energy independence has become the very test of sincerity.

There is a book that was published last winter on the history of petroleum in the world economy. It is by the distinguished energy economist, Daniel Yergin. It is titled "The Prize." The prize. The prize is 600 billion barrels of Middle East oil that can be produced for \$2 per barrel. It is a treasure that can fuel prosperity for economies around the globe for a hundred years into the future. For most of the past 100 years, the United States has been the principal supplier of oil to the world. Texas was the Mideast of 1890, 1910, and 1930. But the reserves of Texas pale in comparison to the oil wealth found in the Persian Gulf.

It is not our oil. But the nations that own it want to sell it. Some of those nations are our friends and allies. But even our enemies in the region are not trying to withhold their oil from the marketplace. It does them no good in the ground.

This is very cheap oil. Much less than a buck a gallon. It fueled the boom of the 1950's and 1960's in the United States. That is how we became dependent. In real terms it is just as cheap today. It is much less expensive than many of our domestic alternatives including the nonconventional gas reserves that have been discussed at length here on the floor by the Senator from Colorado. Much less expensive.

It may be that some here in the Senate think it makes sense to pay \$2 a gallon for corn derived ethanol or \$3 a gallon for liquid fuel from coal or \$4 a gallon to avoid using fuel with some exotic conservation technology. That's the theory of this bill—and some of the amendments we will see, if this bill comes to the floor.

AN ENERGY POLICY

There has been much said about whether Senators want to have an en-

ergy policy or not. It has been suggested that those who oppose cloture do not want an energy policy. Throughout this discussion there has been an underlying assumption that this Nation can only be considered to have an energy policy, if we have in place some mix of programs likely costing billions of dollars to taxpayers and consumers that is designed to end our dependence on foreign oil—or for some Senators on oil altogether.

That's not my definition of an energy policy. And that's not a definition the American people are going to support when they understand the true costs of the alternatives put forward in this bill.

I am not against an energy policy for this country.

I am for the strategic petroleum reserve.

I am for research and development on new technologies.

I am for alternative fuels in niche markets where they can have significant environmental payoffs.

I am for provisions in this bill that would encourage wiser energy use by the Federal Government.

Those are all elements of a national energy policy.

But I am opposed to spending billions of taxpayer dollars and tens of billions of consumer dollars in the elusive quest for energy independence. That is not the only definition of an energy policy. That is a formula for foolishness that we have followed too often in the past.

Mr. HATFIELD. Mr. President, once again we gather here on the floor of the Senate to discuss the fate of our Nation's energy security. I am pleased to be involved in this most critical debate.

I would like to begin by commending both of my colleagues, Senator JOHNSTON of Louisiana and Senator WALLOP of Wyoming, for their tremendous efforts in developing and shepherding this legislation through the Energy and Natural Resources Committee. I am grateful to these gentlemen for their perseverance in negotiating a settlement whereby debate on this critical measure could proceed.

Many times in the last 20 years the U.S. Congress has been called to action by the need to reduce our dependence on fossil fuels. Like the energy crises of the 1970's, last year's war in the Persian Gulf catapulted the need for energy security back to the surface of public concern. This concern, however, has been short-lived. No visible crisis is at hand. No lines are forming at gas pumps across our Nation. In fact, gas prices remain at just a little over \$1 per gallon—a price which is virtually unchanged since the mid-1980's.

So what is all the fuss about? Why is a national energy strategy so important? Gas is cheap and abundant, and concern about energy remains buried

at the bottom of public opinion polls across the Nation. Education, health care, child care, and crime are currently at the forefront of people's lives. And while all of these areas are immensely significant in the lives of Americans, a future crisis over our Nation's lack of a diversified energy source still looms large, even in the shadow of a war which was fought and won for access to oil.

Like much of the industrialized world, the United States has increased its use of fossil fuels over the last 20 years. This fossil fuel use has grown to the point where some characterize it as dependency, as habit, as fixation, as addiction. In fact, few would debate the premise that Americans are addicted to oil. And just like any other addict, our Nation, and this Congress, have been denying this dependency for the last 20 years.

The cravings of an addict can lead to desperate measures, and history has shown that Nations addicted to oil will risk everything to gain access to that drug. The desperate measures about which I speak today are military conflict.

During the 1930's and 1940's, for example, Japan endeavored to build a greater Japan or a greater Asia through the broadening of its sphere of influence into Southeast Asia. Oftentimes this expansionism took the form of military aggression and was not looked upon favorably by many Nations of that era, including the United States of America. In fact, the United States, which at that time supplied Japan with approximately 80 percent of its petroleum needs, so disliked Japan's attempts to broaden its sphere of influence that it threatened to cut off the very lifeline of the Japanese military machine—oil.

In response to this threat, on December 7-8, 1941, Japan, a Nation addicted to and dependent on foreign oil, launched numerous attacks on Nations throughout the South Pacific in an effort to secure a stable supply of oil from the Dutch East Indies, now Indonesia. Japan realized, that in order to secure this oil supply, it needed to isolate the American ground troops based in the Philippines—and the only way to do this was to strike a debilitating blow to America's Naval fleet based in Pearl Harbor, HI.

Truly, Japan's oil addiction and dependency drove it to desperate measures. But Japan has not been the only Nation in history to fall victim to the seductive and alluring thirst for oil.

In January of 1991, desperate measures were again taken to secure access to vital oil supplies. This time it was American men and women who were sent to the deserts of the Middle East to kill and die in order to secure access to Kuwaiti oil; 370 American service personnel and approximately 100,000 Iraqis lost their lives in the Persian

Gulf war. Our Nation's dependence has been translated from long lines at gas stations and high prices for heating oil to something immeasurably more personal and intimate—the lives of Americans. This loss of life is a price far too high to pay for 20 years of denial.

Despite our lack of drive to find a solution to our addiction, today Congress has a chance to take America's oil dependency by the horns and establish a program designed to eradicate this fossil fuel infirmity. We have a chance to reduce the prospect of future wars and loss of human life over this finite resource. What we need to begin breaking this addiction and enhancing our national security is a well-balanced national energy policy.

The security of America and of American lives everywhere depends upon our action or inaction on this legislation. America's future depends on the wise stewardship of this Nation's energy resources and our unwavering commitment to a balanced energy plan.

The U.S. Congress has before it the golden opportunity to change the course of American energy use from a mentality of consumption to one which balances conservation, energy efficiency, and renewable energy development with the wise use of domestic energy resources.

We have already taken this first step in the Pacific Northwest. In 1980, with the passage of the Northwest Power Act, Congress for the first time realized the importance of energy conservation by recognizing it as a new energy resource. I hope that during debate on this national energy strategy legislation Congress will work to expand upon the wisdom it exercised in 1980 by pursuing conservation, efficiency and renewable energy as genuine, reliable, and cost-effective energy sources.

Again, I thank the chairman and ranking member of the Energy Committee and look forward to working with them to institute a balanced national energy strategy.

Mr. RIEGLE. Mr. President, I rise today in support of the motion to proceed to S. 2166, the National Security Act of 1992.

As many of my colleagues know, I did not support S. 1220 on November 1 because I felt the bill had many problems. One was title 15, the section dealing with the Public Utility Holding Company Act. Another was the section dealing with oil and gas exploration in Arctic National Refuge, which is clearly not acceptable to this body, and the section on nuclear licensing.

But most importantly, S. 1220 would have opened up the possibility of increasing CAFE standards and that poses great dangers to the U.S. auto industry and tens of thousands of U.S. jobs.

True, S. 1220 did contain a CAFE section that was reasonable. However, the

chairman of the committee had indicated that he intended to offer an amendment that would have greatly increased CAFE standards and that troubled me greatly.

By all indicators there was a real danger that unrealistically high CAFE standards would have been adopted, which would have done tremendous damage to the long-term viability of our Nation's auto industry.

The CAFE standards being sought by some would have added more than \$70 billion in new capital costs to the Big Three auto makers, which have lost nearly \$10 billion over the last five quarters. This arbitrary increase would have come on top of new safety and clean air requirements enacted in the last few years, placing a huge burden on the industry. This would result in more plant closings and job losses at a time this economy can least afford them.

Today, our economy is in deep trouble. The President's Plan to deal with it is insufficient. And clearly, any untimely and unreasonable CAFE increase will make it more difficult for the U.S. auto industry to recover.

For these reasons, I am pleased that the chairman of the Energy and Natural Resources Committee and his staff have assured me that there will be no CAFE or ANWR titles in this energy bill, and that they will oppose amendments to add these sections.

Even further, I am pleased to know that I have his assurances that he will oppose the Seymour amendment, which I view as a back-door CAFE amendment.

In the area of Public Utility Holding Company reform, I am pleased to tell my colleagues that the chairman and I are close to completing a compromise amendment. We are working to make these provisions fair and balanced.

Clearly, S. 2166 still needs work. The section dealing with nuclear licensing is a problem and I hope an equitable and environmentally safe solution can be worked out. I am also concerned about the section dealing with natural gas importation.

My home State of Michigan imports a large amount of natural gas from Canada, which in many cases is cheaper than domestically produced gas. Michigan ratepayers should have the right to continue to pay the cheapest prices for natural gas and I will fight hard to maintain this right for them.

Mr. President, I look forward to working with the distinguished chairman on this bill. I urge my colleagues to vote for the motion to proceed.

The ACTING PRESIDENT pro tempore. The Chair will inform the Senate that all time has expired.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The hour of 10 a.m. having ar-

rived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2166, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security on the Nation and for other purposes:

D.K. Inouye, Quentin Burdick, Howard M. Metzenbaum, George Mitchell, John Breaux, Jeff Bingaman, Alan Cranston, Tom Daschle, Wendell Ford, Jim Sasser, Kent Conrad, Charles S. Robb, J. Bennett Johnston, Timothy E. Wirth, Max Baucus, J. Lieberman.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that the debate on the motion to proceed to S. 2166, the National Energy Security Act, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER], is necessarily absent.

The PRESIDING OFFICER [Mr. WOFFORD]. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 90, nays 5, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—90

Adams	DeConcini	Kennedy
Akaka	Dixon	Kerry
Baucus	Dodd	Kohl
Bentsen	Dole	Lautenberg
Biden	Domenici	Leahy
Bingaman	Exon	Levin
Bond	Ford	Lieberman
Bradley	Fowler	Lott
Breaux	Glenn	Lugar
Brown	Gore	Mack
Bryan	Gorton	McCain
Bumpers	Graham	McConnell
Burdick	Gramm	Metzenbaum
Burns	Grassley	Mikulski
Byrd	Hatch	Mitchell
Chafee	Hatfield	Moynihan
Coats	Heflin	Nickles
Cochran	Helms	Nunn
Cohen	Hollings	Packwood
Conrad	Inouye	Pell
Craig	Jeffords	Pressler
D'Amato	Johnston	Pryor
Danforth	Kassebaum	Reid
Daschle	Kasten	Riegle

Robb	Sasser	Specter
Rockefeller	Seymour	Thurmond
Roth	Shelby	Wallop
Rudman	Simon	Wellstone
Sanford	Simpson	Wirth
Sarbanes	Smith	Wofford

NAYS—5

Durenberger	Murkowski	Symms
Garn	Stevens	

NOT VOTING—5

Boren	Harkin	Warner
Cranston	Kerrey	

The PRESIDING OFFICER. On this vote, there are 90 yeas and 5 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion to invoke cloture is agreed to.

Mr. JOHNSTON. Mr. President, we now have a number of amendments, as soon as we can get on the bill, which have been cleared. There are a number by Senator GLENN. Senator JEFFORDS has an amendment, which has not been cleared, which will take some debate. I hope we can get right on the bill so we can plow through some of these amendments.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me say to my friend from Louisiana, I would hope that, too. But we are not quite yet ready to proceed to the bill. There is a privilege of 30 hours, some of which is going to be used. It is my hope not much of it. It is my hope we do get to the bill and do those amendments which have been cleared.

But at this moment in time, 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.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the Senate has voted to invoke cloture on the motion to proceed to the energy bill. Under the rules of the Senate, a maximum of 30 hours may now be utilized by those who wish to prevent consideration of the bill; that is consideration of the bill can be delayed but not prevented.

It is my hope that we could proceed to consideration of the bill and eliminate the necessity for consuming 30 hours. I understand that discussions are underway which may ultimately lead to a saving of time, and I hope that is the case. But by a prior discussion with the distinguished Senator from Wyoming, it is my intention now to seek unanimous consent to proceed to the bill.

I understand that action will be made and then I will ask that we go to morning business with the time being charged against the 30 hours, and I

hope that we will be able to get to the bill. If we cannot get to the bill, the Senate will simply stay in session until the 30 hours have been either expired or agreement has been made to proceed to the bill. I hope that is not necessary. It will serve no useful purpose, in my judgment, but the Senate having voted to invoke cloture on the motion to proceed, we want to get to the bill as soon as possible. Of course, we are trying to complete action on the bill as soon as we can.

UNANIMOUS-CONSENT REQUEST—
S. 2166

Mr. MITCHELL. Accordingly, Mr. President, I now ask unanimous consent that the Senate proceed to consideration of the energy bill.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, Reserving the right to object, and I am constrained to object. I say to the majority leader this is certainly not the plan of the Senator from Wyoming, having worked 15 years to get an energy bill to the point where we can debate it on the floor. But there are negotiations and there are things going on which may in the long run, and I trust they will, save us some time.

In the meantime, Senator JOHNSTON and I have suggested to a couple of Senators whose amendments we know of and have been cleared, that they send their amendments to the desk and debate them. But we can take no action on them nor can they be received from the bill. At least the debate would be accomplished. We would, I hope and trust, save a little time by that action.

With that in mind, Mr. President, I do object.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with the time to be charged against the 30 hours postcloture on the motion to proceed.

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

Mr. WALLOP. Mr. President, could I direct an inquiry to the majority leader? Does he have a time as to how long the morning business might run?

Mr. MITCHELL. I did not include a time. Under a prior order, we are scheduled to go into recess at 12:30 p.m. to accommodate the party conferences, and then at 2:15 p.m., we will go to the unemployment insurance bill. It is my hope that we can proceed to the energy bill prior to 12:30 but I did not want to put a time limit on it in light of the Senator's comments that discussions are underway. Perhaps it is best to let them proceed in the hope that we can get to it.

If at any time the Senator is in a position to permit the Senate to consider the energy bill, why, then if he would notify me, then we can come back and terminate the morning business period and get to the bill.

Mr. WALLOP. I understand that. My guess is that it would probably extend to the regular noon luncheons of the two parties because that is probably the place where both sides will see what may or may not be able to be accomplished.

Mr. MITCHELL. As I said, I hope we can get to the bill. I used to think that only two things were certain, death and taxes. Since I have been majority leader, now there are three: death, taxes, and when we get close to a recess, Senators on both sides begin to ask me when are we going to be able to leave. I know a couple days from now Senators on both sides are going to be asking when are we going to be able to leave. Of course, the more we can get done today, the more favorable can be my response then.

So I encourage Senators, to the extent possible, consistent obviously with the advocacy of their positions, to enable us to proceed to the bill and not have to utilize this 30 hours of waiting until we get to it.

Mr. WALLOP. If the leader will yield further, I am going to try my best to do that. It is my certain belief that some of that will have to be solved in our party caucuses at lunch. I doubt seriously we can get to the bill before lunch although we can undertake the procedure with Senator GLENN and others.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AIR FORCE IMPLEMENTATION OF
REQUIREMENTS REGARDING
CONTRACTING WARRANTIES FOR
B-2 AIRCRAFT

Mr. LEVIN. Mr. President, I want to speak about a letter I recently received from the Secretary of the Air Force, Donald Rice, concerning the warranty which the Air Force just negotiated for the B-2 bomber. I regret to report that the warranty does not comply with our law, and that failure could cost the taxpayers of this country millions of dollars to correct contractor-caused defects while at the same time the B-2 contractor, Northrop, could be realizing a significant profit.

That does not sound fair, Mr. President, because it is not fair. No one should have to pay for an item that does not work. When you or I purchase a washing machine, the manufacturer provides us with a warranty. If it does not do what it is supposed to do, the manufacturer will replace it or pay to fix it. The same should be true in the Department of Defense. If we spend nearly a billion dollars to buy an airplane and it does not work because of

contractor-caused defects, the contractor, not the taxpayers, should be required to pick up the tab for fixing the problem.

Unfortunately, the Department of Defense has often not appeared to share this view. Over and over again the Pentagon has entered contracts for costly weapons systems without adequate protection for the Government against a system that does not work. If the system does not work the way it was supposed to, the way too many contracts are written the contractor who designed and built the system gets to walk away and the taxpayer is left holding the bag.

This is what happened with the B-1 program. One of the contractors on the B-1 delivered an electronic countermeasure, an ECM system, that did not work the way it was supposed to. After we paid the contractor billions of dollars to design, develop, and build this system, we learned that the ECM system could not effectively receive, identify, and jam the frequencies which were deemed necessary to keep the bomber from being detected. Because of the limited warranty provision in that contract, we were told that the taxpayers, not the contractor, would get socked with the billion dollars plus cost of correcting the problem.

In 1989, I introduced specific legislation which was enacted as part of the Defense Authorization Act, to prevent a reoccurrence of this problem on the B-2 program. However, the Pentagon has not complied with the law. The Air Force last month entered into a new B-2 contract with a severely limited warranty provision that violates the terms of the 1989 legislation. As a result, the taxpayer could once again be left to pick up the tab if the B-2 fails to meet the essential performance requirements of the contract, even though the problem might be caused by the contractor.

Mr. President, section 117 of the fiscal year 1990 DOD Authorization Act which was signed into law in November of 1989 requires the Air Force to negotiate a new, significantly strengthened warranty provision for B-2 contracts. In particular, section 117 required that the Secretary of the Air Force either—he has two options—must require the contractor to assume liability for the correction of defects that it causes up to the full amount of the contractor's target profit or if the Secretary of the Air Force wants, he can make a determination that the specific benefits of exclusions or limitations on such liability would substantially outweigh the potential costs and notify the Congress of the specific reasons for that determination.

Two options: The contractor either has to be made liable for the correction of defects it causes up to the amount of that contractor's target profit, or the Secretary of the Air Force must notify

Congress that the cost of requiring that warranty substantially outweighs the benefits. Those are the options.

There is an escape clause if the Secretary wants to use it, but he cannot just ignore it; he cannot ignore the requirements of the law that there be a warrant. The reason is that there is no reason, no reason, that the contractor should be making a significant profit at the same time we are paying to repair the defects that are caused by the contractor. That is the hole we dug ourselves with the B-1 contract, and I specifically made an effort, which succeeded in this Senate, to avoid that problem on the B-2 contract. But the Secretary has not pursued either of the options which the law gives to him.

On December 23, 1991, the Air Force entered a \$5 billion contract for the production of 10 B-2 aircraft without requiring the contractor to assume liability up to the amount of target profit and without a determination and report to Congress as required by the provision.

The December 23, 1991, contract was signed which places a \$250 million cap on contract liability for the correction of contractor-caused design and manufacturing defects and failures by the contractor to meet essential performance characteristics. But because the contractor only pays 20 percent of the costs under the contract, the contractor's share of the potential liability is not \$250 million but one-fifth of that or \$50 million—far less than the contractor's target profit of \$1 billion on this contract.

So instead of being liable for up to the \$1 billion in profit to repair the defects caused by the contractor, as the law requires in the absence of a waiver by the Secretary, the contractor's liability is limited to just 5 percent of that amount, of that profit.

The Secretary made no determination that the specific benefits of this limit on contractor's liability would substantially outweigh the potential costs, nor has he notified Congress of the specific reasons for this limitation as required by section 117.

It is extraordinary to me, Mr. President, that the Air Force would negotiate an agreement that gives to the B-2 contractor a target profit of \$100 million for each of the 10 B-2's covered by the contract but puts only \$5 million of that profit at risk if the plane does not work because of contractor-caused defects.

This is not an academic point. The possibility that the taxpayers could end up picking up the tab to fix contractor-caused problems on the B-2 is not a farfetched possibility. Already there have been reports of recent tests on the B-2 which identify a significant problem with the airplane's stealthiness. We do not know whether or not that will prove to be true, but those are the reports.

Moreover, the Air Force itself has told us that testing on the B-2 will not even be completed until after most or all of the aircraft have been delivered, and by then it will be too late to correct any problems that are identified, perhaps, under the contract.

We have been placing a heavy burden on the taxpayers of this country already, and we are placing a heavier burden on them if we ask them to pay almost \$1 billion for a single airplane. But to pay that much for an airplane which might not even meet the essential performance requirements in the contract is not only wrong; it violates the applicable legal requirements which this body placed into law.

I have sent a letter to the Secretary of the Air Force notifying him that the Department has failed to comply with section 117, and I ask unanimous consent, Mr. President, that a copy of this letter appear in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, I am keenly disappointed that the Air Force has failed to comply with this provision, and I intend to raise this issue when the Secretary of the Air Force testifies before our Senate Armed Services Committee later this year.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,

Washington, DC, February 4, 1992.

Hon. DONALD RICE,
Secretary of the Air Force,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: As you know, Section 117 of the FY 1990 DOD Authorization Act required the Air Force to negotiate a new warranty provision in future B-2 contracts, which would be significantly tougher than existing provisions. In particular, Section 117 states that:

"(2) * * * [T]he Secretary may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) [of Title 10] for the B-2 aircraft [authorized for FY 1989 and FY 1990] that would result in the total of such liability for such costs being less than the total of the contractor's target profit on the production of such aircraft unless the Secretary determines that the specific benefits of such exclusions or limitation substantially outweigh the potential costs.

"(3) Whenever the Secretary makes a determination under paragraph (2), the Secretary shall notify the congressional defense committees of that determination and shall include in such notification the specific reasons for such determination and copies of any relevant exclusions or limitations."

This provision requires the Secretary of the Air Force to either (1) require the B-2 contractor to assume liability for the correction of defects up to the full amount of its target profit; or (2) make a determination that the specific benefits of exclusions or limitations on such liability would "substantially outweigh" the potential costs and notify Congress of the specific reasons for this determination.

On the basis of your December 20, 1991, letter to me and a subsequent briefing of my staff, I have concluded that the Air Force is in non-compliance with this provision. In particular, the B-2 contract signed by the Air Force on December 23, 1991, places a \$250 million cap on contract liability for the correction of design and manufacturing defects, and failure to meet essential performance characteristics. Because the contractor pays only 20 per cent of these costs under the contract, the contractor's share of this liability is only \$50 million—far less than the contractor's target profit of \$1 billion on the contract.

Section 117 is clear that the contractor's liability for corrective action may be less than the contractor's target profit only if you make the determination required by that Section. As you have made clear in your letter and your staff has made clear in its briefing of my staff, you have made no such determination.

Your December 20, 1991, letter contends that the warranty provision negotiated by the Air Force meets the requirements of Section 117 because the warranty cap applies only to two of the three categories of contractor-caused defects—design and manufacturing defects and failures to meet essential performance characteristics. Contract liability for the third category of defects—defects in materials and workmanship—is unlimited.

This argument is inconsistent with the plain requirements of Section 117, which states that you "may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) [of Title 10]" without making a waiver determination. Defects under section 2403(b) include all three categories of contractor-caused defects—not only defects in materials and workmanship, but also failure to conform to "design and manufacturing requirements" and meet "essential performance requirements."

The warranty provision negotiated by the Air Force places significant limitations on the contractor's liability for the cost of correcting contractor-caused defects. This limitation would—in many, if not most, circumstances—result in the total of such liability being less than the total of the contractor's target profit. Accordingly, I can only conclude that the Air Force is not in compliance with the requirements of Section 117.

Thank you for your attention to this important matter.

Sincerely,

CARL LEVIN.

Mr. LEVIN. Mr. President, I thank the Chair and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NATIONAL ENERGY SECURITY ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

FEDERAL AGENCY ENERGY EFFICIENCY AND
MANAGEMENT AMENDMENTS

Mr. GLENN. Mr. President, I am not sending to the desk for consideration, but I have filed at the desk four amendments that I would like to discuss for a little while, even though we cannot bring them to a vote at this point. But I would like to discuss them, and at the appropriate time I will ask to have these accepted as part of the energy bill.

Mr. President, the four amendments that I have proposed will promote far greater energy conservation and efficiency with the Federal Government. Certainly, no one can disagree that the Federal Government should be taking the initiative in setting the standards and setting an example for the rest of the country on energy conservation and efficiency.

Mr. President, I ask unanimous consent that Senators KOHL and FOWLER be included as cosponsors of this amendment when it is apropos for it to be considered.

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

Mr. GLENN. Mr. President, I have long been involved in promoting energy research and development. It is essential both for our competitiveness and environmental protection to develop technologies which improve efficiency and conservation in our Nation's energy use.

Every gallon saved, every dollar saved on energy the Federal Government spends or consumes is a dollar saved for the taxpayer. Certainly, we have been too long in arriving at emphasizing this with Federal uses.

It is my responsibility as chairman of the Senate Committee on Governmental Affairs to oversee the management, efficiency, and operations of the Federal Government. That is a broad mandate. To this end, I have been very concerned about how effectively and efficiently the Federal Government manages its own energy.

Last May, I introduced legislation, S. 1040, designed to improve energy conservation and efficiency within the Federal Government. Our committee held a hearing on this measure on May 14 and reported out the bill on August 2.

I am pleased to say that the amendments I am about to offer incorporate almost all the provisions from my original bill. These amendments are designed to restore some effective management and accountability to the Federal Government's energy costs and consumption, and put some punch back in the Federal Government's investments in energy efficiency.

The amendments also seek to ensure that the Federal Government becomes a leader in the acquisition and use of energy efficient products and technologies. The Federal Government spends \$9 billion a year on energy to

manage its own facilities. I repeat that: We spend \$9 billion a year on energy just to manage our own facilities.

The Office of Technology Assessment's report on this subject that I requested estimated that the utility bill for the Federal Government could be cut by some \$9 billion a year; could be cut about 10 percent, grand total, if cost-effective but commercially available energy conservation measures were implemented in Federal buildings.

This does not require new research. This does not require new activities. It just means doing things that many other people do to conserve energy in their own homes or their own businesses, and we have for too long not done, at the Federal level.

When Old Man Winter rolls into Ohio, the monthly utility bills of my fellow Ohioans go up. And when these costs rise, many households respond by doing a lot of very simple and sensible energy saving improvements, like weatherizing and caulking windows, cleaning heating vents, taping the pipes on the water heater, turning down the thermostat at night, installing energy efficient insulation, and if you have a pet, even sealing the dog or the cat door. While these steps are but small, they all add up to the fixed savings in the monthly fuel bill.

Unfortunately, however, the Federal Government is the Nation's largest single energy consumer, spending over \$3½ billion per year just to heat, to cool, or to power buildings. It does not seem to exhibit a similar concern over cost.

In short, we are not sure who, if anyone, is watching the Federal energy meters. If the truth be known, the Federal Government did make some headway in cutting energy use between 1975 and 1985, but now, regrettably, it is on an energy binge again, it seems, in spite of a modest congressional mandate to achieve a 10-percent reduction by 1995.

This disappointing news is borne out by an analysis done by the Alliance to Save Energy, in the Department of Energy's recently released 1990 report on Federal energy management. Let me give you some examples.

Federal building energy use has actually increased by almost 2 percent since 1985. Now, that may not sound like a big deal, 2 percent. But the Alliance estimates that, had the Government made a serious effort at attaining energy reduction goals outlined by Congress, we could have saved some \$350 million in energy costs in just 2 years, in 1989 and 1990 alone.

Since 1985, the consumption of electricity in Federal facilities has increased by almost 13 percent. Electricity now accounts for two-thirds of the energy costs in Federal buildings.

Total Federal building energy costs shot up more than \$500 million in 1990, a 16-percent increase over 1989 levels.

Federal investment in conservation retrofits continues to be woefully inadequate. For instance, although DOD spends \$2.7 billion on energy in its buildings in 1990, it dedicated—get this—\$1 million to energy conservation retrofits.

Mr. President, that is less than \$3 per building. We are talking about a bill of \$12.7 billion on energy in 1990. And in spite of the guidelines already set down by the Congress, only \$1 million to energy conservation retrofits; less than \$3 per building.

Let me emphasize that last point again. When we are looking at enormous savings to be realized from improved conservation and efficiency measures, it is nothing too complicated. We are talking about relatively simple steps like replacing incandescent light bulbs with fluorescent lighting, retrofitting old building heating systems, shutting down computer systems at night, installing higher efficiency windows. Obviously, that takes some serious commitment and some up-front funding costs, but the potential paybacks that the taxpayers will reap are substantial.

Let me cite an example where a smart investment in energy conservation can save both money and energy. This may sound like a very small example, but bear with me and I'll show you savings the Federal Government can get out of this.

In all of the Federal buildings we have exit signs, the red signs that show people the way out. Most are lit by incandescent bulbs. Replacing these signs with newer, more efficient exit signs, that very simple step, which rely on light-emitting diodes, LED's, would cost about \$70 per sign. However, LED signs would recoup their investment in just 1 year through savings gained by the lower energy and maintenance costs needed to operate the signs. Since LED signs have a life expectancy of 25 years, their installation would result in savings of over \$1,500 per sign when compared to the cost of continued operation of an incandescent-lit sign over the same time period. That is a \$1,500 savings per sign over that 25-year period.

Now, if the Federal Government can save that much by installing more efficient exit signs, something just as simple as that, imagine what the Federal Government could save by tackling more energy-intensive projects, such as retrofitting old boilers or updating air conditioning systems, or by the installation of energy management control systems, which are sophisticated, computer-controlled systems that electronically calibrate and operate a building's heating and lighting system. Why can't the Federal Government realize the huge savings energy efficiency has to offer?

The Office of Technology Assessment has identified several factors which in-

hibit this effort. Among them, a lack of coordination and accountability, low priority, few incentives, poor information, and inadequate personnel and monetary resources throughout the Government.

The amendments I am proposing today are aimed at addressing these persistent problems. They contain no magic solutions or no easy solutions, but rather, they represent a nuts and bolts program that will, hopefully, re-establish some direction, accountability, and efficient energy management practices within agencies and throughout the Government.

Before I give details on these four amendments, I stress once again that this is not anything magic, it is not something that requires a large R&D program, and it is not something that requires a big investment. It is mainly commonsense management of Federal buildings and energy management in those buildings, like most people do in their homes. In some respects, our people back home in Ohio, and in other States are leading the way, because their efforts save money on the monthly utility bills in both the wintertime or summertime. What the amendments basically say is, let us make the same commitment to energy conservation and efficiency at the Federal level. The Federal Government can save some \$900 million a year, and with energy costs going up, that means pretty soon the Federal Government is saving \$1 billion a year if we put some of these measures into action.

The first amendment comprehensively addresses energy consumption in the more than 500,000 federally owned and leased buildings. First, it would establish standards by which Federal agency spending on energy costs and energy efficiency and conservation will be monitored.

It designates a new and ambitious goal for agencies to install in all Federal buildings by January 1, 2000, all energy conservation measures with payback periods of less than 10 years. In other words, those that would add the greatest savings the soonest are the ones that the Federal Government should concentrate on.

The amendment authorizes \$50 million and provides guidelines for the Secretary of Energy to transfer up to \$1 million per project to encourage other Federal agencies to undertake energy efficiency upgrades.

It requires that the Federal Government, through the General Services Administration, identify and purchase energy-efficient products and services, thus helping to stimulate general market demand in this growing industry.

It clarifies agencies' authority to accept utility rebates for energy efficiency programs as well as authorize the creation of a cadre of trained energy engineers to tackle the most energy wasteful buildings.

My amendment sets up an incentives program to reward Federal agencies and employees who undertake conservation and efficiency improvements in buildings that yield substantial savings in taxpayer dollars.

It also provides for regional energy management planning conferences where Federal, State, and local authorities can share the latest data on energy-saving ideas and technologies and cooperate in efficient energy management planning.

That is my first amendment.

The second amendment sets criteria for the expanded use of alternative fuel vehicles by the Federal fleet. As some of my colleagues are aware, GSA has just purchased over 3,000 cars, vans, and pickups that operate on methanol and on compressed natural gas. This is the largest Federal procurement to date of alternative fuel vehicles, and I praise GSA for moving aggressively in this direction.

This amendment contains important management guidelines on how these vehicles are to be integrated into the Federal fleet, as well as contains incentives to encourage their use by Federal agencies and employees. These guidelines and incentives are especially critical given that management of the Federal fleet is decentralized, and the fleet itself is spread across the whole Nation. Alternative fuel vehicles incorporated into the Federal fleet will spread out over our whole country, not just placed in one locale. Because of these factors, increased Federal procurement, placement, and operation of Federal alternative fuel vehicles, will present agencies with many logistical and management challenges.

My third amendment will expand and improve DOE's renewable energy and energy efficiency program, which focuses on some of the Nation's most promising energy research and development projects.

Together, these three amendments attempt to address the problems I have mentioned concerning the Federal Government's use of energy, and I have one other amendment that I would like to discuss. This amendment would authorize the General Services Administration to enter into contractual arrangements with private companies to allow for the fueling of Federal alternative fuel vehicles, should publicly available facilities not be convenient or accessible. That has been one of the problems with alternative fuel vehicles, there is not a methanol pump, or compressor, or battery recharger, at every location where people may want to fill up with compressed natural gas tank, methanol, or other fuel in their alternative fuel vehicle.

S. 2166 contains language to encourage GSA to display its alternative fuel vehicles at facilities that are open to the public. This is to help acquaint the public with alternative fuels and en-

courage the development of publicly available commercial fueling infrastructure. I support that initiative. In fact, the language in S. 2166 is similar to what I originally proposed in my bill, S. 1040.

However, many of the demonstrations of alternative fuel vehicles, particularly those involving compressed natural gas and electricity, going on around the country are utilizing centrally located fueling facilities that are not yet open for public use. Rather than not locating alternative fuel vehicles in these regions, or not buying certain types of alternative fuel vehicles, GSA should be able to enter into fueling contracts with local utilities so it can purchase a diverse mix of alternative fuel vehicles and place them in several areas across the country. This amendment gives them that authority.

Mr. President, I certainly hope my colleagues will support these amendments. I believe that they have been cleared on both sides of the aisle. While the Senate cannot bring my amendments to a final vote at the moment because of the parliamentary situation on the floor, I will at a later time ask that this discussion be included as the preface to consideration of those amendments when they are brought up for a final vote.

Mr. President, I look forward to working with my colleagues and with the Energy Committee to make these effective Federal energy management proposals a reality.

I want to also thank the floor managers of the bill, Senators JOHNSTON and WALLOP, and their staffs, for working with me to adopt these amendments and I very much appreciate their efforts in this regard.

I close by saying that I think we have been remiss for a great number of years in not pushing better Federal energy management because it can result in big savings of taxpayer dollars. Just these proposals, OTA estimates, will save taxpayers somewhere around \$900 million a year. Even if we only save half of that, it is certainly well worth the effort, and something I think we are long overdue in stressing.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the debate with respect to these amendments be placed in an appropriate place in the RECORD, once we get on the bill in connection with these amendments, when and if, as we expect, they are brought up for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The statement of the Senator from Ohio will be placed in the RECORD at an appropriate place as requested.

Mr. JOHNSTON. Mr. President, we strongly endorse these amendments

which represent not a few days of work but many months of work and discussion with the distinguished Senator from Ohio, his excellent staff, of this committee as well as the staff members of our committee, and Senators from our committee.

Mr. President, energy efficiency matters and conservation are easy to talk about in broad-brush terms but are very difficult and very painstaking and very detailed to bring to fruition, to have something that really works.

What the Senator from Ohio and his committee have done is to put together a framework for action with respect to energy efficiency and conservation that will reinvigorate the Federal Government's efforts to achieve the full energy efficiency potential.

Both the Office of Technology Assessment and the Alliance to Save Energy have completed reports identifying the substantial opportunity that exists to improve the Federal Government's energy efficiency. OTA estimates that the Federal Government spent nearly \$4 billion in fiscal year 1989 for energy in Federal facilities. They further estimate that the cost effective improvement could save as much as 25 percent of that cost, or a full billion dollars, without any sacrifice in comfort and productivity. So what the Senator from Ohio has done with these amendments is put together a framework to save, we hope, as much as a billion dollars a year from energy efficiency and conservation.

Mr. President, we strongly approve this amendment and look forward to its incorporation in this bill.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Colorado.

Mr. WIRTH. Mr. President, I listened with interest to the amendments being discussed and offered by the distinguished Senator from Ohio. And there were a couple of places there where I had questions and may want to offer second-degree amendments.

One of those relates to the potential for the private sector to come in and make a contract with a Federal agency for energy efficiency, in doing so to have the private contractor come in and provide the capital for making that Federal facility more efficient, and in return for that the private entrepreneur coming in would be able to recoup some of the savings that came out of making that building more efficient.

This is a standard procedure in the private sector. If you are an office building owner in the private sector, you make a contract with an energy efficiency firm. That energy efficiency firm comes into your building, puts in the efficiency improvements, and recoups the energy savings from those efficiency improvements. So you are better off as a building owner because you

are paying less for heating, and there is a return that comes to the private sector person who puts those improvements in. It is a win-win situation.

We had originally developed that incentive program in this legislation related to Federal buildings as well, so that the Federal Government could take advantage of the same kind of incentive and save energy, particularly at a time when we are constrained with capital at the Federal level. Let the private entrepreneur come in and do the same thing with the Federal Government that we had with the private sector.

It is my understanding that that provision which had originally been one of our Federal energy management titles has now been knocked out because the argument was made that the Federal Government under the procurement laws is not allowed to do this.

What I would like to do is just to notice the fact that we are trying to work this out with Senator GLENN's committee to make sure that in fact this very cost effective incentive program for the private sector saving energy for the public sector can remain in the law and we can figure out how to do that, given other procurement rules in the public sector which will preclude this. We are sort of between the rock and hard place.

This kind of energy savings is a good idea. We have a set of laws, apparently, which says you are not allowed to do this. We want to try to figure out how to combine that and neutralize those laws and allow this kind of incentive program for saving energy in the public sector.

I just wanted to rise at this point to notice that we may have a second-degree amendment coming up with the first of the Senator's amendments, the first one he described that relates to this very set of issues.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. WIRTH. I am happy to yield.

Mr. GLENN. The Senator is correct in making this point because if we can work out some of the difficulties in the Federal procurement law which require competition in contracting, competitive bidding, and other provisions, if we can work out some of these difficulties, then I think Senator WIRTH's proposal makes a great deal of sense. We have not been able to work those differences out yet. The staffs are still working on it.

If we can reach agreement, this proposal would not require as great a Government investment, No. 1, and we would get the same benefits over a period of time because while the contractor comes in and gets his money from a payback in future energy savings, then the Government is left with more energy-efficient buildings, more energy-efficient services beyond that and then much of the savings recur

completely to the Government. If we can resolve these differences and still have them comply with our competition in contracting laws, then I am all for this. That is what we are trying to work out now.

I think the distinguished Senator from Colorado is very proper in pointing this out, and I hope he works something out on this when we finally get around to considering the actual amendment on the floor. Right now, of course, the parliamentary situation is such we cannot consider any amendment or second-degree amendment at this moment.

Mr. WIRTH. Understanding that, I know that our staffs have been working at it for the last day or so. We might be able to do this by the time we get to this bill. I hope we can have action on these amendments. If not, maybe we can take a little more time and get the assurance of the Senator that if we need a little more time we might get a little more time, and to see if he can come to a sensible resolution of this which I think we both want to arrive at.

Mr. GLENN. I hope we can work things out. If we can do it by this afternoon, fine. I hate to see other amendments delayed because of this.

Mr. WIRTH. I suggest we not act on other amendments although I did have a question on that, if I might.

Mr. JOHNSTON addressed the Chair. The PRESIDING OFFICER. The Senator from Colorado retains the floor.

Mr. WIRTH. I wanted to comment briefly on another one of the Senator's attempts.

Mr. JOHNSTON. Will the Senator yield on this point?

Mr. WIRTH. I am happy to yield.

Mr. JOHNSTON. Mr. President, I thank the Senator for yielding. I strongly share his enthusiasm as well as that of the Senator from Ohio for the second-degree amendment which he just discussed.

The advantage of the proposal, which he points out, is not only that you do not have to invest the Federal Government's money up front, but there is a measurable and palatable amount of savings which is the trigger for the payment to the private sector company.

One of the biggest problems in energy conservation and energy efficiency is you never could measure what it is you were doing. There are a whole series of good things that we do, but we never know whether they do any good or not.

Under this kind of private sector initiative, the private sector company does not get paid until and unless it produces a measurable, certifiable, meterable amount of savings. So it seems to me there ought to be a way that we can work that out consistent with our contracting laws. I hope we can because I think it is one of the most helpful kinds of ways to save energy.

I thank the Senator for yielding.

Mr. WIRTH. I thank the distinguished chairman of the committee and I thank the Senator from Ohio. I hope we can work this out.

If I might add one question on I believe the third amendment which the Senator is offering related to GSA purchase of natural gas vehicles. It is my understanding that in the law now we have a requirement for the purchase of 3,000 alternative-fueled natural gas vehicles. I think that that is the figure that is in the legislation now.

I am struck by the fact that only last week the State of Texas, one State, announced that it was going to move into a purchasing plan of 12,000 alternative-fueled vehicles. Now here we have one State moving a lot more aggressively than we are at the Federal level for the GSA, and I think that there may be room here, I am not sure if this is the appropriate amendment or if it is the place, I am not sure whether the Senator's third amendment on GSA fueling of GSA alternative-fueled fleets sets in. I think there may be a time when we want to go back and address the level of purchasing by GSA, given how rapidly this market appears to be moving, and to try to encourage GSA to move more rapidly than so far in the legislation.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. WIRTH. I am happy to yield.

Mr. JOHNSTON. I invite the Senator's attention to page 21 of the bill which deals with Federal fleets and the purchase requirements, 10 percent beginning in 1995, moving up to 90 percent by the year 2000. We are working with a number of groups and with the minority to try to accelerate that schedule. From my standpoint, I would like to accelerate it and I do not know the state of play with our friends on the minority but I am hopeful that we can, and I hope the Senator from Ohio would want to accelerate that.

Mr. WIRTH. It would be my hope that we might do that. It seems to me we have an enormous opportunity right now. And, again, this market I think is moving very, very rapidly.

Mr. GLENN. Will the Senator yield?

Mr. WIRTH. I am happy to yield.

Mr. GLENN. One of the problems is finding a place to refuel. You cannot just wheel into any service station and get filled up with natural gas. And so Texas may have an advantage in that regard in that they may have more refueling spots right now to absorb greater demand. Increasingly, the use of alternative fuels is going to require building an infrastructure all over the country where people can actually refuel with compressed natural gas in order to keep going.

In Washington, I believe we only have one spot in town. I asked about this a short time ago. There is one service station here in Washington

that offers compressed natural gas. Obviously we need to continue building more infrastructure and I hope we can do that in very rapid fashion.

Let me add a personal note. My distinguished colleague from Colorado, and I was at a meeting with him not long ago in Colorado and he drove up in his own vehicle which is an alternative-fueled vehicle. And I believe he told me at that time of his work on compressed natural gas, which he has had for some time. So he is not only interested in putting these things into place for the Federal Government, but he has also made a personal commitment by driving his own alternative-fueled vehicle when he is back home in Colorado. I want to compliment him for that.

Senator WIRTH has been a leader in this particular area, and has talked long and hard to all of us about the need to increase the use of alternative fuels. He does not need to convince me. I already was convinced. But he has taken a lead in this in a personal way.

Also I do not know whether any other Members of the Senate here actually own and drive on a regular basis their own alternative-fueled vehicle or not. I know Senator WIRTH has taken a personal interest in this and is getting some experience with his own vehicle. I want to compliment him on his initiative this morning also.

Mr. WIRTH. I thank the Senator from Ohio.

The issue of distribution systems is a very important element of this. In a way, this is sort of the chicken and egg situation. If you do not have the vehicles, obviously you do not have the distribution system. If you do not have the distribution system you cannot fuel the vehicles.

I think if we know this is being done, I think there will be this demand there. If you look at what is happening in Texas, look at what we might be able to do to accelerate GSA, obviously that is going to illustrate the fact to distribution companies that the demand is going to be there. I think that will grow quickly.

That has already happened in the Denver metropolitan area where I think 2 years ago we only had 2 sites where you could refuel with natural gas. Both of those were owned by the public services company who has done their own refueling, as has the Cherokee school system. Then the natural gas community got together and we now have within the commuting distance from my home in Boulder to Denver, back and forth along just that route, 13 places where I can refuel my vehicle. It is very, very convenient. That has happened rapidly.

And the point that the Senator makes in, I believe, his third amendment about the infrastructure is so terribly important, and having that publicly available is very important as

well. So that if the Government is going to refuel, have it be done in a public place so that you do not have to go to the public service company, or go to the GSA motor pool place, but the public can go to the Texaco station or Mobil station or whatever it may be. So I think that is a constructive amendment that the Senator is offering and we hope we can push that demand a little more rapidly.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Let me make one further comment and further personal observation on alternative fuel use.

Back a couple of years ago, my wife and I had occasion, about Thanksgiving time, to drive a car to the west coast that our son wanted in San Francisco. So we had a short vacation and drive across country, which we had not done for many, many years. It was a most enjoyable trip.

But that is not the point of my discussion this morning. The point is, when we got, I believe it was, to about western Indiana or into Illinois, at every station we stopped there was a pump that had an ethanol-gasoline mix, a 10-percent blend. And those blends were available at stations almost clear through to the west coast.

Now I do not know—in fact I never really looked into this after I got back as I had planned to—but I do not know why in the Eastern parts of the United States, where a large part of our fuel consumption occurs, that gas stations do not have present the 10-percent ethanol-gasoline mix that seems to be available in both the Midwest and the West, at least on the route that we were driving across country. I do not know whether this is due to resistance from the oil companies or what the problem may be.

But I know this country is producing a lot of ethanol in southern Ohio, in a plant there at South Point, that I believe was originally scaled up to take some 24 million bushels of corn a year and convert it into ethanol to be used in a gasoline mix. That mix even has some emission benefits over traditional gasoline.

Now that is just a personal observation again from that one cross-country trip I rode a couple of years ago that this type mix seemed to be available at almost every gasoline station we stopped at all the way to the west coast but is not available yet, certainly around the Washington, DC, area, nor do I believe that it is common in other parts of the east coast. When I pull into gas stations here or in Ohio, I see that they do not offer ethanol-gasoline blends. So maybe that is something we need to encourage also as we move to greater use of alternative fuels in the transportation sector.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? In the absence of any Senator seeking recognition, the Chair, in his capacity as a Senator from Virginia, notes the absence of a quorum.

The clerk will call the roll.

Legislative clerk proceeded to call the roll.

Mr. KOHL. 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. KOHL. Mr. President, I rise to support the amendment offered by Senator GLENN, of which I am a cosponsor, and to offer a second-degree amendment to the Glenn amendment.

The PRESIDING OFFICER. The Chair reminds the Senator that under the current provisions, that amendments have not been offered formally, but the Senator is certainly at liberty to speak on the amendment.

Mr. KOHL. Mr. President, Senator GLENN has worked diligently to put together this comprehensive and commonsense amendment designed to make the Federal Government more energy efficient. I believe that this amendment, if enacted into law, will lead to tremendous improvements in energy efficiency throughout the Federal Government.

As Senator GLENN has explained, this is truly a problem in need of a solution. The Federal Government is both the biggest user of energy in the Nation, and the biggest energy waster in the Nation. That is a problem for several reasons: It wastes scarce taxpayer dollars; it causes needless harm to the environment; and it sets a very poor example to the private sector.

Mr. President, we all know that the biggest impediment to energy efficiency is the fact that it takes money to save money. Improving energy efficiency requires up-front capital investment in energy-saving systems and technologies. And in these days of tight budgets, the administration and the Congress are reluctant to make those investments. In 1990, the Federal Government invested less than \$50 million in energy conservation measures, compared to over \$250 million annually during the late 1970's.

But I am here to argue that if we want the Federal Government to run more like a business, then we have to start taking a long-term approach toward Federal spending. In other words, we have to make smart investments in proven energy efficiency technologies which we know will more than pay for themselves in a short period of time.

President Bush, to his credit, signed an Executive order on April 7, 1991, that mandates new energy conservation measures in Federal facilities. He directed all Federal agencies to reduce overall energy consumption in Federal facilities by 20 percent by the year 2000.

If accomplished, that could save the American taxpayer \$800 million in annual energy costs. It could cut Federal consumption the equivalent of 100,000 barrels of oil per day.

But the President's Executive order is meaningless unless we commit the resources to back it up. It is one thing to say that we are going to reduce the Federal Government's energy bill. It is another thing to invest the resources necessary to meet our goal. The beauty of this type of Federal spending is that over time, it will end up actually saving taxpayers dollars by lowering energy cost over the years.

That is why I am offering a second-degree amendment to the Glenn amendment. My amendment increases the funding authority for expenditures on energy efficiency improvements in Federal buildings and facilities. The original bill and Senator GLENN's amendment would establish a fund at DOE for investment in energy efficiency, but it is only authorized at \$50 million a year. This amendment increases that amount to \$200 million a year, because the more we spend on smart energy investments, the more we will save. I remind my colleagues that \$200 million is still less than we were spending on energy efficiency in the late 1970's.

I originally became interested in this issue because a company in my State, Johnson Controls, has been involved in finding ways to reduce Federal energy consumption. I worked with Johnson Controls to develop legislation creating a Federal energy efficiency bank, a self-financing fund in the Government to fund energy-efficient investments. I will continue to push ahead on that measure. In the meantime, I am offering this amendment to get the ball rolling.

If enacted, I am hopeful that Federal agencies and the OMB will aggressively invest in energy efficiency. And through oversight, I will carefully monitor the expenditure of these funds, to ensure that we are making the most cost-effective investments in energy efficiency.

I understand this amendment has been cleared on both sides of the aisle, and I thank the comanagers of the bill, and Senator GLENN, and I urge adoption of my amendment.

Mr. JOHNSTON. Mr. President, we think this amendment is a good one. We would support it. By increasing the funds available for this energy conservation purpose, we think we increase the energy security of the country. Therefore, we are prepared to accept the amendment.

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. JOHNSTON. 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. JOHNSTON. Mr. President, I ask unanimous consent that Senator KOHL's remarks, as well as my remarks, be placed in the RECORD later when and if the Kohl amendment is offered.

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

Mr. JOHNSTON. 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. GORTON. 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. GORTON. Mr. President, I ask unanimous consent to proceed for 8 or 10 minutes as in morning business.

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

OUR ECONOMIC PROBLEMS

Mr. GORTON. Mr. President, American taxpayers' blood is once again being spread on the waters and the congressional sharks are gathering for their annual feeding frenzy with tax cuts and deficit spending. As usual, the sharks are circling and the intended victim cannot get out of the water fast enough.

In the view of this Senator, if legislation is enacted like that outlined on the 21st of January by the majority leader, this fictional solution to our economic problems—tax cuts financed by a huge reduction in defense spending and further deficit spending—will only add to the structural problems with which this country is faced and make tomorrow's solutions that much more difficult to adopt.

The basic causes of the current recession are excessive Government spending, excessive Government regulation, and the lack of meaningful incentives to invest and create jobs. Congress should take its cue from private businesses and individuals, not from its own history of taxing and spending. The private sector of the economy and individual Americans are reducing their debt load, not increasing it. For example, consumer indebtedness rose to an all-time high between 1982 and 1989. Since that year, however consumers have erased 40 percent of that increase in debt. Congress should follow this lead by reducing the Government's spending policies to reduce the deficit.

Congress should also follow the President's lead. The President has ordered all agencies to review their regulations to determine if legislative goals can be met with less burdensome regulations. This Congress should pass legislation quickly, legislation aimed at reducing regulatory burdens that un-

President Bush hailed the close of the cold war era and told Americans that communism was defeated.

We all wish that his words reflected reality, but of course they did not. One-fourth of all of the people in the world still live under communism. Those human beings suffer the repressions of Communist regimes every bit as repugnant as that which dominated the Soviet Union for so long.

The Chinese people still face arbitrary arrest and detention without charge. In the words of our own State Department—this administration's State Department—the Chinese ruling regime is, "a closed inner circle of senior leaders," not a democratically elected government. Those leaders hold their power through a vast security apparatus which uses torture, arrest, detention, and brutality to remain in power.

The governing circle of Chinese leaders preserve their prerogatives by silencing all opposition. Their opponents, whether young students seeking a freer life or humble workers and peasants, are relegated to prison camps, labor camps, and reeducation camps closed to international inspection.

Religious repression continues apace; Catholic, Protestant and Buddhist believers alike are subject to intimidation and arrest. The cultural genocide against Tibet has not slowed. The steady brutalization of a people and the eradication of an ancient culture continues today in Tibet. Political prisoners toil in labor camps and prison camps when they do not languish in sealed cells. Only rumors reach the outside world of one prisoner suffering a broken arm as guards tried to force-feed him; of others trying to mount a hunger strike when our own Secretary of State, James Baker, paid an official visit to the regime which is their jailer.

In every respect, the Communist Government of China imposes its will by force on a helpless people. The ugly reality of Chinese human rights abuses has once again been documented by our own State Department, confirming the reports from Chinese exiles and other observers. The Department of State reports that Chinese respect for the most basic, fundamental human rights still falls "far short of internationally accepted norms."

So the President's celebration of the end of communism is premature. So long as a billion of our fellow human beings suffer under a communist, tyrannical regime, we cannot comfortably assert that freedom has won worldwide and that human rights are secured.

What is most disturbing, however, is not just that the President's speech ignored the reality of repression now facing a billion people. What is most disturbing is the policy he has pursued

since the tanks rolled over unarmed demonstrators in Tiananmen Square—the policy he still pursues today. That policy is a failure.

The President has followed a lenient policy toward the butchers of Tiananmen Square. He says he has done so because it would be wrong to isolate China. But it is not a question of isolation. No one wants to isolate China. It is a question of disapproval of China's actions. Our revulsion at the killing of civilians does not create disapproval of China's actions. It is the killing of innocent people by China's Government that causes the disapproval, indeed the revulsion, of the world.

The first official meeting between an American President and the Premier of China, an event that will help reestablish the legitimacy of this regime in the world community, underscored the dismal failure of the President's policy.

Even as President Bush sought to bring human rights concerns to the attention of the Chinese Premier, he was soundly rebuffed and told that the internal affairs of China are none of America's business.

Premier Li Peng said publicly at the Security Council meeting that, "China is opposed to interference in the internal affairs of other countries using the human rights issue as an excuse." Secretary of State Baker confirmed that Premier Li Peng said substantially the same thing to President Bush privately.

Before the Security Council meeting, I joined several of my colleagues and sent a letter to the President urging that he not meet with the architect of the Tiananmen Square massacre.

The President chose otherwise. The result, as one of the Nation's leading papers reported, was a snub administered to the leader of the world's freest nation by the leader of its most repressive nation. This is not a policy that can or should command the support of Americans.

This latest setback comes after more than 2 years of assurances by President Bush that his policy will produce improvements in human rights, improved trade conditions, and the emergence of China as a responsible nation in the world community.

Yet none of these results has been forthcoming—not one of them. The Chinese record on human rights is as abusive and arrogant as ever, as just last week documented by the President's own Department of State.

Premier Li told the U.N. Security Council that, "A country's human rights record should not be judged in isolation from its history and culture. * * * Consider that statement. A suggestion that Chinese history gives the current leaders a dispensation to violate human rights is offensive. Internationally recognized standards of human rights do not reflect history—

they reflect our aspirations for a future free of governmental terror.

The Chinese record on trade remains abysmal. Despite free access to American markets for Chinese products, American producers do not enjoy equal free access to Chinese markets. By the end of the year, the United States will have racked up a \$30 billion trade deficit with China, most of it since the massacre in Tiananmen Square.

Despite a belated admission by the President that China uses political prisoners and criminals to produce goods for the export market—forced labor—nothing has been accomplished in stopping such products entering the United States. The President's claim that the trade relationship with China is important reflects the perspective of China, not the perspective of the United States.

But it is in connection with the role of China as a responsible member of the international community that the administration policy has most obviously failed.

China today leads the movement in Asia to strengthen nonelected authoritarian governments while seeking economic growth to sustain them in power.

Chinese relations with Vietnam and North Korea have grown closer; China is a major arms supplier to the junta ruling Myanmar, formerly Burma, and Thailand, where a military coup dislodged an elected government a year ago.

Chinese patronage of the murderous Khmer Rouge in the Cambodian peace negotiations preserved the power of this genocidal movement. During January, Khmer Rouge attacks drove an estimated 10,000 Cambodian villagers from their homes. There is no evidence that China will try to stop a new Khmer Rouge rampage.

These are not the actions of a government interested in regional stability. These are the policies of a government determined to exert control over smaller neighbors and preserve totalitarian and tyrannical regimes as a means of solidifying its own power.

China's role in global arms proliferation is just as negative and blatant. Repeated verbal commitments by China to adhere to international regimes designed to restrict the growth of the arms trade have been abandoned.

Last June, the United States was forced to impose an export ban on high-speed computers and satellite parts to China when a secret sale of Chinese missile launchers to Pakistan was revealed.

During his visit to China last November, Secretary Baker urged the Chinese Government to abide by the 1987 Missile Technology Control Regime to prevent the proliferation of ballistic missile technologies to countries in the developing world. China's price was the lifting of the June sanctions.

So Secretary Baker agreed. By mid-December, the State Department was ready to lift the ban, but the Chinese failed to provide written assurance to back up their verbal commitment. And they have still not done so. Premier Li told President Bush he would get "a letter" on the subject sometime soon.

Yet, the day before the Premier met with President Bush, the New York Times reported that China is continuing to sell missile technology to Syria and Pakistan. The story reported that guidance units for M-11 missiles were sold to Pakistan, and 30 tons of chemicals to produce solid fuel for rockets were sold to Syria. It was reported that the Chinese have plans to deliver an additional 60 tons of chemicals to Syria this spring.

The gulf war should have warned all that widely dispersed ownership of medium range missiles represents a significant escalation in the ability of regional despots to threaten their neighbors.

The administration has repeatedly claimed that its top priority in shaping the security outlook for the new world order will be to prevent the proliferation of nuclear, chemical, biological, and ballistic missile technologies.

That is an appropriate security goal and one that has the support of all Americans. But a goal cannot be reached by policies that have the opposite effect. Yet, that has been the case with the administration's tolerance of China's arms and technology sales for the past several years.

Central Intelligence Agency Director Gates told Congress in mid-January that Iran's rearmament is proceeding with the purchase of battlefield missiles, cruise missiles, and nuclear technology from China.

It does not take a great deal of imagination to predict potential instability in the Middle East if the rearmament process in Iran moves it toward a nuclear capability.

Just last week, the Director of the Defense Intelligence Agency told the Senate Armed Services Committee that China "is currently assisting many of the nations that we estimate will acquire a ballistic missile capability by the end of the decade." China currently is assisting those nations.

Defense Secretary Cheney said, "They have"—referring to the Chinese—"in the past, on occasion, been less than scrupulous in their concern for maintaining control over that technology."

The Bush policy of placating the Chinese leadership in order to encourage the regime to become a more responsible member of the world community is a failure, a dismal failure. Yet, the president rejects the evidence so clear to all and to the watching world, and pursues the failed policy into deeper and more dangerous territory.

The recent developments with respect to the proliferation of missile

technology and chemicals are serious and troubling.

I urge every Senator to seek and obtain a classified briefing from the Intelligence Committee about the extent and scope of Chinese arms shipments and their destinations. No Senator should make a decision on future policy with China without having received and considered all relevant information.

I hope Senators will take the time to become acquainted with the range of information that has been developed on this subject. It is not a matter that can be debated in open session, but it is a matter that has serious implications for our security and that of the world.

I hope that we can consider the China MFN legislation with all of the relevant facts in mind when it is called up. We have now given President Bush's policy more than 2 years to achieve its stated goals, and the President's own State Department has said it failed. It has failed.

I believe it is time to change that policy, and I believe that doing so is in the best interests of the United States and the preservation of a peaceful world.

Mr. President, I ask unanimous consent that three newspaper articles, one a column that appeared in the Los Angeles Times, a column in the Washington Post, and a column in the New York Times, all on this subject, be printed in the RECORD.

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

[From the Los Angeles Times]

BUSH RUNS INTO A WALL ON CHINA, AGAIN

(By George Black)

Li Peng, the Chinese premier, came to New York on Friday, and exiled Chinese students greeted him by erecting replicas of a tank and the Tian An Men Square Goddess of Democracy. This time around, the statue crushed the tank.

Li Peng's normal range of facial expressions covers the full spectrum from a scowl to a frown. But on this occasion he was no doubt encouraged by his PR advisers, Hill and Knowlton, Inc., to force a smile, since the Senate is once again poised to take up the controversial matter of renewing China's most-favored-nation trade status. Yet if the smile was pasted on at the start of the day, it was genuine by the end—for Li Peng knew that he could go home to Beijing with a briefcase full of photos of him shaking hands with George Bush.

The details of U.S. policy on China are controlled by the White House to such an extent that State Department officials joke that the President himself is their China desk officer. And when congressional critics of China try to attach conditions to the renewal of MFN—angered by Beijing's huge trade surpluses with the United States, its occupation of Tibet, its sale of missiles to Syria and Iran, or its brutal human rights violations—they are either silenced by presidential veto or cowed by the assertion that George Bush possesses some special expertise on the subject.

This all goes back to the time that Bush spent as envoy to the U.S. liaison office in

Beijing from September, 1974, to November, 1975. Under the tutelage of Henry Kissinger, he learned two lessons: that China was a vital strategic counterweight to the Soviet Union; and that diplomatic dealings with the Chinese, who could turn the cryptic phrase into an art form, was best left to a handful of initiates freed from the constraints of democratic debate.

Bush found himself in Beijing during dramatic times. In company with Kissinger, he paid a call on the dying Mao Tse-tung, who was barely able to speak coherently. Deng Xiaoping, restored to grace after his earlier humiliations in the Cultural Revolution, was locked in a power struggle with the ultra-radical Gang of Four. Bush pinned all his hopes on Deng as the leader who would bring much-needed stability to China. He prided himself on his personal rapport with Deng, and on his folksy, people-to-people approach to the Chinese. The Bushes' cook, he informs us in his autobiography, called him "Busher, who ride the bicycle, just as the Chinese do."

Since the 1989 Beijing massacre, Bush has shielded the Chinese government from the threat of sanctions. His argument for constructive engagement is that Deng's economic reforms and trade with the West are steadily undermining communist authority, and that trade provides the framework of trust in which other issues of concern—such as human rights—can be discussed.

But as MFN renewal comes around again, what further reason is there to defer to the President? His "expertise," such as it ever was, has long evaporated. The argument for cultivating China as an anti-Soviet ploy died with the Cold War; the vision of Deng as the agent of political reform and guarantor of stability was buried in Tian An Men Square, and Li Peng continues to brush off any questions about China's human rights record as "internal interference."

The behavior of the leadership in Beijing suggests that U.S. policy may actually have managed to produce the worst of both worlds. The stream of high-level contacts that culminated in the visit of Secretary of State James A. Baker III to Beijing last November seems to have persuaded the Chinese that they need fear no threat from this Administration. Baker did not just come away empty-handed; he was publicly humiliated by Deng's refusal to meet him to receive a letter from Bush.

While benefiting handsomely from Bush's indulgence, much of the present Chinese leadership has an ingrained suspicion of the Administration's support for economic reforms, fearing that the end purpose of U.S. policy for the last 40 years has been China's "peaceful evolution" toward capitalism. (The restoration of capitalism in the former Soviet Union, of course, only lends credence to this view.) China is therefore vehemently opposed to any hint of a demand for concessions from a government that it might arguably see as its best ally.

Incredibly, George Bush gave the Chinese the ultimate plum: a face-to-face meeting in New York with Li Peng, the architect of the 1989 massacre and the most detested man in China. Li Peng's unaccustomed smile is all that has been given in return to Bush, who sometimes rides his bicycle into a wall, just as the Chinese do.

(George Black is completing a book on Wang Juntao and Chen Ziming, two leaders of the Chinese democracy movement.)

[From the Washington Post, Feb. 4, 1992]

REMEMBER THE LONE MAN IN THE WHITE SHIRT

(By Jim Hoagland)

Pictures do lie. The rehabilitation of China's Li Peng during a visit to Europe and America proves how thoroughly.

Think back to June 1989 and the Tiananmen massacre, which the Chinese prime minister personally organized, ordered and justified. Recall the indelible image conveyed by a photograph of a lone Chinese man in a white shirt halting a column of four tanks. Time magazine caught the thrill and wonderment inspired by that picture, which seemed to show the victory of spirit over steel:

"One man against an army. The power of the people versus the power of the gun. There he stood, implausibly resolute in his thin white shirt, an unknown Chinese man facing down a lumbering column of tanks . . . The state clanking with menace, swiveling right and left with uncertainty, is halted in its tracks because the people got in its way, and because it goes in theirs."

Except that the state wasn't halted, not even for a moment. After killing hundreds if not thousands of pro-democracy demonstrators on the streets of Beijing, it hounded students, union activists and anyone else who dared speak up for freedom into jail, exile or silence.

Today we have no idea if that man in the white shirt is dead or alive. Nor do we know what happened to the tank commander who disobeyed orders and refused to crush him on the spot. The standards of Li Peng's justice suggest that both will have paid dearly for their complementary acts of humanity and courage.

We do know 31 months later what has happened to Li Peng. The Soviet-trained, Stalinist-minded apparatchik who prevailed over the unknown citizen in the white shirt and millions like him is granted undeserved respectability by the powerful in the West.

Li Peng flew to New York Friday and met with President Bush, after stopping off in Switzerland to make a sales pitch to businessmen and officials gathered at the annual World Economic Forum. Four years ago, the star attraction of the Davos gathering (and the man America then saw as China's savior) was Zhao Ziyang, the reform-minded ex-leader Li Peng keeps under house arrest in Beijing, under an implicit threat of death.

Li Peng's propaganda machine will publicize these meetings at home as proof that the West does not care about democracy in China. The Chinese will be told that all the West cares about is profit for itself and control in Third World countries, as good communists always said.

It is more complicated than that, of course, China exists and has to be dealt with. Bush and the businessmen argue—correctly—that it does no good to break diplomatic relations and to isolate China completely. They also argue that by pursuing contact they influence Li Peng to be more reasonable, more humane, more amenable to free market reform.

That is where the argument goes wrong. The choice is not complete isolation or complete acceptance. The choice is to use the contact with China that is necessary to extract meaningful concessions from rulers whose existence and control depend on being not reasonable, not humane, not amenable to reform.

But that is not being done. The gentle handling of Li Peng in New York and Davos shows that the Saddam Syndrome lives on.

The same arguments were made for years by the Reagan and Bush administrations, and by groups like the U.S.-Iraq Business Forum, to justify placating and defending Saddam Hussein as a potential force for moderation in the Middle East even as Saddam spelled out his murderous ambitions in speeches at home. By lulling those who listened to him, such contact served Saddam's purposes, not America's.

That is happening again in the case of China. Li Peng's regime has now lied repeatedly to the Bush administration, without paying any penalty. Every other month China pledges it will no longer export missiles and dangerous technology to the Middle East, just before a new shipment is discovered. The discovery is either denied by Secretary of State Jim Baker and his minions or used as the excuse for another trip to Beijing to extract another worthless pledge.

The reality is that the Chinese Defense Minister holds absolute power over the country's arms manufacture and export. The army ignores agreements made by the Foreign Ministry or even by Li Peng when they do not suit the army's purpose. Yang Shangkun, the titular president and former general, is building up a family dynasty to control the military and extend this arrangement into the future.

The indisputable economic explosion occurring in China's coastal provinces is also beyond Li Peng's control. Double digit growth rates in the south do not mean that the anti-reform forces now in control of Beijing have changed their ways. They mean the Stalinists do not have the ability to extend their grip over the entire country.

The benefits to Li Peng of his Davos and New York outings are clear. The burden is on those who granted him these benefits to show they dealt with him without illusions and extracted real change in his positions in return.

The world owes the man in the white shirt that much.

[From the New York Times, Feb. 4, 1992]

PRISONERS OF CHINA

(By A.M. Rosenthal)

SAN FRANCISCO.—President Bush knows the names of almost all of Communist China's leaders, an achievement that he takes as testimony to his expertise on China.

But does he also know the names of Chinese political prisoners who have their handcuffed hands ratcheted tight behind their backs, deliberately so tight that they cannot clean themselves after they have used the toilet bucket in their cells?

In San Francisco I keep wondering about that. And the other day when he shook hands with Prime Minister Li Peng, did he remember the names of any of the hundreds of young people shot dead at the time of Tiananmen Square in 1989—one?

That might have come in useful because it was Mr. Li, acting for himself and the rest of the Politburo, who had them killed.

Did Mr. Bush, or any of the American businessmen who met with Beijing's Prime Minister and decided he was a decent fellow, know the name of a single Tibetan Buddhist monk among thousands, tortured or killed by this decent fellow Li and his Government? One?

I think about this in San Francisco because I have been talking with Nancy Pelosi. She is a calm, determined person skillful in her job as a member of the House of Representatives.

Ms. Pelosi, a liberal Democrat, uses her calm, determination and skill to try to liber-

ate the political prisoners—and to liberate this country and its President from a shameful China policy that has helped keep the prisoners where they are.

She is not alone. A majority of both houses of Congress have tried to change that policy by putting a pocketbook price on Communist viciousness in China.

The House approved a bill worked out by Ms. Pelosi and other members of Congress, both houses, both parties, left and right. The vote was a stunning, veto-proof 409 to 21.

The Senate approved action too, but pressure from the President and some Americans in the China trade blocked mustering a majority that could override a veto. Soon the Senators will try again, which is where their constituents can knock.

The bill has been streamlined and pared down but it is based on an idea Mr. Bush has rejected so far. That is to use the \$15 billion trade balance in favor of China as a pressure point for freedom.

The Chinese owe that obese balance to convict labor and to American regulations that permit Beijing the "most favored nation" status—the lowest available tariff rates.

The bill says that to earn those rates in 1992, Beijing would have to free all Tiananmen prisoners; about 1,000 are believed to be still in the cells. And Beijing would have to stop lying and actually end the transfer of long-range missiles to Syria and Iran.

For all the rest, Beijing would simply have to show "progress" in granting free speech, press and religion in China and Tibet, in giving "assurances" that it is not selling nuclear technology around the world and in ending convict labor.

This "progress" provision is not tough enough to persuade today's Chinese Communist leadership to do anything in those fields but keep thumbing their noses at the United States. But it is being put that way to try to get enough Senate support to override a veto.

Still the legislation would be important for freedom. It would not really make decent chaps out of Mr. Li and the rest of today's Politburo. But they can count, and it might persuade them to release political prisoners as just not worth the bottom line.

Also: Waiting for the old leaders to die off are somewhat younger Communist chieftains. They are the usual Communist mixture of hard-liners and "moderates" who think they can preserve the system with rather less murder and imprisonment.

If the Senate can override a veto, tomorrow's Communist leadership might understand that there is a minimum price of decency to be paid for American quiescence and maybe even make some real "progress."

Readers say that I suggest so often that they phone or write the White House and their members of Congress that their fingers are weary. But I don't know any other way to counter White House and business pressure against a bill that would liberate the political prisoners of China, including the United States and its President.

Mr. MITCHELL. Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I wonder if the majority leader, before he leaves, would be willing to extend the time for morning business. I need about 5 minutes, and I think the Senator from Washington needs 5 minutes. I think the present time is 10 minutes till 1. Will the majority leader be willing to extend that to the hour of 1?

Mr. MITCHELL. Yes, I will do so. I remind my colleagues that the business meeting in the caucus will begin at 1, so I hope my colleagues will be present.

Mr. BUMPERS. We can conclude at 5 till.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 1 p.m.

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

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 2181 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Washington is recognized.

UNEMPLOYMENT COMPENSATION

Mr. ADAMS. Mr. President, today, we are going to be debating the unemployment compensation bill, and I hope we will pass it.

We are here for the fourth time in 6 months to help unemployed Americans because the administration has failed to help them with what they really need, jobs.

In the State of the Union, President Bush finally saw the light in calling for an extension of unemployment compensation benefits, perhaps it was a reflection from the committee rooms where we were already working on this bill. But if his other ideas to deal with the recession are an indication of where we are going there is indeed darkness ahead.

Unemployed workers do not need tax breaks to buy a new house. What good is repeal of the luxury tax on yachts when workers do not even have a lifeboat?

We need a domestic Marshall plan to rebuild America and put Americans back to work. One element of such a plan is a supplemental transportation appropriations bill, introduced by Senator LAUTENBERG. By expediting the expenditure of \$7.13 billion in transportation funding we would create 180,000 jobs over the next 5 years.

Mr. President, I am familiar with this as a former Secretary of Transportation. These types of public works rebuild the infrastructure of America, and at the same time provide jobs immediately in the areas affected because the States have already done the planning and we are ready to go.

In Washington the Puget Sound regional transit project is expected to

generate several thousand jobs a year and give us a better and more efficient regional transportation system. These types of projects create jobs. Tax cuts for the wealthy do not.

Rural areas in Washington have been particularly hard hit. The Senator from Arkansas pointed out very well just a few moments ago, and I am very pleased to help sponsor his bill; the hardest hit areas in the country are the rural areas. Okanogan County in the State of Washington has 16 percent unemployment; Yakima County has 12.7 percent unemployment. The President offers them nothing.

Farmers need an export American initiative to help them compete for new markets overseas. For example, why don't we send our food products over to the Soviet Union in exchange for the nuclear warheads that we are concerned about at the present time, and ship them in our ships? That is just one example of what can be done with a little innovation in this country, and in that case we are not worried about the funding.

Displaced timber workers need a conservation conversion program that will help them to continue to lead productive lives. These proud and independent Americans are the backbone of so much of our society. They deserve an aggressive attack on this recession.

Today our unemployment and our unemployed need an extension of benefits. I support it. I hope that we will pass it this afternoon, but tomorrow they need an extension of opportunities.

I yield the floor. I thank the Senator for his time.

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

Thereupon, the Senate, at 12:56 p.m., recessed until 2:15 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

EXTENSION OF UNEMPLOYMENT BENEFITS

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will now proceed to the consideration of S. 2173, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2173) to increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, there is a 2-hour time limit which has been established on this bill.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senator from Florida be allowed to proceed for 2 minutes as in morning business.

The PRESIDING OFFICER. The Senator from Florida is recognized.

THE U.S.S. "FORRESTAL"

Mr. MACK. Mr. President, the arrival of the U.S.S. *Forrestal* in Pensacola, to begin its new mission as the Navy's training aircraft carrier, heralds a new chapter in Pensacola's storied role as the cradle of naval aviation. *Forrestal's* arrival clearly indicates that as long as the Navy continues to fly aircraft into battle, Pensacola will oversee their training.

At his press conference on President Bush's new defense budget last Wednesday, Secretary of Defense Richard Cheney reiterated the vital need for a 12-carrier Navy. Citing their value in responding to crises, he spoke of our carriers' role in Desert Shield and Storm and called them "a capability we should not give up." I could not agree more.

As *Forrestal* begins her new mission in her new home, let us reaffirm our commitment to maintaining America's military strength. The men and women who proudly wear the uniform of the U.S. Navy are the best our country has to offer. They have risked their lives to defend freedom. Let us make sure that none destroy all that they have worked so hard to build.

The Navy has a true home in Pensacola. We should continue to build on this foundation which has taken 70 years to lay. The fact that such a warm reception has been organized for the *Forrestal* is clear evidence that the bond is once again being forged anew. I extend a warm welcome to the crew of the *Forrestal*; I am certain they will find Pensacola a marvelous community which stands with open arms. I congratulate and thank the citizens of Pensacola and the rest of west Florida on their years of support of naval aviation.

I yield the floor.

EXTENSION OF UNEMPLOYMENT BENEFITS

The Senate continued with the consideration of the bill.

Mr. BENTSEN. Mr. President, I yield to the majority leader.

MODIFIED UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I thank my colleague, the distinguished chairman of the Finance Committee.

Mr. President, I intend, momentarily, to ask that the consent agreement governing the consideration of S. 2173, the unemployment extension bill, be modified to permit a point of order to be raised against the bill.

Under the agreement that was obtained, no point of order is permitted.

But my reason for asking for this modification is simple. The agreement was reached in good faith, but I am now advised that due to a misunderstanding and an inadvertent error, a Senator's right to make a point of order was not protected and included in the agreement. That was an honest mistake. And since becoming majority leader, I have taken the position that whenever an agreement is reached that includes a provision placing a Senator at a disadvantage as a result of an inadvertent error or mistake, either by a Senator or staff, that the disadvantage should be removed and the agreement modified to reflect the circumstances which should have existed when the agreement was adopted.

Therefore, Mr. President, I now ask unanimous consent that the agreement governing the consideration of S. 2173 be modified to permit the raising of a single point of order, as well as any relevant motion in relation thereto at the conclusion or yielding back of time on the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, it is my understanding that the distinguished Senator from Colorado [Mr. BROWN] intends to raise a point of order with respect to the bill pursuant to this modification. He is present, and I just wanted to assure him he now has that right under this agreement.

The PRESIDING OFFICER. The Chair will inquire of the majority leader, this point of order you indicated under your request was to be at the end of the debate; is that correct?

Mr. MITCHELL. Yes, at the conclusion or yielding back of time on the bill. That is correct, Mr. President.

The PRESIDING OFFICER. I thank the majority leader.

Mr. MITCHELL. I believe that this modification of the agreement was cleared on both sides and the procedures are acceptable both to the chairman and the ranking manager and to the Senator from Colorado.

Mr. BROWN. Will the Senator yield?

Mr. MITCHELL. I yield.

Mr. BROWN. I express my thanks to the distinguished Senator for his willingness to adjust the unanimous consent. He has gone the extra mile, I think, to be fair in this regard. I deeply appreciate his efforts.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, last Thursday the Committee on Finance voted unanimously to report this bill to extend the program of Federal emergency unemployment compensation benefits that was enacted late last year. Today, I urge Senators to pass the bill without amendment so it can be sent to the President without delay.

S. 2173 is supported by the majority and minority leadership of the Senate and has broad bipartisan backing. It reflects the compromise that was agreed to in the House and enjoys the support of the President. On Friday of last week, I entered into the RECORD the text of a letter from President Bush stating he hoped the bill would be passed without amendment, that he will sign it, and that its enactment will not trigger a sequester under the Budget Enforcement Act.

Mr. President, the reasons for acting now to pass this legislation are very clear. The unemployed need it, the state of the economy demands it, the Congress strongly supports it, and the President will sign it.

In December, the unemployment rate rose to 7.1 percent. That was up from 6.9 percent the previous month, and the highest level during this recession. In other words, 290,000 more people were out of work. That is the equivalent of wiping out all the employment in a mid-sized American city. Since December, we have seen layoffs by blue chip companies continuing to increase—firms like General Motors and Xerox. Layoffs by these blue chip firms alone have averaged some 2,600 a day. Last week we learned that initial claims for unemployment benefits rose by 24,000, to a level of 464,000.

Unfortunately, Mr. President, there is no indication we will see any quick turnaround. What it looks like we are going to enter is a sideways movement, with nothing like the kind of recovery that we experienced after earlier recessions. While we hope for recovery, we do not really see the signs of it at this time.

The fiscal year 1993 budget just released forecasts such slow growth ahead that the unemployment rate will not be pared to the 5.3 percent that it was when the recession began until 1997. Even that outlook may be unrealistically optimistic. I scarcely need to dwell on the administration's record of economic forecasting during this recession. Last year, the President assured the Nation that recovery was right around the corner and growth would be rolling along at a 3.6-percent clip in 1992. Instead, the economy inched up a bare 0.3 percent in the fourth quarter of 1991, and groups as diverse as the major forecasting firm of DRI/McGraw-Hill and the Chamber of Commerce are projecting negative growth for the current quarter.

I believe that the Federal Government has the responsibility to try to alleviate the economic distress which the lingering recession has imposed on jobless workers. Three times last year, the Congress passed legislation to extend expiring unemployment benefits, and twice the President rejected that legislation.

Congress knew better. We saw the pace of layoffs accelerating, not dwin-

ding. We saw the pace of bankruptcies increasing, not falling. We witnessed auto sales plunging to depression levels, not soaring in recovery. And we saw the number of initial claims at State unemployment offices skyrocketing to recession levels. Millions of capable working men and women were fruitlessly seeking jobs as layoffs multiplied, scrambling to make rent or mortgage payments, trying to keep the cars they need to look for a job, trying to keep food on the table. They deserved help, and Congress tried to provide it.

Events have proven that Congress was right. The recovery was not underway last autumn. Last Thanksgiving, we passed the extended benefits bill and, I must say, we passed it with the strong support of the ranking minority member of the Finance Committee.

To my mind, events have changed little since then. The recovery still seems far away. Consumer purchases, corporate investment, and industrial production are all dropping. The index of leading economic indicators has just fallen for the second month in a row. Consumer confidence has declined steadily this winter to the lowest level in 12 years. Not since Americans waited in gas lines in 1980 have families been so pessimistic about their economic future. Corporate restructuring, eliminating tens of thousands of white collar jobs permanently, is part of the reason. But the biggest explanation is that unemployed men and women face a grim job market where job layoffs are outpacing job creation.

Indeed, as Senators know, labor market conditions are worse today than last November when unemployment benefits were first provided. This unhappy state of affairs is likely to continue for some time because unemployment is a lagging indicator of the economy. Coupled with weak prospects for growth this year, the Director of Research for DRI testified before the Finance Committee last week that unemployment will show little or no improvement in 1992, and that the jobless rate will hover at about 7 percent, or may even increase, before the end of the summer.

Last November's extension of unemployment benefits provided a critical lifeline for victims of this recession. But these benefits are going to begin to expire about February 15. We have more than 600,000 unemployed workers who are going to begin exhausting their benefits, and that number is going to mount steadily in the weeks that follow.

The budget is tight, but it is time to extend unemployment benefits again. The legislation reported last Thursday by the Finance Committee will do that.

Let me summarize what the committee bill will do. As Senators know, the Federal emergency unemployment compensation legislation enacted last

year provided unemployed workers who had exhausted their regular benefits with an additional 20 weeks of benefits in States with the highest unemployment, and 13 weeks in all the other States. That legislation expires on June 13. The bill before the Senate today will extend the 13 and 20 weeks of benefits payable under the current unemployment compensation program from June 13 to July 4. In addition, the bill will increase by 13 weeks the number of weeks of Federal emergency benefits that workers who have exhausted their regular benefits can receive, effective with the date of enactment and continuing through June 13.

What is that going to mean for unemployed workers in this Nation? Unemployed workers will be eligible for up to 33 weeks of emergency benefits in States with the highest unemployment and 26 weeks in all the other States.

When these emergency benefits are combined with the 26 weeks of regular unemployment benefits paid by the States, it means that workers who have lost their jobs and cannot find work will be eligible for a maximum of 59 weeks in those States with the highest unemployment, and for 52 weeks in the other States.

The bill provides a similar 13-week temporary increase in the extended benefits for unemployed railroad workers, assuring that railroad workers will receive unemployment benefits comparable to those paid to other unemployed workers.

The committee bill is estimated to cost \$2.7 billion in fiscal year 1992. The bulk of this cost, \$2.2 billion, is offset by the budget savings that the Office of Management and Budget estimates were achieved by the pay-as-you-go legislation that we enacted last year. The remaining costs are offset by revenues from a small increase in the minimum amounts due for corporate estimated tax payments for taxable years beginning after December 31, 1992, and before 1995. Under current law, this increase is already scheduled to occur in the taxable years 1995 and 1996. So what we are talking about is an acceleration of the time in which these payments will be made.

Mr. President, I call on my colleagues to join with me; the distinguished ranking member of the Senate Finance Committee, Senator PACKWOOD; Majority Leader MITCHELL; and Republican Leader DOLE in support of the pending bill. The working men and women of this country need jobs, Mr. President, millions of good-paying jobs. But even more urgently now, we need to bridge this jobless gap until a genuine recovery takes place for the families of this country.

Mr. President, I yield the floor and retain the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I am reminded of the old song, "What a Difference a Day Makes, 24 Little Hours." As we consider this bill, what a difference 6 months makes. Six months ago we were arguing partisanly—not me; the chairman and I were united on one side of this—but there was a Republican-Democratic difference of opinion. The President was opposed to the bill. He had some fair comments. We were not going to pay for it. We wanted to expand the deficit. He said that is not wise, but he was not enthusiastic about the bill, whether or not we expanded the deficit.

We finally reached a begrudging compromise with him. He signed the bill, but with much grumbling on all sides.

And, in fairness to the President, I must say his administration was not the only one that was predicting we would be out of this recession before then. Most of us can now recall, 6 months, 9 months ago, most of what we would call the blue-ribbon economists—and by that I do not mean conservative—conservative, moderate, liberal—were predicting we would be out of this.

They all missed. It is nobody's fault. These are the best minds around in this business. They simply missed and we followed their advice. Now we are not much better off than we were 6 months ago, or somewhat worse.

In answer to the question directly, this bill is not going to get us out of the recession. That is not the point of this bill. That is the point of the President's entire economic message. But this bill is to help people who are in the recession, out of a job, tide them over until, hopefully, we start to come out of it and they have a job again.

That is the only decent thing to do, and this time we have paid for the bill. And this time the President is on board and the House is on board and the Republicans and Democrats are on board and there is no fractious dispute about this issue now. It is no solace however to those who are out of work.

I might say this recession has left tracks on the backs of many people in Oregon, especially in the timber industry. I have numerous counties that have unemployment in excess of 10 percent, a number in excess of 15 percent unemployment. And for the people out of work now, it is no solace to them to say, do not worry, we are coming out of this. They have a car payment to make next week; they have a mortgage payment to make next month; they have kids to feed and educate, and it is no comfort to them to have somebody say, on average, we are going to be OK. A man standing with one foot on a cake of ice and one foot on a hot stove on average is OK, but both of his feet are pretty uncomfortable. This bill will take care of people for a modestly short period of time until, hopefully, we start to come out of this recession.

I want to read those counties: Douglas County, Grant County, Josephine County, Morrow County, and Wasco County—all have unemployment figures of over 10 percent. The timber workers in Douglas and Grant Counties are being penalized because we are not allowing the forests of Oregon, Washington, and northern California to be managed by professionals so that these people can work.

Not only is there a recession, they are out of work in addition to the recession because of actions being taken by the Federal Government that are no fault of theirs. These are people 35 years of age, 40, 45, 50. They worked in the mills since they left high school. Their fathers and grandfathers may have worked in the mills. They have lived in these towns as a family for 60 to 70 years and they would like to continue living there. And it is fine to say to them, well, the economy in Portland is not too bad. They live 200 miles from Portland in a rural community of 3,500, and the sole source of employment is the mill and the mill is down.

So do not tell them about averages. Do not tell them about future prospects. This bill will help them pay their bills now. That is the minimum, decent, humane thing that this Congress can do.

I can simply say I am happy this time not only to be allied again with my distinguished chairman, as I was 6 months ago, but doubly happy this time we are allied with the chairman of the Ways and Means Committee, with the President, with the Republicans and the Democrats in the House and the Senate. And we go forward this time with no rancor and no spite and united in the hopes that we could give some modest relief to people who are unemployed and who want to work, who are not asking for a dole. They are not asking for a handout. They really want a job. As we cannot give them a job now, this is the next best substitute. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I have control of the time on this side. I ask unanimous consent that the Senator from Colorado [Mr. BROWN] be allowed to manage the time.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered and Mr. BROWN will assume the leadership position and manage the time.

Mr. PACKWOOD. I thank the Chair. The PRESIDING OFFICER. The Senator from Texas.

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

The PRESIDING OFFICER. Forty-nine minutes and seventeen seconds.

Mr. BENTSEN. I yield 5 minutes to the distinguished senior Senator from the State of Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the chairman for yielding me time. I want to first congratulate the very able chairman of the Finance Committee, the distinguished Senator from Texas, for the extraordinary leadership he has provided for many months on this unemployment insurance issue, and I want to commend the committee for moving so quickly on this legislation.

I want to note that the Congress was moving on this issue from the very beginning of this session, even before the President finally included it as part of his program and put it forth in the State of the Union Message. Three times last year we had to go to the well with the President on this issue before the President finally signed a bill to extend unemployment insurance benefits.

This bill is very badly needed. Mr. President, this chart shows that the weekly claims for unemployment insurance are once again on the rise. You can see they went up, then they came down, now they have started back up again. So the weekly claims people are filing for unemployment insurance are now on their way back up. As one would expect in a recession which is now the longest since the Great Depression, the number of people unemployed for 27 weeks or more is rapidly escalating. This recession, which the administration assured us throughout most of last year would be short and shallow. The recession has now exceeded in its duration any of the post World War II recessions. It now stands at 19 months. Therefore, the number of people out of work for an extended period of time, defined as 27 weeks or longer, is rapidly on the rise. It is now almost 1.5 million people. Prior to the recession, it was down at 600,000. So it has more than doubled over the course of this recession.

What that means is that people who lose their jobs and use up the 26 weeks of basic benefits under the program find themselves back out looking for a job with no income support in an economy which is continuing to deteriorate. In fact, the unemployment rate last month at 7.1 percent was the highest it has been in this recession: 7.1 percent. So if you lost your job a year ago when the unemployment rate was 6 percent, you are now out looking for a job in a more difficult labor market than when you lost your job.

The 7.1-percent figure only tells part of the story. That is the so-called official unemployment rate. It is people who are out of work and looking for work. But in addition, there are 1.1 million people who are so discouraged by job prospects that they have dropped out of the labor market. There are another 6.3 million people who are working part time and want to work full time; they are seeking full-time work, they can only find part-time work.

If you factor both of these groups in with the officially declared unemployed, you have an unemployment rate not of 7.1 percent, but 10.4 percent.

In addition, the economic indicators are very grim. The indicators are down, housing starts are down, durable orders are down and the prospects are not that bright. It is no wonder that consumer confidence is reflecting this development by a very sharp drop.

Consumer confidence dropped markedly last fall. It came back up again, and now it has dropped below anything we have experienced in this recession and, in fact, only one other time in the entire postwar period did it get this low.

One of the problems is that we have had difficulty getting the President to say the "R" word: recession. As late as mid-November of last year the President was denying that there was a recession.

My own view is one reason consumer confidence is so far down is that the American people said, does the President really understand what is happening in the country? The President says there is no recession. He is saying, no problem. We know there is a problem. We can feel it and see it right here in our everyday lives.

The unemployment insurance system was designed to provide income support for people who had lost their jobs, to carry them through a difficult time until the economy picked up again and hopefully they would be called back to work or be able to find another job opportunity.

One thing that has happened in this recession that differs from previous recessions is that a larger percentage of those losing their jobs are being terminated rather than simply laid off. In previous recessions, people would be laid off but their employer would say, as soon as economic circumstances pick back up, we can start our factories humming again, we hope to call you back. You will have your old job back. Not in this recession.

The ratio has shifted and more and more people are being told you are out of a job altogether; we are downsizing our operation. There is no job for you to come back to even if economic circumstances pick up.

So, many people for the first time are being dumped cold, as it were, into the labor market and have to go elsewhere to try to find a job opportunity: People who have worked 10, 12, 15, 20 years, steady work with one employer.

We urged the President last year to move on this unemployment insurance issue. It accomplishes two purposes: First of all, it deals with the pressing individual problems of people who have lost their jobs, they have no income flow, they are worried about how to pay the mortgage on their homes, meet the payment on their cars. People are thrown into absolutely desperate situations.

Most people in this country, if their income flow is disrupted, have no way to make up for that. They do not have huge trust funds or inherited wealth.

They have no inherited wealth or trust funds to carry them through this period. I sometimes think the policymakers downtown do not fully appreciate that fact. They need an income coming in in order to carry them through.

Many, many people suffered real harm, real hurt as a consequence of the delay in extending these benefits last year. People lost their homes. They lost their cars. We have had any number of stories that recount that development.

The other thing the unemployment insurance was intended to accomplish was to be a countercyclical stimulus to the economy. If the economy starts down, unemployment goes up, people are being laid off. Through the unemployment insurance system you inject purchasing power into the economy to try to move it back up again, to keep it from dropping as much as it was dropping.

It is really a very well designed system because the benefits flow, by definition, to where they are most needed, namely where the unemployed are. If you do not have the downturn, you do not use the benefits.

I could not understand last year why the President would not move with this even if he thought we were going to come out of the recession. It would have provided insurance. If we continued to go down it would counteract that trend. If we did not go down and we started up, it would not be called upon because you would not have the additions to the unemployed rolls.

Mr. President, this is a very important development here. I want to commend the committee for coming forward with this legislation. I commend the chairman. I have been delighted to work with Senators SASSER and RIEGLE on this issue and appreciate very much their efforts, and that of the majority leader, Senator MITCHELL. For millions of Americans, at least for now, they can know they are not simply going to be abandoned by the National Government on a program which has consistently, since its inception, provided important income support at a time of an economic downturn.

Mr. President, I ask unanimous consent that an article in the Baltimore Sun at the end of last year be printed in the RECORD.

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

[From the Baltimore Sun, Dec. 26, 1991]
RANKS OF UNDEREMPLOYED ALSO SWELL IN
RECESSION

(By Gregg Fields)

MIAMI.—Maurice Gray hasn't lost his job, but sometimes he feels as if he might as well have.

Mr. Gray is a structural engineer in Miami. He owns his own firm, which once had 10 employees. Now, Mr. Gray is down to "about 4½" workers, and he is putting in longer hours than ever for far less money.

"I've had to do the drafting, clean the offices, secretarial—everything," he says. It adds up to more than 90 hours a week, and some weeks he can't afford to draw a salary.

"You do a lot of things differently," Mr. Gray says. "You juggle your mortgage. You debate whether to go to lunch or make a sandwich. We even had trouble making our payments to the engineering society."

If there's any solace to be had, he says, it's knowing some engineers are even less fortunate. "I would rather have half a loaf than none at all," he sighs.

Welcome to the world of the underemployed. Much has been written about the army of the jobless.

But the recession has created a second division of disadvantaged workers—the underemployed. They are people who survived layoffs but now must work longer hours for less money; or people who drive taxis because their degrees are worthless; or those forced into part-time jobs when they desperately need full-time work.

Underemployment can be just as devastating as unemployment. As with the jobless, the underemployed see their savings shrivel, their careers shift into reverse and their dreams evaporate. They file for bankruptcy, worry a lot and cope with a fair amount of indignity.

"It's sort of like a tied football game," says William Werther, a management professor at the University of Miami. "It's better than a loss, but it's not a victory, either."

Measuring underemployment is tough. Hard statistics are difficult to come by. But economists and labor market analysts say the ranks of the underemployed are clearly growing. As one example, the Labor Department says there are 6.3 million part-timers who want full-time positions. That's up 900,000 from a year ago.

Just how bad underemployment hurts depends on the individual. Still, there's little doubt that, for most people, underemployment is a forced detour down a bumpy economic highway.

It isn't just a problem for low-skilled workers, either. In this recession, many highly trained individuals have lost their jobs and been forced into underemployment. Katrina Baroni Pierre is one example.

Earlier this year, she lost her teaching job in Broward County, Fla. She had to make do with unemployment benefits and sporadic substitute teaching work.

"How do you live on \$200 a week?" she says. "I said, the No. 1 priority is rent and No. 2 is the car payment." Even then she and her husband, who's in college, fell a month behind.

Then disaster struck. Their only car broke down. It cost \$3,000 to fix. "We had no choice but to put it on Mastercard."

She has since landed a teaching job in neighboring Dade County, paying almost \$27,000 annually. But paying off bills from underemployment takes money they wish they could save for a house. And cutbacks in Dade County schools have her worried she'll face underemployment again.

People forced into part-time work are only one measure of underemployment. Another type of underemployment involves taking jobs beneath a person's skill level. Unfortunately, the government doesn't measure this group.

There's ample anecdotal evidence suggesting this is a pervasive problem. For instance,

temporary help agencies are bulging with qualified applicants, says the president of a personnel pool. In Palm Beach County, Fla., the mundane task of delivering phone directories, the kind of job the underemployed would seek, drew 1,200 applicants. That's six times the typical volume.

And many, many workers say they're taking lower-skilled jobs to stay afloat. "From what I was making, to now, is about a 60 percent pay cut," says Charles Kelly of Hollywood, Fla. Mr. Kelly was a mechanic with Midway Airlines until it closed its Miami base earlier this year. He was making \$18.33 an hour. The airline has since folded.

Mr. Kelly's treasured airline mechanic certification no longer can get him a job. So he's driving a tractor-trailer.

He's hanging onto his house, but little else. He had to file for personal bankruptcy. He rides a motorcycle to work because he can't afford car insurance.

Nevertheless, he's thankful things aren't worse.

"I know a lot of guys in my position," he says. "One guy I work with, driving trucks now, used to be an Eastern pilot."

Stephen Morrell, a professor at Barry University of Miami, says many leading industries have been devastated. They won't bounce back when the recession ends.

"One obstacle to full employment will be acquiring different skills," says Mr. Morrell. "because when the economy comes back, the same sorts of jobs won't be there."

Many workers are already undertaking this adjustment. Rose Bazan, who sells residential real estate in Hialeah, Fla., is essentially underemployed. Sales have slumped, and sales that do go through take a lot more effort than they used to. "I've had to work more hours for the same salary," she says.

Worried about her long-term job prospects, she has taken several assignments in other fields with Kelly Temporary Services.

"It's provided me a window," she says. "But it's not easy to go from being an office manager or taking orders from someone who's younger than you."

Virginia Gunther, district manager for Kelly, says she has many employees in Ms. Bazan's situation. "People who are having their skills underutilized are looking to be entrepreneurs and supplementing that with temporary work," she says. "Some people are frustrated with the fields their old job were in."

Embarking on a new career can be an emotionally wrenching experience, however.

Jane Henderson knows. Though she isn't underemployed yet, it's likely just a matter of time. As one of the few remaining employees of Eastern Airlines, in the collections department, she'll probably lose her job within six months.

"I'm 60 years old, and for the next five years I have to work for the medical insurance," she says.

Ms. Henderson has prepared herself for a pay cut or lower-skilled work. But she's worried about landing anything. Skilled airline workers aren't in demand. And she's concerned about age discrimination. When she answered an ad for flight attendants, for instance, she didn't even get a response.

"Hopefully, I'll get in with another airline, if just as a file clerk," she says. "There's not a lot of people out there wanting airline workers."

Mr. SARBANES. Mr. President, this is an article that addresses the ranks of the underemployed as opposed to the ranks of the unemployed during this recession. Let me just quote very quickly from it.

But the recession has created a second division of disadvantaged workers—the underemployed. They are people who survived layoffs but now must work longer hours for less money, or people who drive taxis because their degrees are worthless; or those forced into part-time jobs when they desperately need full-time work.

Underemployment can be just as devastating as unemployment. As with the jobless, the underemployed see their savings shrivel, their careers shift into reverse and their dreams evaporate.

The people working part time do not get the benefit of the unemployment insurance, and they need to be addressed by an economic stimulus program to get this economy out of recession, something we have been calling on the administration to do now for more than a year. But this article also reflects the serious economic circumstances which exist across the country.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Texas.

Mr. BENTSEN. The distinguished chairman of the Joint Economic Committee early on recognized this problem, and he was in the forefront supporting what had to be done. He has been for this every step of the way. I congratulate him and appreciate his comments.

I would like to now yield 5 minutes to the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Texas for yielding. And, Mr. President, I want to take this opportunity to pay tribute to the efforts of the distinguished Senator from Texas [Mr. BENTSEN], the chairman of the Senate Finance Committee, for his long and valiant efforts in behalf of the long-term unemployed in this country.

It was Senator BENTSEN who stood on this floor last fall and, twice, fought for an extension of long-term unemployment compensation benefits that were blocked by the President. But he came back a third time. Thanks to his leadership, literally millions of our countrymen saw an extension of their unemployment benefits of 20 weeks in some cases, 13 weeks in other cases, and that was a lifesaver for hundreds of thousands of families all across this country.

I am pleased to join with the distinguished Senator from Texas today in urging once again an extension of benefits for the long-term unemployed who have exhausted their benefits.

As my friend the chairman of the Joint Economic Committee said, this has been the longest recession since World War II. It is now moving into its 19th month and the unemployment numbers themselves really do not tell the full story, as the distinguished Senator from Maryland said.

This is a different kind of recession. We have not seen a recession like this in my lifetime. We are accustomed to so-called blue-collar recessions where people, fine working people, the backbone of this country who work by the hour, are laid off in recessions. That has occurred in this recession also. The hourly workers, the blue-collar workers, have been laid off. But it has gone deeper than that. They have lost their jobs on permanent basis.

What we are seeing in this recession is not just layoffs or terminations for the present time, we see far out into the future terminations that have been announced. General Motors has announced the termination of 74,000 employees. Those jobs have not been lost yet. They are out in the future somewhere. And so it is with almost all of the major American corporations across the length and breadth of this land.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SASSER. I yield to the distinguished Senator from Maryland.

Mr. SARBANES. The other thing is, Mr. President, these major corporations who have announced these layoffs have not identified where they are going to be and who is going to be affected by them. The consequence of that, of course, is to send apprehension and tremor through the entire work force. Everyone, in effect, freezes.

You talk about something that undercuts the potential of consumer confidence. The company announces "We are going to have major layoffs, cutbacks in the work force." But they do not tell you who or where. Then, virtually, all of the work force freezes in place. They all become very apprehensive as to what is going to happen to them specifically. And the consequence, of course, is a major economic impact on the functioning of the economy.

Mr. SASSER. The Senator from Maryland is quite right. This recession is different from others. What we are seeing are layoffs and terminations that are reaching up into the white-collar middle class in this country, terminations that are affecting middle-level management.

I wonder if any of my colleagues happened to see just a few weeks ago—I think it was on public television—there was an hour-long special about what was happening to workers in the State of Wisconsin. They followed three or four workers' families: a blue-collar family that had lost their job; a middle-level manager who had been terminated, desperately looking for work, finally settling on a job much below the level that he left.

This recession reaches up into middle-level people, middle-level managers, middle-class, white-collar workers, and entrepreneurs. Small business people all across this country are going

bankrupt as a result of this recession. We are setting record levels for bankruptcies all across the country.

In this recession, we find that 1 out of every 10 Americans is on food stamps. When I was first given that information, I could not believe it—10 percent of the people of this country on food stamps? That cannot be true.

But we checked that statistic very carefully, and we found that 1 out of every 10 Americans today in this long recession is utilizing food stamps. And those who distribute the stamps are telling us they are seeing a different kind of recipient now—people coming in from the middle-class, white-collar people, who have never been on food stamps in their lives, who have worked all their lives, productive members of this society—now reduced, because of the recession and unemployment, to food stamps.

The Chairman of the Federal Reserve Board, Alan Greenspan, appeared before the House Banking Committee and later before the Senate Banking Committee. He told the Congressmen on the House Banking Committee—and I will not quote him precisely, but this is the essence of his remarks: "Never in my lifetime have I seen such fear and anxiety about the long-term prospects for this economy." So says Alan Greenspan, the Chairman of the Federal Reserve Board.

What is the germ of this fear and anxiety that is abroad in this country?

Mr. President, I thought a long time about that, and you can analyze the statistics and see that over the past 13 years, the great middle class of this country has seen their real incomes shrink by 3 percent. The middle class of this country have been in a long running depression. While on the other side, they have seen the wealthiest 1 percent over the past 13 years increase their real income, corrected for inflation, by 65 percent.

So the fear and anxiety of the great middle class is that this recession, coming in the end of what has been a long decline for them, is the last straw. This is the straw that broke the camel's back.

So that is why, Mr. President, there is such great fear and anxiety all across this country. That is why the efforts of the distinguished chairman of the Finance Committee to extend these unemployment benefits today for these long-term unemployed workers is so crucial and so critical.

I see the distinguished chairman on his feet.

At some juncture, I think a point of order will be made, and I will rise to address that.

Mr. BENTSEN. Mr. President, I want to thank the distinguished chairman of the Budget Committee for his very generous remarks, but I must say we stood side by side, along with the distinguished Senator from Maryland, as we

fought this fight. I am delighted to see his interest has never waned for a moment fighting for the people of Tennessee and the people of the United States in that regard.

Mr. President, I ask unanimous consent that the control of the time for the majority be now extended to the distinguished Senator from South Dakota.

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

The Senator from South Dakota has 30 minutes. The Senator from Colorado has 52 minutes.

Mr. BYRD. Mr. President, will the Senator yield me 15 seconds?

Mr. DASCHLE. I yield such time as he may consume to the distinguished President pro tempore, the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from South Dakota [Mr. DASCHLE].

Mr. President, I am pleased that the Senate, following swift action in the House of Representatives, has been able to move forward on this important legislation. Our economy remains mired in a recession—the longest recession since the Great Depression of the 1930's—and the employment outlook is bleak. People are hurting and are looking to us to help them through these tough times.

Unemployment stands at 7.1 percent, 1 full percentage point higher than where it was a year ago. The number of Americans unemployed, those looking but unable to find work, stands at 8.9 million, an increase of more than 1.2 million over the number unemployed 1 year ago. Another 6.3 million Americans are working part time, even though they would prefer to work full time. Finally, 1.1 million out-of-work Americans have become so discouraged about the prospect of finding work that they have given up looking.

These are staggering numbers—8.9 million unemployed, 6.3 million working only part time for economic reasons, and 1.1 million so discouraged that they have simply dropped out of the labor force. Taken together, there are 16.3 million Americans who are unemployed, underemployed, or so discouraged that they have just given up.

In my home State of West Virginia, unemployment has once again climbed to double-digit levels. In December, it stood at 11.1 percent, up from 9.5 percent a year earlier.

Something must be done to reinvigorate our economy. To repeat, this is the longest recession since the Great Depression. We cannot afford to stand idly by and hope that sooner or later the engines of economic growth will begin to lift us from our current plight. We must take action, and the legislation before us will do just that. It will provide a much-needed countercyclical economic stimulus. Standing alone, it will not lift us from the grips of the re-

cession, but it is a step in the right direction.

At the same time, and certainly of equal importance, this bill will extend a helping hand to those who have been hardest hit by the current downturn—those who are suffering from long-term unemployment. This bill will provide an additional 13 weeks of extended unemployment compensation to those who will exhaust their current benefits between now and July 4. There are 1.5 million Americans who have been unemployed for 27 weeks or more. Many of these individuals have benefited from the extended benefits legislation passed last year. Yet, for many the benefits enacted into law last November will soon run out. The recession, however, has not run out, and we must act now to provide yet another extension of unemployment benefits for the long-term unemployed.

In his State of the Union, the President told the American people that the recession "will not stand." While I certainly hope the President is right, what we must do is ensure that the unemployed can continue to stand as long as the recession does. What we must do is ensure that the unemployed can continue to survive. Providing extended unemployment benefits will help achieve that goal.

I commend Senator BENTSEN and my other colleagues on the Finance Committee for bringing this legislation to the Senate floor. I commend the President for not standing in the way as he did for so long when similar efforts were made last year. With passage of this legislation, we will be helping the unemployed to get through these tough times. In addition, we will be taking a small step forward in the effort to stop our economic slide and restore the health and vitality of our economy. It is but one step—one that I hope will be the first of many efforts to deal with our Nation's economic problems.

Mr. DASCHLE. Mr. President, I yield 3 minutes to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 3 minutes.

Mr. LEVIN. Mr. President, first, I want to compliment the majority leader and the chairman of the Finance Committee for their work in moving the legislation so quickly. It is important to do everything that we can to alleviate the present suffering while we consider longer range steps that we can take to get our economic house back in order.

I hope that our quick action on this legislation and our ability to bring the President on board, holds out the prospect that a similar spirit of urgency and cooperation may yet prevail on the economic package that we will be considering within the next couple of months.

My constituents in Michigan who have known the bitter taste of bad eco-

nomics too often in the past dozen years are looking for us to act in a way that restores their confidence and meets the test of just plain common sense.

I also want to thank the chairman and other members of the committee for including in this legislation a provision to allow Michigan employers an extension of time to pay, in addition to the Federal unemployment tax, the so-called FUTA, a tax which they were only recently informed that they owed.

In light of the unemployment rate in Michigan, which exceeds 9 percent, it would be a tragedy if employers felt forced to lay people off in order to raise money necessary to pay this tax on such unusually short notice. This legislation will provide employers with an extra 6 months to pay this additional tax. It incorporates a proposal that I made in S. 2150, which was introduced just 2 weeks ago. It is also included in the House provision through the efforts of Congressman SANDER LEVIN in the House, and other members including Congressman VANDER JAGT.

Again, I appreciate very much the committee's sensitivity to the plight of Michigan employers and its speed of addressing the problem in a very fair and just manner.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Colorado.

Mr. BROWN. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BROWN. Mr. President, S. 2173 is a measure that deals with unemployment benefits and would extend those benefits, but it deals with an issue that is equally important or perhaps even more important. There is little dispute in this Chamber or even within our Nation about the extension of these benefits. The President has endorsed them as well as the Democratic leadership and the Republican leadership. What is at stake here, though, is a more fundamental question, and that is what really will lead to jobs for the unfortunate men and women of this country who find themselves unemployed.

The simple facts are these. The bill before us violates the Budget Act. It violates it in three sections. Section 302(f). The Senate Finance Committee already exceeds its committee allocations established in the fiscal year 1992 budget resolution by \$4.3 billion in outlays for 1992. Secondly, section 311(a). The aggregate outlay levels in the fiscal year 1992 budget resolution are already exceeded before consideration of this bill by \$3.2 billion. Section 605(b). The maximum deficit amount in the fiscal 1992 budget resolution is already exceeded by \$300 million. And all of these things are made worse by this bill.

Mr. President, the point is not that we disagree over unemployment bene-

fits. That has strong support of both parties. But we have a fundamental question that comes up with this bill, which is whether or not you simply ignore the budget.

There are two ways we can deal with these benefits that all Members support. One, we can pass the bill as it is, violate the budget, increase the deficit, and pretend that deficits do not matter, or specifically run the deficit up higher.

Now, what are the facts? The Congressional Budget Office has done an estimate. They estimate this bill would add \$2.7 billion to the 1992 Federal deficit.

Let us take a look at where we are. In the President's fiscal 1992 budget, the consolidated budget deficit was \$281 billion for this fiscal year. That is what he recommended. He estimates for next fiscal year a \$399 billion consolidated budget deficit. Well, those numbers I think are so big sometimes they glaze the eyes. But let us put it this way: For every working American, every American who has a job, that is about \$3,600. Let me repeat. You would have to increase taxes by \$3,600 for every American who has a job in this country to balance the budget this coming year.

Now, are we going to balance it? No, there are no proposals for those kinds of tax increases. But it really comes down to what you and I may think is a cure for this economy. Is the economy sick? You bet it is. Does it need a cure? Absolutely. There are many of our good friends in the Chamber who sincerely and honestly believe the problem with this economy is we do not have enough deficit spending. And so they eagerly pursue an opportunity to add to the deficit, convinced in their own minds that a little more deficit spending will cure our problems.

Mr. President, I submit to you and to the American people if deficits would solve our problem, we would not have a problem. If a \$351.5 billion deficit—and that is what is suggested for this year, estimated this year—\$3,600 for each worker for this year—not next, but this year—is not a big enough deficit, what is?

Let us ask the question the other way. As the deficits have skyrocketed, has the economy gotten stronger or weaker? It is very clear that, rather than curing the economy, the enormous deficits threaten to engulf our future and drown the economy. The deficit this year, \$351.5 billion, according to the latest CBO estimate, is the biggest deficit in the history of this Nation or of any nation on the face of the Earth. It is the grand champion. It is only exceeded by what is estimated for next year.

What do we face? What is our choice with this bill? You can either fund this by increasing the deficit or you can fund this by eliminating wasteful programs.

I, for one, believe you ought to fund it by eliminating wasteful programs. Should we help those in need who find themselves unemployed? Absolutely. But let us help them by eliminating waste. Let us not come up with the funds by making the deficit worse. Why? Because, as we make this deficit worse, we send a message around the world that the United States will not deal with its problems, will not face up to its difficulties, will not trim waste. And that message not only destroys our credit and undermines our credibility, it also indicates this Nation is unwilling to face up to its problems.

On the other hand, we can fund this out of eliminating waste and by eliminating waste we can do two things. We can build credibility and lower interest rates, and secondly, we can eliminate some of the waste that drags our economy down. We talk about being competitive with the Japanese, Mr. President. The simple facts are these. The American working men and women are more competitive, have a higher rate

of productivity than any major industrialized nation in the world.

The Japanese are not ahead of us. They are behind us when it comes to productivity. The uncompetitive portion of our economy is right here. Congress is not competitive. Our staff is 10 times bigger than any staff in the world for any deliberative body. Our wasteful programs threaten to devour the future of this Nation.

At the appropriate point, I will make a point of order against this bill. I hope that point of order is sustained, and I hope this Congress comes back and does the right thing by funding this program from the elimination of waste.

Mr. President, I ask unanimous consent at this time to enter the letter from the director of the Congressional Budget Office concerning the fiscal impact of this bill. I ask unanimous consent it be printed in the RECORD.

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

[By fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996	1997
Direct spending:						
Emergency unemployment compensation:						
Estimated budget authority	2,600	600	0	0	0	0
Estimated outlays	2,600	600	0	0	0	0
Railroad unemployment:						
Estimated budget authority	6	0	0	0	0	0
Estimated outlays	6	0	0	0	0	0
Administrative expenses ¹	100	(2)	0	0	0	0
Receipts: Modify estimated tax payment rules net revenues ²	0	500	100	-500	-100	0

¹ For fiscal year 1992 the administrative expenses would not need any further appropriation action because of language in the Labor-HHS 1992 appropriation bill. The administrative expenses for fiscal year 1993 would require further appropriation action.
² Less than \$50,000,000.
³ Estimates provided by the Joint Committee on Taxation.

Basis of Estimate: S. 2173 would amend the current Extended Unemployment Compensation program. The bill would change the maximum weeks of benefits available (depending on unemployment rates in individual states) from 20 weeks or 13 weeks to 33 weeks or 26 weeks for those starting benefits between November 17, 1991 and June 13, 1992. Also, the bill would extend the current program 3 weeks to July 4, 1992. Those people coming onto the program between June 14, 1992 and July 4, 1992 would be eligible for either 20 weeks or 13 weeks of benefits. CBO estimates the additional benefit payments from these amendments would be \$2.6 billion in fiscal year 1992 and \$.6 billion in fiscal year 1993. Also, these changes would apply to the railroad unemployment compensation program. CBO estimates the additional benefit payments through the Railroad Unemployment Insurance program would be \$6 million in fiscal year 1992.

In addition, CBO estimates there would be additional administrative costs of approximately \$100 million to process the additional claims for Extended Unemployment Compensation.

Finally, S. 2173 would modify the estimated tax payment rules for large corporations. Under the new Ways and Means passed provision, from 1993 through 1996 large corporations would have to pay 95 percent of their annual tax bill as estimated payments. Under current law as recently updated in the Tax Extension Act of 1991, the payment percentage is increasing from 90 percent in 1991 to 93 percent in 1992, 94 percent in 1993 and

1994, and 95 percent in 1995 and 1996. The percentage then reverts to 90 percent in 1997 under current law and this is not changed by the new Ways and Means provision. The new provisions in the Ways and Means reported bill, therefore, would push the 95 percent estimated payment rate to 1993 and 1994, years when it is currently scheduled to be 94 percent. The provision has a zero net revenue effect over the 1992-1997 period, although it picks up revenue in 1993 and 1994.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The direct spending and receipts shown in the table above are subject to pay-as-you-go procedures.

7. Estimated cost to State and local government: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On January 29, 1992, CBO prepared an estimate of H.R. 4095 as ordered reported by the House Ways and Means Committee. S. 2173 is similar to H.R. 4095 with the exception of the railroad unemployment estimate that is not within the jurisdiction of the House Ways and Means Committee.

10. Estimate prepared by: Cory Oltman.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Mr. DASCHLE. Mr. President, I yield myself such time as I may consume. I intend to yield in just a moment to the distinguished Senator from Illinois.

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, February 4, 1992.
 Hon. LLOYD BENTSEN,
 Chairman, Committee on Finance, U.S. Senate,
 Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate of S. 2173, a bill to amend the current Extended Unemployment Compensation program, as ordered reported by the Committee on Finance on January 30, 1992.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
 Director.

Enclosure.

CONGRESSIONAL BUDGET OFFICE—COST
 ESTIMATE

1. Bill number: S. 2173.
2. Bill title: None.
3. Bill status: As ordered reported by the Senate Finance Committee on January 30, 1992.
4. Bill purpose: To increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.
5. Estimated cost to the Federal Government:

Let me respond to a couple of points made by the distinguished Senator from Colorado. I have a great deal of respect for him. He is a thoughtful Member in this body when it comes to budget issues. I think there was a lot of merit to the distinguished Senator's comments.

But I have a couple of clarifications that I think ought to be made in the RECORD as we debate this issue. One is the understanding that everyone has with regard to the collection of unemployment taxes. The fact is that everyone, in good faith, contributes to a fund that they fully expect will be there when we need to draw down those funds.

In good faith, this body has deliberated extensively about the need to create special trust funds for various designated purposes, for highway use, for airport use, for a broad range of very important uses. For many years now, this country has come to accept the importance of designated funds.

Again, we find ourselves debating the advisability of creating further funds when this very issue is at stake in this particular debate.

The fact of the matter is that, in good faith, we created a trust fund; in good faith people contributed to the

trust fund; and now, in good faith, we are trying to make this trust fund respond to the needs that are clearly a devastating consequence of the recession we face. That is really what this issue is about. Unfortunately, because we were not able to generate the revenue necessary from other sources, we have had to use this trust fund for many purposes for which this fund was not intended. That is the issue.

There clearly are many examples of wasteful spending in the budget. We have to address those. The Senator is absolutely right in calling attention to the need to scrutinize the budget. But I think it is fair to say that we could eliminate every discretionary program, not just cut out the waste, but eliminate every discretionary spending program today and still have a deficit of over \$100 billion. Why? Because of spending on all of the entitlement programs now to which we are permanently committed. These programs absorb a tremendous amount of revenue that comes into this budget. We are talking about defense spending, we are talking about income security programs, we are talking about health care, and we are talking about interest on the debt itself.

In terms of defense, there is a lot of debate about the peace dividend and how we can reduce defense spending this year. We will probably be getting into that debate extensively in the coming months. There will be savings generated from the peace dividend.

To a certain extent, perhaps, we could also change Social Security financing and from that derive benefits. That will certainly be the subject of debate.

But if you are talking about what is really driving the budget, and certainly the deficit this year, it is the fact we do not have any growth in the economy; it is the fact that we simply do not have the revenue that we anticipated we would have, that OMB anticipated we would have. Without that revenue, you are going to have a larger deficit.

We have to tackle the budget deficit from two ends. We have to bring down the size of the deficit through elimination of wasteful spending, and we have to find ways in which to make this economy grow again. Certainly, that also should be the subject of a good debate.

I think it is important that we learn from the lessons of the past and recognize the commitment that we have made in good faith to the people who contributed to all trust funds, especially to the unemployment trust fund. And we must recognize that the real giants in the budget, the S&L bailout, defense, interest on the debt, health, and income security programs, are the budget items that in large measure are creating the problem that we face today. If you eliminate discretionary

spending, you still have over a \$70 billion deficit this year.

So with that, let me yield 5 minutes to the distinguished Senator from Illinois, Mr. DIXON.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON] is recognized.

Mr. DIXON. Mr. President, one of the great joys of being a Senator from Illinois is having the opportunity to meet so many Illinoisans of diverse backgrounds and interests.

From Rockford in the north to Cairo in the south, the people of Illinois have 1,000 stories to tell at town meetings, county fairs, and just on the streets. I cherish the privilege of talking with Illinois citizens from across my State. But, sadly, many of the stories I have been hearing lately have been tales of economic woe.

My State has the misfortune of suffering the Nation's highest unemployment rate, 9.3 percent in December 1991, more than 2 full points above the national average of 7.2 percent. What I hear from people across my State is disheartening. More and more Illinoisans who have spent their whole lives working hard to buy homes, provide for their families, and send their children to college now find themselves out of work.

I was, of course, pleased that the President acknowledged the crisis our Nation is facing by making reference to the millions of unemployed Americans in the State of the Union Address and by stating his intention to join us in further extending the emergency unemployment benefits now.

It is difficult to forget, however, that the President joined us in passing the original extension of unemployment insurance benefits last fall only after mounting public pressure and after Congress, not once, not twice, but three times passed an extension of these critically needed benefits.

Just over 1 year ago, in December 1990, the unemployment rate in my State of Illinois was only 6 percent. That was the first time in over 11 years that the Illinois unemployment rate fell below the flat rate. As I am sure my colleagues will all remember, the President was then still denying that the Nation was entering a recession.

By August of last year, the unemployment rate of Illinois had risen to 7.2 percent, and while the President signed our first attempt to extend benefits, he cynically declined to make the emergency designation necessary to make the benefits available.

In October last year, the unemployment rate in Illinois had climbed to 7.7 percent, and this time the President vetoed legislation that would have provided the critically important benefits to the growing millions of Americans that had exhausted their regular unemployment benefits. While by the end of November the President saw it in his

heart to join us in providing emergency unemployment to the victims of the ongoing recession, by that time, Mr. President, my State had an unemployment rate of 8.5 percent, while then grew to 9.3 percent in December, the highest in the Nation.

So I am pleased that the President is committed to signing the additional extension of benefits that we will pass today. I am pleased that we will once again try to ease the impact of this recession for those who have been its victims. I cannot help but believe, however, that the workers of my State would not be in so much pain today had our President acknowledged the crisis our Nation faced more than a year ago.

I yield the remainder of my time should any be remaining.

Mr. DASCHLE. Mr. President, I yield to the distinguished Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is recognized.

Mr. SASSER. Mr. President, I am advised that at the appropriate time, at the end of debate on this issue, the Senator from Colorado [Mr. BROWN] intends to make a point of order against this bill, if I am not mistaken. I do not want to misquote the Senator. Perhaps he could state what his position is.

Mr. BROWN. If the Senator will yield, I say to the distinguished chairman that, unless another makes that point, it would be my intention to make a point of order that this bill does not comply with the Budget Act.

Mr. SASSER. Well, Mr. President, just let me say that I am not unsympathetic with the point of order that the Senator from Colorado will probably ultimately raise. But I might say that under our rules, the Office of Management and Budget—under the Budget Enforcement Act, which was enacted into law in 1990—makes the ultimate determination as to whether or not a sequester will lie under the pay-as-you-go mechanism of the Budget Enforcement Act.

The Office of Management and Budget has indicated that there is room in the budget to pay for this extension of unemployment benefits. According to the Office of Management and Budget, the Congress saved \$2.2 billion more than it spent last year on entitlements and taxes.

Under the Budget Enforcement Act as interpreted by the Office of Management and Budget, we can spend that \$2.2 billion without causing a sequester. The unemployment bill would also change the estimated tax payment rules for corporations, raising another \$500 million in 1993. So under OMB scoring Mr. President, we have \$2.7 billion in room to spend for extension of the unemployment compensation benefits.

What prompts the distinguished Senator from Colorado to raise his point of

order, as I understand it, is that the Congressional Budget Office does not agree with OMB on this subject. The Congressional Budget Office says that this bill will indeed exceed the allocation, and that technically the bill would cause spending further to exceed the outlay total in the budget resolution, violating section 311 of the Budget Act, and would cause spending to exceed the Finance Committee's allocation as well, violating section 602 of the Budget Act.

When that point of order is raised, it will take 60 Senators to waive that point of order. I am going to support the motion to waive the point of order, because I have always considered the unemployment problem to be an emergency situation that would be covered by the emergency language of the Budget Enforcement Act.

The administration takes the position that the extension of these unemployment benefits conforms with the Budget Enforcement Act because of additional savings that were made last year and because of additional revenues that will be raised. So it will be paid for. That is the administration's view.

The Congressional Budget Office has a different view. I have sympathy for the problem raised by the Senator from Colorado. It is terribly frustrating to have a budget system that rests on two different estimating powers. On one hand, you have the Office of Management and Budget making the estimating and determining when a sequester will lie. On the other hand, you have the Congressional Budget Office telling us whether or not a certain piece of legislation meets the requirements of the Budget Enforcement Act or whether or not a committee is exceeding its allocation.

It is very much like buying a left shoe made by one manufacturer and buying a right shoe made by another shoe company. It would not be surprising if every now and then they just do not match. It would not be surprising if every now and then the shoe would pinch on one foot or the other and we get tripped up, if we are buying a left shoe from one company and a right shoe from the other. They have different size patterns that they go on.

If the Senator from Colorado objects to the way the system works, that it uses OMB for one thing and CBO for another, I could not agree with him more. I think he makes a rational argument in that regard. And I hope that he will join with those of us who argue that OMB should not be the final arbiter of what amounts to a sequester.

In essence, you have CBO doing the scoring on the bills over here, and you have OMB having their own scoring process that determines when there will be a sequester. In the budget negotiations, I agreed very strenuously against letting OMB be the final arbi-

ter. But they are in this particular case, and that is the law.

In the final analysis, I do not think that this is the time to allow a technical point about scorekeeping to stand in the way of this very vital legislation, which I feel is needed on an emergency basis to get these benefits to the long-term unemployed. They are unemployed through no fault of their own, but as a result of this long-enduring recession now entering upon its nineteenth month.

I do understand the frustration of the Senator from Colorado. I share that same frustration, and I hope at some juncture we can count on the Senator from Colorado raising his eloquent voice to help to move this power of who is the final scorekeeper for sequestration back to the Congressional Budget Office where, in the judgment of this Senator, it ought to be.

So when the Senator from Colorado raises his point of order at the end of the debate, I want my colleagues to know that I will join in the motion to waive.

Mr. BROWN. Mr. President, I simply want to commend the distinguished chairman of the Budget Committee for his very helpful, concise appraisal of the situation. I think he has fairly described the circumstance that this body now finds itself in.

Frankly, we are at a point where we have two estimates. The Congressional Budget Office is the one that is the determinative for us with regard to our rules and the point of order that will be made. The Office of Management and Budget does indeed have a different one, and he has accurately summarized their conclusions.

I might say with regard to the point that the distinguished Senator made as to whose view should be determinative, I am one who thought it would be helpful to have the independent source that had the highest level of integrity viewing this. I think, particularly in light of Congress' inability to deal with these matters, or to reach conclusions and limit spending, that is important. I am one who thought that surely the Office of Management and Budget would be that one. I must concede to the distinguished Senator that, as we come to the floor, my belief is that the Congressional Budget Office estimate is the best, certainly, in this regard.

I might say that I intend to support whatever proposal leads to the most integrity in the process.

I do not think this decision ought to be made on the basis of Republicans favoring a Republican estimate and Democrats favoring the Democratic estimate. If there is one thing this Government needs to do it is to rebuild credibility in the area where it has the least credibility and that is clearly in budget estimates. At least I know of no other that can challenge our credibility the way those have.

So with regard to the point of the distinguished Senator from Tennessee with regard to changing the estimate, I must say I think there are a significant number of Members in this body that if they come to the conclusion that the Office of Management and Budget cannot be independent, cannot be objective, they will indeed support the change.

Mr. DASCHLE. Mr. President, how much time do we retain?

The PRESIDING OFFICER. The Senator from South Dakota has 9 minutes remaining; the Senator from Colorado 42.

Mr. DASCHLE. Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I commend the Senate for taking prompt action to extend additional needed help to the unemployed in this continuing, endless recession.

Today's legislation will provide 13 more weeks of unemployment insurance, on top of the 20 weeks enacted last fall. As a result of this action, jobless workers in Massachusetts and other hard-hit States will now be eligible for 33 weeks of extended unemployment benefits. This will aid over 70,000 unemployed persons in the State.

This step is timely and necessary, as even the President now agrees. The administration's own economic forecasts show that the recession will continue well into 1992 at a minimum.

As we all know, previous administration forecasts have been wrong throughout this recession, and the current predictions of recovery have sufficiently little credibility that the administration no longer opposes sensible steps to help the unemployed.

In his State of the Union Address, the President laid great importance on passing his economic proposals in order to launch the recovery. Many economists and other experts are skeptical that the President's proposals will have any real impact on economic growth. Even the administration's predictions suggest that the recovery will be weak.

For 1992, they foresee real economic growth of only 1.5 percent, which would be the most anemic recovery from recession since World War II.

And they predict annual unemployment for 1992 to average 6.9 percent, with unemployment in the fourth quarter still stuck at 6.8 percent. Some recovery.

These grim forecasts are in line with others coming from outside the administration.

The Massachusetts Taxpayers Foundation, a nonpartisan group with close ties to the business community, foresees lower growth and higher unemployment nationally.

They predict that, in 1992, Massachusetts will see a decline in personal income, a rise in the unemployment rate, and a further loss of 40,000 jobs, on top of the 275,000 jobs lost in the past 2 years.

That kind of recovery is too weak. It means no real economic growth and no growth in personal income or employment, with further losses a distinct possibility. It may well mean no recovery at all. In the face of these disturbing forecasts, Congress clearly has an obligation to do more.

At bottom, the Bush administration's plan is a calculated and unacceptable gamble with the health of the economy. They are ideologically incapable of abandoning their laissez-faire policy. They believe the economy is basically sound, and will soon heal itself.

Their policy is a thin veneer of stimulus, without the solid action we need to guarantee that the recession ends and the recovery begins.

If the administration declines to act to end this recession, then Congress must do so.

We must put forward a sound alternative that helps to jump-start the economy, makes investments for the long-term, relieves the burden of State and local governments, and provides fair tax relief for the middle class.

I have submitted a proposal to achieve these goals, and other Senators have made their own positive recommendations. I am confident that we can work together to develop a realistic alternative to get the economy and the country back on the right track.

We must deal more effectively with the urgent needs of the economy. If anyone doubts the need for such strong action, they should look at the administration's own depressing economic forecast. We can and must be better than that.

While I strongly support the pending legislation, I want to call attention to a significant flaw in its design which is already having a negative impact on workers in Massachusetts and many other States.

The eligibility rules for the long-term unemployed are unfair to workers who have been enterprising enough and fortunate enough to find part-time work to help tide their families over, while they look for full-time jobs.

When a full year passes after a worker first becomes unemployed and applies for unemployment benefits, current rules require that there be a re-determination of eligibility.

If the worker had sufficient income in the last four of five quarters from part-time work to meet State eligibility requirements, the worker qualifies again for regular State unemployment benefits.

But there's a catch. The amount of the State benefit is recalculated—not on the basis of what the worker was

earning at his previous, full-time job, but on the basis of the income earned at the part-time job.

Moreover, because the worker is no longer in the position of having exhausted eligibility for benefits, he no longer qualifies for the extended Federal benefits.

In Massachusetts, workers who had been collecting nearly \$300 a week in unemployment compensation who have suddenly found their benefits reduced to less than \$50 a week—just because they managed to earn a paltry \$1,200 from part-time work during the past year.

If they had not taken the part-time job, and had less than \$1,200 income for the year, they would qualify for the full 33 weeks of Federal extended benefits at their original higher rate.

This catch-22 has already had a devastating effect on nearly 1,000 workers in Massachusetts whose benefits have been recalculated and reduced by more than 50 percent, just because their part-time earnings last year totaled a few dollars more than \$1,200.

This problem will steadily increase in the coming months, as more and more workers come to the end of their first year of unemployment.

The problem is already acute in Massachusetts, which has been suffering high unemployment longer than any other State in the Union, but it will become a problem in many more States as more and more workers continue to suffer from long-term unemployment.

I recognize the need to get this legislation passed and sent to the President's desk as soon as possible, and I am therefore not offering an amendment to correct this inequity at this time.

However, it is my intention to pursue this matter with supplementary legislation. My hope is that the Senate will address this issue at the earliest opportunity.

As this endless recession drags on well into its second year, no workers or their families should be penalized by a steep reduction in their unemployment benefits because they sought and found part-time work.

I urge my colleagues to work with me in seeing to it that this unintended anomaly is corrected at the earliest possible date.

MESSAGES FROM THE HOUSE

At 3:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1415. An act to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4095. An act to increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

The PRESIDING OFFICER. The Senator from South Dakota.

EXTENSION OF UNEMPLOYMENT BENEFITS

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

The Senator from South Dakota has 4 minutes remaining, and the Senator from Colorado has 42 minutes remaining.

Mr. DASCHLE. Mr. President, I would like to retain the remainder of my time. As I understand it the leader intends to use some of his morning business time, so I yield to him for that purpose.

The PRESIDING OFFICER. The majority leader has 10 minutes remaining of his leader time, and he is recognized.

Mr. MITCHELL. Mr. President, what was repeatedly called a short and shallow recession by this administration has now become the longest recession since World War II. This country has had eight recessions since that time, but all of them have been shorter in duration than the recession that began in July 1990.

There are nearly 9 million Americans unemployed. Another 6.3 million are working part time because they simply cannot find full-time work. An additional 1 million Americans have dropped out of the work force, discouraged having tried repeatedly to find employment but never meeting with success.

Therefore, while the unemployment rate is officially at 7.1 percent, the reality is that more than 13 percent are actually unemployed or underemployed.

My own State of Maine is in a unique position, shared by only seven other States and Puerto Rico. Since Maine triggered on and off the Extended Benefits Program in 1991, many individuals exhausted their 26 weeks of regular benefits and an additional 13 weeks under the Extended Benefits Program during 1991.

Under the rules of the Extended Unemployment Compensation Program enacted by Congress before Thanksgiving, a high unemployment state can offer 20 weeks of additional compensation to all individuals exhausting their State benefits except for those who participated in the Extended Benefits Program. Those who participated in extended benefits are only eligible for 20 weeks of compensation minus the amount they received under the Extended Benefits Program. Therefore an individual who exhausted extended benefits of 13 weeks and still was unable to find a job, was only eligible for

an additional 7 weeks under the extension package enacted last year.

Already over 2,000 individuals in Maine have exhausted the compensation we provided last November. Every week now another 1,000 people, unable to find employment, are exhausting their benefits in Maine. That is why I am especially glad that Congress is acting so quickly on this legislation.

While I have heard others mention that some 600,000 individuals will exhaust their compensation in mid-February, in Maine the crisis period for too many families has already begun. Statewide the unemployment rate is 7.1 percent, but parts of Maine have incurred unemployment levels above 10 percent. Over 31,000 jobs have simply disappeared during the last 2 years, 18,000 in the last year alone.

American families who have exhausted their compensation need an extension now. I hope the Congress and the President act quickly to ensure that extended insurance continues for those who need it most.

Mr. President, I thank my colleagues for the courtesy in permitting me to make the statement.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield 3 minutes to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan [Mr. RIEGLE] is recognized for 3 minutes.

Mr. RIEGLE. Mr. President, I thank the manager of the bill.

This is an essential piece of legislation. We fought very hard to get it enacted initially over two rejections by President Bush. We have argued for many months that the scale of the unemployment problem in America is so severe that it has been extremely important that extended unemployment benefits be made available to those who have lost their jobs, exhausted their benefits, and cannot find replacement jobs.

At the present time, there are at least 16 million people in America that want to work full time and cannot find work. We saw the scene the other day on national television in Chicago, sub-zero temperatures, the snow flying, several thousand people lined up outside a new hotel in Chicago to turn in a resume or employment application in the hopes of getting one of a handful of jobs available at that hotel. But, obviously, several thousand people would end up and were turned away because there just are not the jobs available there or elsewhere around the country.

Every day we read about another company that is reducing their workforce. Last week it was United Technologies announcing that they are getting rid of 14,000 permanent positions. We have heard that from IBM. We have heard it from AT&T. We have heard it from General Motors. Virtually, every

county across America. It is not just the large companies, but the medium-size companies and the small companies increasingly that are in trouble.

We need an economic plan for America. The Bush administration has not wanted to acknowledge the extent of this problem and therefore has been unwilling to really craft the kind of broad economic plan that is necessary to get America back on a strong growth track and to provide the number of jobs needed in our society for our people.

I think one of the first goals of Government should be to say that we should, in sitting down together—business and Government and labor—formulate an economic strategy for America where we have enough good jobs in America so that every single person that wants to work is able to find work and could go to work each day to support themselves, support their family, and make a contribution to the economic well-being of this country.

Today, we have massive Government deficits in part because the economy is running at such a low pace. When we have massive unemployment like this, it costs us tens of billions of dollars in lost revenue to the Government, and it only drives the deficit up higher and higher. So we need a plan for America that is designed and implemented in this country to see that there are enough jobs for our people.

The original unemployment extension, in the case of the State of Michigan, put \$575 million into the hands of 170,000 unemployed workers in Michigan. But for this extension, that would expire in June of this year, and this extension today before us extends it out several months further into the future.

But this, by itself, is not enough to respond to the problem. We need an aggressive economic plan for America. And that means, among other things, stopping the trade cheating by other nations and very particularly Japan. Japan in the month of December, according to their numbers, took \$4½ billion out of the United States and the jobs that go with it. Last year alone, \$42 billion taken out of the United States by Japan, much of it through unfair, predatory trading practices.

Will the Senator yield me 1 additional minute?

Mr. DASCHLE. Mr. President, I am virtually out of time. I believe I have a minute left. The Senator from Colorado has graciously expressed a willingness to provide additional time.

Mr. BROWN. Mr. President, I yield the distinguished Senator from Michigan 2 additional minutes.

Mr. RIEGLE. I thank the Senator from Colorado for his courtesy and graciousness.

Since 1980, just the trade deficit that has piled up with Japan, that particular country has taken \$460 billion out of the United States and hundreds of thousands of jobs that go with it.

So part of our problem right now is unfair trading practices that are still out there, have not been corrected.

Another part of the problem is the absence of an aggressive, economic growth plan for America here at home that can really set some aggressive economic growth targets and goals and see to it that we invest in our country, invest in our people, invest in job growth, and get the kind of economic surge that America needs.

This unemployment help will help families hold their lives together. It will help some of them avoid losing their homes, losing their cars. It will help keep food on the table. But it is only a stopgap. It is not a solution to the problem.

So we need to go beyond this very important unemployment compensation extension and we need to fight for and put in place an aggressive economic growth plan for America. I call it a "Team America" plan, where we, as I say, business and Government and labor, sit down together to map out these goals and to map out the strategy for getting there.

But this legislation today is vitally important. I thank Senator BENTSEN for moving aggressively on it and the other colleagues that have worked on it.

I thank the Chair and my colleagues for the time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROWN. Mr. President, I expect Senator DOLE to be with us shortly. I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, shortly, we will vote on a point of order that I will raise. The point of order deals with one violation of the Budget Act.

The Senator from Tennessee has correctly outlined the fact that the Office of Management and Budget indicates the cost of this bill has been offset, but the Congressional Budget Office clearly indicates in a letter that has been submitted for the RECORD that this measure does violate the Budget Act, is not offset by amounts raised. Clearly, it violates the Budget Act.

The question will be whether or not this body wishes to waive the Budget Act. My view is that we ought to pass this bill but we ought to pay for it by eliminating waste. The deficit this year is estimated at \$351.5 billion and that is on a consolidated basis. It is even more if you look at on-budget items alone.

The simple fact is the deficit will explode next year to at least \$400 billion and perhaps beyond. We need to send a clear signal that we are willing to deal with our economic problems. By waiving the Budget Act point of order, waiving the one protection we have against a flood tide of red ink, we will

not help this economy; we will harm it.

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

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

Mr. BROWN. Mr. President, I yield such time as he may consume to the distinguished Republican leader, Mr. DOLE.

Mr. DOLE. Mr. President, I am pleased to be an original cosponsor of S. 2173, which expands the Unemployment Extended Benefits Program passed by Congress at the end of the session last year.

The legislation before us this afternoon comes to the relief of families who need help by adding another 13 weeks of extended benefits. This means that eligible unemployed Americans are guaranteed at least 1 full year of benefits and could—depending on their State's unemployment rate—receive as much as 59 weeks of benefits.

BILL IS PAID FOR

A key part of this legislation is that based on Office of Management and Budget estimates—it is paid for—something that the administration and my colleagues on this side of the aisle have fought hard for.

The American people are deeply concerned about the deficit, and I am glad that Congress is showing some fiscal responsibility. I know that was the aim of the distinguished chairman of the Finance Committee and members of the Finance Committee in the markup just this past Thursday.

Just before lunch today, I spoke to the American Collectors Association which represents 3,600 debt collection service companies. I joked that I hoped that they had not come to Washington to collect on the Federal deficit.

The important thing is that this is paid for. I know the Associated Press, as usual, is running a misleading story saying Bush has caved in again. This is not a cave-in by President Bush, I might tell the Associated Press and maybe some responsible people with the Associated Press. This is a bipartisan effort. It is a bipartisan effort that is paid for and that is why it is here today under a 2-hour time agreement with no amendments because we have met the objections of President Bush. It is not that President Bush was ever opposed to the extension of unemployment benefits—he wanted it paid for. He did not want to add \$6.2 billion to the Federal deficit the last time we discussed this and billions more to the Federal deficit today.

So I hope those who are writing the stories at least understand the genesis of this legislation.

QUICK PASSAGE

The administration strongly supports this legislation. It is cosponsored by the distinguished chairman and ranking member of the Finance Committee, by the distinguished majority leader and myself, and by a number of other distinguished Members of this body.

I am very pleased that we are taking quick action as the administration has requested. According to the Department of Labor, nearly 600,000 unemployed workers will exhaust their benefits by February 15 without the additional benefits provided in this legislation.

While a day or two of delay may not impact any of us sitting in this Chamber, it means a great deal to the unemployed who are trying to figure out how they will pay their bills and put food on the table tomorrow.

By acting now, we are ensuring that there will be no gap in these benefits, and therefore no gap in the ability of the unemployed to survive through these tough times.

BIPARTISAN COOPERATION

Finally, let me just add that the challenges facing this Congress are great. This legislation is a prime example that if we work together on a bipartisan basis, the American people win.

I hope we will continue this when we get into the economic growth package. I think, if we work together on the growth package, we will meet the March 20 deadline, we will do it in a bipartisan way and a bipartisan spirit, and the winners will be the American people.

If, however, we pursue politics for our own selfish agendas, everyone loses.

This great Nation of strength and spirit is counting on the strength and spirit of its Representatives.

Let us not forsake our duty to the good citizens who put us here.

I yield the floor.

Mr. BROWN. Mr. President, I yield 10 minutes to the distinguished Senator from New Mexico, the ranking Republican on the Budget Committee, Senator DOMENICI.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am not sure, I say to my friend from Colorado, that I need 10 minutes, so if someone else would like some time, I probably will be able to yield.

Mr. President, this proposal that is before us, the unemployment benefits extension, is consistent with the President's request for an extension of benefits, and it is in compliance with the Budget Enforcement Act, as it is estimated by OMB to be deficit neutral.

Frankly, I have grown weary of listening to the political charges that this administration is insensitive to the needs of the unemployed. The other side of the aisle would have you believe that only by forcing the President to

change his mind did we achieve a compromise last fall. Essentially, he did not change his mind. Congress changed its mind. The first bills that went through were Congress' ideas, predominantly the other side of the aisle. On each occasion, the President said, why do we not pay for it? Eventually we saw the light and we paid for the bill. That is what we are doing again today.

Nonetheless, let me suggest that one of the ways we are going to pay for this bill leads me to ask a question why—while we are so worried about jobs—are we putting about \$1 billion less into the highway funds that we distribute to the sovereign States now as compared with the Federal Highway Administration estimates for this year? Why are eight States going to get less highway funds now than last year?

Approximately \$1 billion in fiscal year 1992 contract authority has been lost as the result of an unrelated, mandatory project put into last fall's transportation bill during the final hours of the conference. That translates into a loss of up to 50,000 jobs.

Why do I raise this issue? Mr. President, I raise it because the highway funds and the programs and projects that stem from it are probably the most significant and appropriate jobs-creating bill that we can pass. Some in America think because jobs are spoken of so deliberately, that we have them in abundance on the floor of the Senate. We can pass something, and people go to work. Normally we do not know how to do that, but when we have a highway program, it does put people to work. \$1 billion is about 50,000 jobs.

Frankly, I do not think we should have done that.

I have asked those who put into the highway bill a mandatory expenditure for the Brooklyn courthouse, to initiate the effort to restore the \$1.2 billion reduction in obligation authority for fiscal year 1992. I have asked that they reconsider that and that they find another way to pay for it rather than out of the highway funds as a mandatory expenditure of budget authority.

You might ask, how can \$450 million for a courthouse in Brooklyn amount to a \$1 billion reduction in the funds available to our States under the highway fund? The budget process in the United States is full of strange things. But the highway funds spend out at a much different rate than this project in Brooklyn.

So what they had to do was hold out \$1.2 billion in fiscal year 1992 highway funds distributed to the States in order to cover the estimated future outlays for the Brooklyn courthouse.

Now, frankly, I am not aware of any of the propriety, or the need for any of this. I assume that courthouse is needed. I assume, however, that it cannot get through under some normal approach for some reason or another and, frankly, I am not part of that. I just

happened to be charged with the responsibility of sort of seeing where moneys go.

People ask me why we did not get more highway funds and I have to run over and ask people where did the highway funds go. I regret to say that \$1.2 billion that should have been distributed now, permitting the States to get on with contracting, putting people to

work, has been used to defer the estimated outlay costs for the Brooklyn courthouse. Wherever this fits, I hope it will be worn by someone and we will get on to righting this, because I think it should be turned around; some way or another this ought to be fixed.

We ought not be talking about the President of the United States not being for unemployment compensation,

which is ridiculous, at the same time we are doing things like the one I just described which is about jobs.

I ask that the tables I asked heretofore be made a part of the RECORD attend my remarks.

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

[In millions of dollars]

State	1992 Federal-aid highway obligations	Estimate before reduction	Difference
Alabama	238,499	253,722	-15,223
Alaska	201,393	214,248	-12,855
Arizona	182,985	194,665	-11,680
Arkansas	138,312	147,140	-8,828
California	1,339,324	1,424,813	-85,489
Colorado	183,496	195,209	-11,713
Connecticut	303,461	322,831	-19,370
Delaware	64,903	69,046	-4,143
District of Columbia	90,552	96,332	-5,780
Florida	503,333	535,461	-32,128
Georgia	388,588	413,391	-24,803
Hawaii	143,360	152,511	-9,151
Idaho	108,830	115,777	-6,947
Illinois	489,565	520,814	-31,249
Indiana	267,516	284,598	-17,082
Iowa	168,418	179,168	-10,750
Kansas	179,552	191,013	-11,461
Kentucky	207,822	221,087	-13,265
Louisiana	216,659	230,488	-13,829
Maine	77,820	82,787	-4,967
Maryland	278,177	295,933	-17,756
Massachusetts	687,283	731,152	-43,869
Michigan	372,527	396,305	-23,778
Minnesota	230,623	245,344	-14,721
Mississippi	158,769	168,903	-10,134
Missouri	288,699	307,127	-18,428
Montana	148,794	158,281	-9,487
Nebraska	130,794	139,143	-8,349
Nevada	85,303	90,748	-5,445
New Hampshire	75,885	80,729	-4,844
New Jersey	448,503	477,131	-28,628
New Mexico	170,016	180,868	-10,852
New York	761,204	809,791	-48,587
North Carolina	351,541	373,980	-22,439
North Dakota	97,849	104,095	-6,246
Ohio	475,670	506,032	-30,362
Oklahoma	187,566	199,538	-11,972
Oregon	187,966	199,964	-11,998
Pennsylvania	711,650	757,074	-45,424
Rhode Island	95,158	101,232	-6,074
South Carolina	172,863	183,897	-11,034
South Dakota	109,981	117,001	-7,020
Tennessee	288,013	306,397	-18,384
Texas	897,691	954,990	-57,299
Utah	121,715	129,484	-7,769
Vermont	69,609	74,052	-4,443
Virginia	358,286	381,155	-22,869
Washington	319,841	340,256	-20,415
West Virginia	145,485	154,771	-9,286
Wisconsin	251,896	267,974	-16,078
Wyoming	103,706	110,326	-6,620
Puerto Rico	67,810	72,138	-4,328
Total State allocations	14,344,347	15,259,944	-915,597
Other obligation limitation programs			-198,039
Total obligation reduction			-1,113,636

Note.—Prepared by Senate Budget Committee Republican staff, Feb. 4, 1992.

PAY-GO SCORECARD

[In millions of dollars]

	1992	1993	1994	1995	Sequester 1992 plus 1993	4-yr. total
OMB Scoring						
Enacted pay-go	-1,095	-1,136	-476	-1,005	-2,231	-3,712
Unemployment ¹	1,095	1,136			2,231	2,231
Subtotal			-476	-1,005		-1,481
Highway restoration	204	643	193	58	847	1,098
Courthouse repeal	-46	-206	-160	-46	-252	-458
New pay-go total	158	437	-443	-93	595	-841
CBO Scoring						
Enacted pay-go	752	-1,762	111	-9	-1,010	-908
Unemployment	2,700	100	-100	500	2,800	3,200
Subtotal	3,452	-1,662	11	491	1,790	2,292
Highway restoration	592	1,849	536	161	2,441	3,138
Courthouse repeal		-46	-206	-160	-46	-412
New pay-go total	4,044	141	341	492	4,185	5,018

¹ Official OMB scoring is unavailable. Assumes cost of the unemployment bill is completely offset by enacted pay-go savings.

PAY-GO SCORECARD—Continued
(In millions of dollars)

1992	1993	1994	1995	Sequester 1992 plus 1993	4-yr. total
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Source: Senate Budget Committee Republican staff, Feb. 3, 1992.

Mr. GORTON. Mr. President, today this Senate is acting on another extension of unemployment benefits. The extension is needed and is right for America's unemployed.

This Congress, however, is attacking symptoms and not the underlying disease. The symptoms are unemployment, and the Congress can and is providing therapy for these symptoms. The disease is excessive Government spending and excessive governmental regulation both of which inhibit private investment and economic growth. Since this recession began, this Congress has done nothing to combat the disease of excessive debt and regulation.

Last year, Congress passed more than 700 pieces of legislation in one House or the other. Thirteen of those were appropriations bills and therefore necessary. One of those, the highway bill, will provide some economic stimulus and some jobs. The other 700 or so pieces of legislation do nothing for the economic problems of this country.

Over the next 4 years, if Congress continues with business as usual we will add a trillion dollars to the Federal debt. By 1996, if Congress continues with business as usual, the payment on interest on the national debt will be a quarter of a trillion dollars a year.

I have listened to Washington State constituents. My constituents aren't asking for business as usual from Congress. They want concrete, responsible congressional action which will benefit the economy.

Mr. President, how can we continue down this path, living beyond our national means and claim that we are providing this country real leadership?

We must work toward a balanced budget in a real and comprehensive manner. We cannot get to a balanced budget by restricting discretionary spending, which only represent one-third of the total amount of money spent by the Federal Government this year. Neither will spending three times over every dollar cut from our national defense budget as some Democratic leaders have proposed.

We cannot get there overnight, but we must start moving toward financial responsibility and by relieving the regulatory burden on businesses. If we act, reducing spending and regulation will do more for this Nation's economic standing in the world than anything else this Congress can do to enable our country's businesses to grow and create more jobs. A healthy economy that creates new opportunities to invest, increasing the number of jobs, is what

the unemployed need to cure their problems.

Mr. DURENBERGER. Mr. President, I am pleased that the Finance Committee and the full Senate have taken such swift action to extend unemployment benefits so early in the year. Because it appears that the need for these benefits will exceed the current program's life, I believe that it is wise to ensure that the means to assist unemployed Americans is available as soon as the need may arise. It is my hope that the speed of this legislation is an indication for how quickly and how seriously the Congress will address the country's current economic needs.

Last year, when extended benefits were originally enacted, this process dragged on entirely too long. Political games were played at the expense of unemployed Americans. I hope and believe that this is behind us.

I am encouraged that both the administration and the leadership of the Congress have embraced as a high priority the extension of this valuable program and to doing it quickly. I hope that my colleagues will follow the lead of the Finance Committee in resisting amendment to this extension so that consideration will not be delayed. American workers, who are unemployed through no fault of their own, should not have to endure unnecessary delay in guaranteeing relief.

Like the extended benefits bill which preceded it last year, this legislation combines effective relief with fiscal responsibility. I commend its authors for the decision to abide by the pay-as-you-go requirements of the Budget Enforcement Act and to address the concerns of the administration which delayed passage last year. This decision leads me to believe that the lessons from last year's debate have indeed been taken to heart.

With an unemployment rate of 5 percent, my State has not been hit as hard as some other States. This is, however, of little comfort to the 121,000 Minnesotans who were without work last month. Extension of unemployment compensation benefits will go a long way toward meeting the real needs of this group of people whose numbers are expected to grow in the coming months. This extension will ensure that assistance is available throughout the recovery period.

Like many of my colleagues, I continue to support repeal of the misnamed luxury tax on boats, but have agreed to refrain from offering amendments which would delay this bill. This effort to sock it to the rich has been a disaster for the men and women who

build boats in Minnesota and throughout the country. Regardless of who buys these boats, rich people are not the ones who build them. All of the so-called luxury taxes, on boats, planes, jewelry, and furs, have all caused the same problems for the workers employed in these industries. I look forward to joining my colleagues in wholeheartedly supporting the repeal of these job-reducing taxes at the earliest possible occasion.

Thank you, Mr. President.

Ms. MIKULSKI. Mr. President, I rise to express my support for extended unemployment benefits.

I speak on behalf of the people in my State of Maryland who find themselves jobless—many of them, for the first time in their lives.

Last year, in Maryland, 2,500 Westinghouse employees lost their jobs. These are not vagrants or drifters, Mr. President. These are educated people, scientists, and engineers and workers with great technical skill.

And now they are looking at taking jobs at half their previous pay, or finding no jobs at all.

Last year, in Maryland, 150 employees of the Schmidt Baking Co. in Cumberland were laid off and hundreds of employees of Bethlehem Steel in my home town of Baltimore.

Extending unemployment benefits will not provide jobs for these workers.

But while they are looking, this legislation will make sure they keep the electric lights shining and the gas heat burning. It will provide milk for the baby.

It will prevent those who are jobless from becoming homeless as well.

In this recession, the Senate has a clear responsibility. We need to adopt an economic growth package that will provide immediate jobs. We need to look at a long-term investment strategy to make America competitive.

And as we consider how to create jobs for today and jobs for the future, we must not forget those who are without jobs. Let us take care of them today.

I yield the floor.

Mr. WOFFORD. Mr. President, our Nation is experiencing the longest economic downturn since the Great Depression. Whatever the economists may now predict for the months ahead, we are continuing to lose jobs—good manufacturing jobs—in my State and across the Nation.

Nothing said more about the state of the Union last week than Bethlehem Steel's announcement of plans to lay off some thousands of workers in Steelton, Johnstown, and Monessen.

And while Pennsylvania may not be directly affected, the announcement in December by General Motors of cutbacks and closings of some 20 plants across the country drives another stake into the heart of the American dream for some 74,000 working families.

We must respond to the needs of these Americans who have lost their jobs through no fault of their own. This legislation does that.

Unfortunately, this bill is only a temporary stopgap. It neither promotes business creation nor confronts fundamental weaknesses in the Federal-State Unemployment Compensation System.

First, I believe that we should use taxes that employers have already paid into the unemployment trust fund for their intended purpose: Extended benefits for emergencies like right now. We should not have to raise new revenues in the middle of a recession to fund emergency benefits when funds for this exact purpose are already available in the unemployment trust fund.

Second, as Pennsylvania's Secretary of Labor and Industry, I administered our State's unemployment compensation programs. I know the problems in this system, and I can propose several useful reforms that the Congress might explore and consider in the near future, once we have dealt with the current emergency.

These ideas include:

Identifying dislocated workers early in their unemployment so that States can quickly provide reemployment assistance;

Enhancing labor-management cooperation, training incentives, and work-sharing programs;

Using unemployment funds more creatively to support worker retraining, job placement, and even new business formation; and

Scrutinizing unemployment rate levels that trigger States' extended benefits periods.

The bill we passed today will provide the necessities of life for thousands of American families who are suffering during this recession. I am glad this time around President Bush has actually signaled his willingness to support this effort, instead of blocking it as he did twice last year.

Extending benefits was the very first issue I pressed with my colleagues when I arrived here last May. It is disappointing that, 8 months later, the need for continued action remains great, and growing.

What we need most is a comprehensive program to get us out of this recession and get our economy off dead center. This legislation will help. But we must do more. I look forward to working with my colleagues to explore improvements to the Federal-State Unemployment Compensation System and get our economy moving in the right direction.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 2173, the Unemployment Compensation Extension Act of 1992. This legislation will provide 13 more weeks of additional benefits to those who exhaust their unemployment benefits and extend eligibility from June 13, 1992 to July 4, 1992. As a co-sponsor of this legislation, I am glad that the Senate can finally pass an extension of unemployment benefits without the President objecting. It appears that the President has finally recognized the actual severity of this recession.

In my State, the unemployment rate is 7.4 percent. This is the highest unemployment rate in New Jersey since this recession began 21 months ago. In May 1990, the unemployment rate was 4.8 percent. Currently, there are approximately 100,000 New Jerseyans on the verge of exhausting their unemployment benefits, who will be eligible to receive the additional benefits contained in this legislation.

Mr. President, I would like to reiterate that I am pleased that the President will not block this legislation like he did with the last two extensions of unemployment benefits passed by Congress. This extension is designed to help families pay their mortgages, car payments, grocery bills, and educational expenses. But it is surely not a substitute for jobs and economic recovery. The economy is still struggling. We need bold action to help put our people back to work.

We need to put forth long-term economic policies designed to increase our productivity, but for now we need to focus on the plight of our Nation's unemployed. That is why I have introduced emergency infrastructure spending legislation to put people back to work and repair our Nation's deteriorating infrastructure. My start-up proposal will create 180,000 new jobs in the next 2 years. I will also introduce legislation to provide businesses a tax incentive for hiring the long-term unemployed.

These are some of the bold actions we need to take, in combination with other long-term economic policies focusing on increasing our productivity, to move our economy out of this recession, put people back to work, and once again become a leader in the world economy.

Mr. JOHNSTON. Mr. President, I am very pleased that the President has assured prompt approval of S. 2173, legislation which was the result of a bipartisan agreement among the administration, the chairmen of the Senate Finance and House Ways and Means Committees, and the Republican leaders in the House and Senate. This agreement will provide needed help for workers who have exhausted their unemployment benefits during the current recession. I commend all parties for their efforts and I hope that this legislation

will be the first of a series of bipartisan agreements to shift our budget priorities and meet urgent needs at home. We must continue to work together to address the long-neglected problems which have resulted in the loss of jobs and income decline that threaten the living standards of our American work force.

As a result of S. 2173, approximately 5,000 of the 25,000 unemployed workers in Louisiana now receiving emergency unemployment compensation will benefit from the immediate 13-week extension. Also, other workers who are expected to exhaust their benefits after June 13 will be eligible for extended and much needed benefits through July 4.

Not only in Louisiana, but in every State a growing number of workers are exhausting their benefits without finding suitable employment. This legislation will equally assist all States and is consistent with the Budget Enforcement Act. It will provide all States 13 additional weeks of unemployment compensation and extend the duration of the current emergency benefit program approved by Congress last year from June 13 to July 4, 1992.

While I am pleased with the temporary relief this measure will provide to so many unemployed Americans, I also hope that we will act expeditiously to develop measures to provide jobs for the unemployed and permanent income stability for them and their families.

Mr. KERRY. Mr. President, I want to state my strong support for the legislation before us today to provide additional weeks of emergency unemployment benefits to the long-term unemployed.

Even President Bush finally acknowledged that our Nation is in the midst of a recession—a fact that has been brutally clear for months to virtually everyone in my State of Massachusetts. The unemployment rate there has been at historically high levels for over a year—reaching almost to 10 percent. It now sits at 8.4 percent. While that is mercifully somewhat lower than it was at its peak, nonetheless the difference between that level and normal unemployment levels represents tens of thousands of additional persons who are unable to find work. All told, nearly 100,000 workers are without work in Massachusetts today.

When unemployment is this severe, it is terribly difficult for many people to find work regardless of how hard they try. In such a situation it is not only appropriate but essential that we increase the support we give to those who have been unemployed long enough to exhaust the basic benefits that are available from the unemployment insurance program. That is what we attempted to do last summer, when President Bush refused to fund the bill we passed and he signed into law, and

again in the early fall when he vetoed the second bill we passed. And that is what we finally accomplished when we passed bills number three and four in November which the President agreed to sign into law, and which provided up to 20 additional weeks of benefits to the long-term unemployed in Massachusetts.

Mr. President, the majority leader, the chairman of the Finance Committee, and others, have provided strong and unwavering leadership on this issue. They and their staffs are to be commended.

I join in enthusiastically supporting the extension of benefits contained in the bill before us today.

It should be noted, however, Mr. President, that while this legislation is an essential response by our Government to some of the suffering caused by this recession, it does not attain what must be our ultimate objective with respect to those who have lost their jobs: creating real jobs for these people. They want to work. They want to earn a living for themselves and their families. The want to be contributing citizens as most of them have been for many years.

This Congress has an obligation to act to enable our economy to get back on sound footing—to provide work and prosperity for Americans individually and collectively. The Government, in a free-market economy, cannot and should not be expected solely by its own actions to return stability to the economy. But we can and must take concrete steps to ease the way for the private sector, and to provide a stimulus to which the components of the economy will respond. We will be working toward that end in the coming weeks.

I do not believe that we will or should pass the program of which the President provided various glimpses in his State of the Union Message. That program is neither sufficiently fair to all Americans, especially those of the middle class who form the backbone of our Nation, nor sufficiently bold. But I am confident that the Congress will act decisively and usefully combining ideas and components which many of us have proposed.

It is necessary that I register one significant note of concern about the additional benefits being provided under the legislation enacted in November and that will be provided under the legislation on which we are voting today. During the recent recess as I traveled across Massachusetts, I had the opportunity to listen to the concerns of my constituents and how they are dealing with this devastating recession. I heard many disturbing stories, but one of the most disturbing to me were those of the long-term unemployed who are being penalized for temporarily returning to work.

Mr. President, I want to share with you the experience of one laid-off

worker in Massachusetts who, by returning to work for 2 weeks after he was initially laid off, reduced his unemployment benefits from \$282 to \$23 per week.

Don—I will use only his first name to protect his privacy—worked for the same company for 10 years. In February of last year, the company and in turn Don became victims of the recession. Two weeks after he was initially laid off, the company recalled him to work, but laid him off again two weeks later. Don received unemployment benefits for 25 weeks, at the end of which period his unemployment insurance claim was exhausted.

At the time his benefits were exhausted, President Bush had refused to release funds for one unemployment insurance extension bill the Congress passed in the summer of 1991 and had vetoed a second bill the Congress passed in the early fall. As a result, while the President was refusing to admit the Nation was mired in a recession and Americans from coast to coast needed help, Don was forced to use all his life savings, and then sank further and further into debt.

In November, Don was relieved to learn that President Bush had finally acknowledged that long-term unemployed workers needed help, and had agreed to sign a third unemployment insurance bill passed by the Congress. He applied for benefits under the so-called reach-back provisions permitting those who had exhausted their benefits after March 1, 1991, but before the law was signed, and who remained unemployed, to receive additional benefits. Don qualified for the maximum amount of 20 weeks of additional benefits under his earlier unemployment claim.

Under current law, all benefit recipients must file a new claim 52 weeks after they filed their last claim. The Massachusetts Department of Employment and Training reviews the person's employment and wage records for the previous 52 weeks and if there were earnings exceeding \$1,200, the benefit rate for any remaining benefits for which the person is eligible is computed and based on those earnings rather than continuing the benefit being received previously.

When Don's initial 52-week claim period ended, he was required to file a new claim. At that point, he had received only 7 of the 20 weeks of additional benefits under the emergency program to which he had been told he was entitled. But when the Department of Employment and Training analyzed his work history for the new 52-week period, current law required it to take into account the 2-week period when Don had returned to work early in 1991. Since Don earned something more than \$1,200 in that period, Don's new benefit computation was based on that \$1,200-plus of income in the most recent 52-

week claim period rather than, as previously had been the case, on the preceding 52-week claim period when Don had been employed full time and, of course, had a much higher income.

As a result, for the remaining 13 weeks of his eligibility for the additional benefits, Don's benefit amount was dropped from \$282 per week to \$23.

Sadly, Don's experience is not unique. I am advised that in Massachusetts alone over 2,000 persons have found themselves in a similar situation—where benefits are dramatically reduced in mid-stream when the claim year changes and benefits are recomputed based on a very short period or periods of reemployment.

Mr. President, I am distressed by what I see as the larger issue illustrated by Don's case as I have recounted it. The unemployment insurance eligibility and benefit computation requirements and procedures are operating to discourage unemployed American workers from seeking or accepting any employment they do not believe to be long-term or permanent until they have exhausted all unemployment benefits for which they are eligible or for which they believe they may become eligible. There is something fundamentally wrong in a program that punishes men and women for returning to work whenever they can find an opportunity to do so.

I reluctantly recognize that it is not possible to remedy this problem today. The President has stated that he will accept nothing other than the simple extension of the additional benefits legislation previously enacted, with the addition of 13 more weeks of benefits for the long-term unemployed in all States. That, of course, is what the bill does which has been brought before the Senate today by the distinguished chairman of the Finance Committee. I can assure my colleagues—and the long-term unemployed in Massachusetts—that I will not take any step that will create an excuse for the President to veto another unemployment insurance bill and thereby deny badly needed assistance to unemployed workers and their families who have nothing else on which to depend to pay their mortgages and rent, buy food, and pay for medical care.

But the fact remains, Mr. President, that this is a matter which ought to be addressed and remedied by the Congress in the near future. I have presented this information and my concerns to the committee's chairman, Mr. BENTSEN, and he graciously considered the situation and has offered his assurance to me that the Finance Committee in coming weeks, as it is considering other legislation to make alterations in the unemployment insurance law, will carefully consider this problem and possible means to resolve it satisfactorily.

I very much appreciate the attention the chairman and his very capable staff

have given to this problem in the past several days, and his assurance that his committee will examine it carefully. I look forward to working with him, the other members of the Finance Committee and the committee's staff and with my senior colleague from Massachusetts, Mr. KENNEDY, in this effort.

Mr. President, in conclusion, let me reiterate that we must multiply our efforts to pull our Nation out of the economic tailspin into which it has gone. We must not rest, and we cannot be satisfied, until the economy has returned to equilibrium and Americans are back at work and prosperity has returned to our States and communities. We in the Government have no greater or more important challenge than this in the weeks before us.

Mr. DODD. Mr. President, I rise today to voice my strong support for the bill to extend unemployment compensation for an additional 13 weeks. We could not take action on this measure soon enough. Over 600,000 long-term unemployed Americans will exhaust their benefits by the end of this month.

While many of us remain hopeful, there is absolutely no evidence that this stubborn recession will end by mid-year. Economic indicators continue to show signs of weakness in our economy.

The index of leading economic indicators fell by 0.3 percent in December.

Factory orders for durable goods dropped by 5 percent in December, the largest decline in over a year.

Consumer confidence, which must gain strength for the economy to rebound, remains low.

And the unemployment rates for my State of Connecticut and the Nation reached all time highs in December. Connecticut's unemployment rate of 6.9 percent is the highest rate in 9 years. The national rate reached 7.1 percent, the highest rate since 1985.

The news is not good for the millions of Americans struggling to make ends meet. And the news is certainly not good for the 8.9 million Americans who are out of work. Our unemployment compensation program must get the jobless through these hard times.

However, the measure before us today only helps Americans address their short-term needs. It helps them pay their bills for a few more months. But it does not create jobs or offer long-term solutions to this recession. It will not turn this economy around and it will not place our economy on a straight path to recovery.

We have a bigger challenge ahead of us. We must act swiftly to adopt a package of economic reforms that will provide much-needed stimuli to our economy. We must establish priorities and policies that will promote long-term investment and growth.

Almost 1 year ago, I joined Members of this Chamber in pushing for consideration of a payroll tax cut, offered by

my colleague from New York, Senator MOYNIHAN, for hard-working Americans and businesses. Over a year ago, many of us joined Senator BENTSEN in calling for a reinstatement of the full deductibility of IRA investments. Each year, many of us have fought to make permanent the R&D tax credit, the employer-sponsored education tax credit and the housing tax credits. With the President's plan in hand, we now have a chance to act.

We need to do our part to adopt policies that will encourage the creation of jobs. We must restore fairness to our Tax Code. We must provide incentives for businesses to invest, for businesses to expand their research and development operations, and for businesses to train their employees. As a government, we must invest in our children and families, our communities and our infrastructure.

Mr. President, it is time for us to provide real relief to Americans. The Band-Aid approach to helping the unemployed will not last. It is time for us to stop talking about the solutions. It is time for us to act. For this reason, I urge my colleagues to join me in passing this extension and then moving to take up more comprehensive economic reform initiatives.

Mr. PELL. Mr. President, I welcome the swift action of the Senate in approving legislation to provide extended unemployment benefits to the victims of our faltering economy. This legislation will provide 13 additional weeks of unemployment benefits to those who are already receiving or will be receiving extended unemployment benefits.

In Rhode Island, passage of this legislation means that if you are receiving the 20 additional weeks of unemployment benefits approved by Congress last November, you will now be eligible for 13 additional weeks of unemployment benefits.

Mr. President, the crisis of unemployment in this country deserves quick action. In my own State of Rhode Island, the unemployment rate continues to hover at about 9 to 10 percent. The safety net provided by Federal unemployment benefits needs to be extended as long as possible to help those who have been put out of work in our sputtering economy.

I am pleased that we are taking action on extended unemployment benefits, but I am disappointed that we are not taking more effective action. According to an article in today's Wall Street Journal, the legislation we are acting on today "leaves unchanged a restrictive system that allowed fewer than 40 percent of the unemployed to get aid last year."

My office has heard stories of anguish and sadness from Rhode Islanders who slip through the cracks, who do not meet eligibility limits for benefits that were tightened by the Federal Government and States during the 1990's.

These restrictions need to be addressed and revised so that unemployment benefits can once again function as a true safety net and not as a program that only applies to a lucky minority of unemployed.

Mr. President, I would also be remiss if I did not note the recognition of our unemployment problems by the administration. Last November, when Congress managed to win administration approval of legislation to extend unemployment benefits, it was only after the administration blocked two previous attempts by Congress to extend unemployment benefits. I welcome the administration to the ranks of those who want to help the unemployed as quickly as possible and as often as may be needed during our current economic troubles.

Mr. GRASSLEY. Mr. President, I appreciate the efforts of the leadership in bringing the issue of extended unemployment benefits so quickly to the Senate floor for action. President Bush also deserves a great deal of credit for supporting this measure early on and expediting the whole process.

Mr. President, as you remember, last November, the Congress and President Bush reached a bipartisan extended unemployment agreement that brought relief to hundreds of thousands of unemployed Americans.

At that time, there was no question that the President and most of Congress supported extended benefits. The basic question or disagreement regarded whether the program was going to be paid for, or was the deficit just going to be increased. Congress finally listened to the President and agreed to pay for the program in a responsible manner.

Another major disagreement arose among Senators in regard to whether every State was treated fairly, since a number of States, including my State of Iowa, would have gotten only 6 weeks of benefits that were not retroactively applied. Once the unfairness of this situation was fully aired and addressed, the legislation went forward.

I am very glad to be able to say that neither of these problems that hindered our deliberations in November are present in the legislation before us. Consequently, we have been able to move very expeditiously on this bill, and I would hope that we will be able to send a bill to the President in just a few days.

Mr. President, unfortunately, hard times continue, and people are still hurting and still struggling. President Bush has voiced his support for further extended benefits, and, has worked with the Congress in reaching a bipartisan agreement.

Beyond voicing my support for this bill, I would only offer this further observation. There are a number of underlying problems with the current law that are preventing people from get-

ting help even with the passage of this new bill, and these problems need to be addressed.

For instance, there are major conflicts between State and Federal law regarding work search, qualifying base periods, job placement requirements and others. These problems have precluded thousands of exhautees from getting help. And, of course, there are still people out of work who lost their jobs prior to March 1991 who were not helped in the last bill, and will not be helped in this bill.

Mr. President, I would hope that, at least some time down the road, these issues can be addressed. I also sincerely hope that we will meet the President's challenge and pass an economic growth package by the end of March, so that we can do our part in helping this economy turn around so that, maybe, we will not need to consider yet another unemployment bill.

Thank you, Mr. President, and I strongly urge the adoption of the bill.

Mr. HATFIELD. Mr. President, I wish to add my voice in support for extending additional emergency unemployment benefits to our Nation's unemployed. I am very encouraged that the administration as well as Congress agrees that further help is desperately needed.

The current recession is now into its 18th month with no sign of a solid recovery in sight. Last month, the unemployment rate in the United States was 7.1 percent. We all know that recessions are even more acute within certain segments of our society such as the automobile and timber industries. While I am encouraged that my home State has weathered our recent economic decline better than some other areas in the country, Oregon is currently facing a 6.6-percent unemployment rate. With housing starts recently at their lowest level since 1945, many timber industry employees in Oregon are suffering tremendously from the current state of our economy. In my State alone, we have lost 14,200 jobs in the lumber industry alone in the last 3 years, and we are facing the loss of tens of thousands of direct and indirect jobs as a result of further protection for the northern spotted owl. While not a panacea for the long term, extended benefits are a critical safety net for those who have been impacted by these changes, both in Oregon and elsewhere.

The fact that the administration has agreed to make funds available in the recently released budget proposal to pay for further unemployment benefits and the fact that Congress has acted promptly in an effort to make these funds available to the unemployed is very encouraging. However, I feel we have some serious problems facing our work force that can not be corrected solely by periodic unemployment benefit extensions. The key ingredient to

any nation's economic competitiveness is human capital—a principle America has overlooked for far too long.

The American workplace, Mr. President, is drifting toward an increasing number of low-paying jobs and a related decrease in the number of positions that require more job-related skills. This ultimately places our economic competitiveness at risk. Unless we alter productivity now, we face the economic peril of trailing behind as many as nine other developed countries in total output per worker by the year 2020. Further complicating this problem is a lack of opportunity to obtain technical training for our future work force. We must be willing to train our current workers and our future work force to be competitive with the world.

Good, reliable, and permanent jobs depend on people who can put new knowledge to work. We have all heard of the 4,000 unemployed people who recently lined up in subzero weather to apply for 500 job openings in a new Chicago Hotel. However, consider the fact that when the New York Telephone Co. was looking for people with the skills to become entry-level operators and technicians, the company had to screen 57,000 applicants before it found 2,000 possibilities. Workers need opportunities to learn to be creative and responsible problem solvers and to develop the skills and attitudes on which employers can build to offer more jobs to the American work force. To that end, I have worked with Senator KENNEDY to develop S. 1790, the High Skills, Competitive Work Force Act, which addresses many of these difficult problems by creating new training programs to prepare workers for the job market of the 1990's and beyond.

Again, I am delighted that the Congress and administration have agreed to work together to enact further unemployment benefits as quickly as possible. I know that we can all rest a little easier when we know that the American unemployed will at least have an additional 13 weeks of assistance. Beyond today's immediate need, I hope my colleagues will join me in pursuing new initiatives in work force training so that we can address our future competitiveness.

Mr. SANFORD. Mr. President, I rise to voice my support for S. 2173, a bill to provide additional unemployment benefits to out-of-work Americans. I am pleased that Congress has been able to act so quickly and decisively to bring this vitally important legislation to the Senate floor. And now that the President finally has realized the severity of the current recession and has come on board in support of extended unemployment insurance, there will be no disruption in benefits to those who have been out of work the longest during this recession.

Last week on the Senate floor I introduced a wide-ranging economic re-

covery plan. At that time, I noted that as I traveled throughout North Carolina these past few months, anxiety about the state of our economy was clearly the No. 1 concern on most everyone's mind. In my statement I outlined a number of steps we must take to get our economic engine chugging along again. The first item on my list, the one requiring immediate implementation, was extending unemployment insurance benefits. Extending these benefits is only a short-term remedy, but it is still a crucial need. While we pursue action to stimulate the economy, we must provide badly needed support to the over 2 million long-term unemployed throughout the country. Until the economy improves and unemployment falls, these benefits will help pay the mortgage and the doctor bills; they will help put food on the table and gasoline in the car. In North Carolina alone, an average of 22,000 people are collecting extended benefits each week. These are people who have been looking but unable to find work for at least the past 26 weeks. We must ensure that these out-of-work Americans—the biggest victims of a decade of voodoo economics—have the helping hand they need until the economy stabilizes.

I applaud the quick action on this bill to extend unemployment insurance benefits. But I must again emphasize that this is only a short-term remedy to a very serious problem. Let us now move as quickly with an economic recovery plan that will provide long-term solutions. We must invest in our future in a way that provides for job growth. To create good jobs, businesses need to make good investments. To do this, of course, they must have the money to invest, but that is difficult when the Government is gobbling up such a large percentage of the country's investment dollars. The long-term solution for reducing unemployment must be a commitment to enhanced savings, to provide the capital for investment in job-creating technologies.

Mr. WELLSTONE. Mr. President, our Nation continues to face an unemployment emergency, and this bill will help to address that emergency immediately.

The ranks of America's jobless continue to swell. According to the Department of Labor, the unemployment rate rose to 7.1 percent in December, up from 6.9 percent in November. In Minnesota, total unemployment in December rose three-tenths of 1 percent, with some counties in northern Minnesota, including Lake and Aitkin Counties, experiencing unemployment of from 9.5 to over 10 percent.

There are 8.9 million Americans out of work, an increase of almost 300,000 over November. Another 6.3 million are working part-time because they cannot find full-time work, and at least an additional 1 million have dropped out of

the work force altogether, frustrated by repeated unsuccessful attempts to find work at a decent wage; 600,000 of the over 1 million Americans currently receiving unemployment benefits will stop getting checks on February 15. Almost 1.5 million Americans have been unemployed longer than 26 weeks. The Nation's civilian employment figure has dropped to a nearly 3-year low of 116 million workers.

But these are statistics. They tell only part of the story. The real story can be read in the lined faces of the unemployed, in the stress and anxiety they are forced to undergo as they look, month after month, for a job—any job. Some of these workers are even forced to compete for low-paying jobs against their own children.

This persistent recession has been with us for many months, with few signs of letting up. These benefits should be extended now, to ease the anxiety and uncertainty of workers facing imminent cutoff of their benefits. I am glad to see we are not going to be caught in the same crunch for time we confronted before the holidays due to the administration's persistent refusal to approve extension of these benefits.

Last November, we extended unemployment benefits to millions of American workers after an almost 6-month struggle with the President. For over 6 months, the administration dithered, vetoing each attempt by this Congress to rush critical benefits to unemployed workers as the recession has deepened. We provided to the unemployed an additional 13 or 20 weeks of benefits, depending on the unemployment rate where they lived. This bill provides an additional 13 weeks of emergency benefits for unemployed workers above those current emergency program levels, and extends similar benefits to America's unemployed railroad workers.

Workers in some of these States with high unemployment have already begun to exhaust those benefits, and many more will exhaust in the next 6 weeks. We must prepare now for that looming crisis by extending further these emergency benefits. The financing mechanism developed to pay for these additional emergency benefits, which uses fiscal year 1992 and fiscal year 1993 savings from adoption of pay-as-you-go requirements last year and from increases in the rate of corporate tax collections, is a reasonable compromise—though I believe we could have drawn upon the over \$8 billion currently in the unemployment trust fund designed for that purpose. Our primary concern in this recession must be to get these benefits out soon. We must not put people through the same long and anxious period of waiting they endured last fall because of the President's unwillingness to fund these benefits.

Hearings are being held in the Banking, Budget and Finance Committees of the Senate in the coming weeks to refine major new initiatives to create jobs and put us back on the road to recovery. And there is no more work more important than this. But while we slay the dragons, the wounded must be cared for. While we address our systemic problems, brought on by a decade of voodoo economics and disinvestment in our human capital and in our physical infrastructure, people are slipping through the cracks. We must not let that happen.

I commend Chairman BENTSEN on this package, and I am grateful that he has moved so quickly to extend further emergency unemployment benefits. I think it is also a helpful sign that in this election year President Bush appears much more flexible on this question than he has been in the past, announcing his change of heart in his annual State of the Union address by agreeing to fund these benefits. Finally recognizing the seriousness of the recession, he has also begun to recognize the profound impact it has had on the unemployed. I hope that when it comes to actually being asked to sign another unemployment benefits extension bill, he will agree without the delays and equivocation of last year.

I should add that I continue to believe the Unemployment Insurance Program must soon undergo a thorough reevaluation and reform, to ensure that it efficiently, effectively and fairly serves the needs of America's unemployed. In this process, we should address particularly the problem of Federal benefit formulas which prevent benefits flowing to certain recipients under the emergency program who otherwise would be eligible under the regular program. I hope we can move forward on such comprehensive reform legislation soon.

Enough talk. This is the time to deliver. I urge my colleagues to support this measure to deliver these additional benefits soon, so America's unemployed will not be forced to wait and wonder, as they did for months last year, if they could pay for heat, and light, and food for themselves and their families. I urge my colleagues to move quickly and effectively on this bill well before the February 15 deadline, and I urge the President in the strongest possible terms to sign this bill into law immediately so there will be no disruption in the flow of benefits to America's long-term unemployed. While we put our economic house in order, while we restructure our economy, while we slay the dragons, the wounded must be cared for.

Mr. MCCAIN. Mr. President, I strongly support further extending unemployment insurance benefits to those in need. The President, in his State of the Union speech, called on the Congress to expeditiously act on this subject and I

am pleased that the Senate is heeding the President's advice.

Some 600,000 individuals will exhaust benefits in February alone. Unemployment in Arizona has risen to over 8 percent. These unfortunate individuals are in desperate need of help. The 13 extra weeks of unemployment benefits this legislation mandates are needed now.

We now have the opportunity to help those who are seeking employment and are not able to find it. However, Mr. President, let me emphasize that we must not accept this benefits extension as a solution to our problems.

Mr. President, President Bush and many of my colleagues on this side of the aisle have put forth many proposals to stimulate our economy and create jobs for the unemployed. Arizonans do not want to depend on unemployment insurance benefits for their well-being. Arizonans are some of the hardest working individuals in our great Nation. Mr. President, they want jobs and they want a strong economy.

The Senate must now turn its attention to passing legislation that will stimulate economic growth that will truly create jobs, not create more debt for our Nation.

The majority in the Senate has again and again brought forth legislation that seeks to help one group at the cost of another. Past legislation on this issue is a perfect example. Mr. President, the Democratic proposals of the past were not fully funded from existing revenues. In other words, they further increased the deficit. Another way to phrase it would be to say that they sought to further leverage our children's and grandchildren's futures.

Mr. President, I support this legislation because unemployment continues to be high, the Congress has an obligation to help those in need, and this bill is fiscally sound. However, let me register by strong discontent with Democratic Members of the Congress who blatantly continue to use legislation to further their election year political aspirations.

The President has called on the Congress to help the unemployed. The President additionally called on this body to do so in an economically sound manner that will not increase the deficit. It is particularly pleasing to see that at least on this bill, the Congress has done so and put the needs of our Nation ahead of politics.

As we pass this legislation—and I hope my colleagues will pass this measure to help the unemployed—I urge the Senate to quickly act on needed measures to ensure real economic growth for our Nation.

Mr. President, I yield the floor.

Mr. DOMENICI. I yield whatever time I have back to the distinguished Senator from Colorado for his use. I yield the floor.

Mr. BROWN. Mr. President, I yield back the remainder of our time on this side.

Mr. DASCHLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BROWN. Mr. President, I raise a point of order against H.R. 4095 on the basis it violates section 311(a) of the congressional budget.

Mr. DASCHLE addressed the Chair. The PRESIDING OFFICER. If the Senator will withhold, the Senator has a right to raise objection to the Senate bill which is now before us, not a House bill.

Mr. BROWN. I thank the Chair. Mr. President, I raise a point of order against S. 2173 on the basis that it violates section 311(a) of the Congressional Budget Act.

Mr. DASCHLE. Mr. President, pursuant to section 904(c) of the Congressional Budget Act of 1974, I move to waive section 311 of that act for purposes of the pending legislation.

Mr. DASCHLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll. Mr. FORD. I announce that the Senator from Indiana [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY], are necessarily absent.

I also announce that the Senator from Hawaii [Mr. INOUE], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER], is necessarily absent.

The yeas and nays resulted—yeas 88, nays 8, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—88

Adams	Exon	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Murkowski
Biden	Gore	Nickles
Bingaman	Gorton	Nunn
Bond	Graham	Packwood
Boren	Gramm	Pell
Bradley	Grassley	Pryor
Breaux	Hatch	Reid
Bryan	Hatfield	Riegle
Bumpers	Heflin	Robb
Burdick	Hollings	Rockefeller
Burns	Jeffords	Rudman
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Coats	Kasten	Sasser
Cochran	Kennedy	Seymour
Cohen	Kerry	Shelby
Conrad	Kohl	Simon
Cranston	Lautenberg	Simpson
D'Amato	Leahy	Smith
Danforth	Levin	Specter
Daschle	Lieberman	Stevens
DeConcini	Lott	Thurmond
Dixon	Lugar	Wellstone
Dodd	Mack	Wirth
Dole	McCain	Wofford
Domenici	McConnell	
Durenberger	Metzenbaum	

NAYS—8

Brown	Helms	Symms
Craig	Pressler	Wallop
Garn	Roth	

NOT VOTING—4

Harkin	Kerrey	Warner
Inouye		

The PRESIDING OFFICER. On this vote, the yeas are 88, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to, and the point of order falls.

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.

Glenn	Lieberman	Rockefeller
Gore	Lott	Roth
Gorton	Lugar	Rudman
Graham	Mack	Sanford
Gramm	McCain	Sarbanes
Grassley	McConnell	Sasser
Hatch	Metzenbaum	Seymour
Hatfield	Mikulski	Shelby
Heflin	Mitchell	Simon
Hollings	Moynihan	Simpson
Jeffords	Murkowski	Smith
Johnston	Nickles	Specter
Kassebaum	Nunn	Stevens
Kasten	Packwood	Thurmond
Kennedy	Pell	Wallop
Kerry	Pressler	Wellstone
Kohl	Pryor	Wirth
Lautenberg	Reid	Wofford
Leahy	Riegle	
Levin	Robb	

NAYS—2

Helms	Symms
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NOT VOTING—4

Harkin	Kerrey	Warner
Inouye		

So the bill (H.R. 4095) passed.

EXPLANATION OF VOTE

Mr. SYMMS. Mr. President, I came to the floor planning to vote for the extension of unemployment compensation. I suppose if my vote would have mattered that I might have voted for it, but I got to thinking, walking over to the floor, that the American people really deserve better than what they are getting out of their Government in Washington.

You do not have to be a rocket scientist to know that if all you do is continue to extend the welfare state that the welfare state is going to grow and that the private sector is going to continue to suffer. I do not have any lack of compassion for those people in Detroit, in Boise, in Pocatello, in Los Angeles, and other places where people are unemployed. I think we do have a responsibility to help those people. But we also have a responsibility to not continue to carry on business as usual, Mr. President. That is what is going on here. Congress is sweeping our economic problems under the rug.

What this Congress should be doing is freezing all spending across the board in the budget so that it could then reduce the payroll tax and give middle-income Americans and small business and all business a boost of extra cash flow. We should then reduce the capital gains rate of taxation. We should put passive losses back in for real estate losses so that we can get some incentive back into the real estate market in this country.

We should cut off about half of the spending of this army of bureaucrats that are hostile to people who are trying to produce goods and services in this country and starve them out. If that is all we can do, pay all these bureaucrats and regulators who run around and interfere with the progress of people trying to do things to improve the lifestyle of the American people, then we are doing a disservice to the American people.

I would say this, Mr. President. I think it is a safe bet to say that busi-

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1991

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider the House unemployment bill, H.R. 4095, recently received from the House.

The clerk will state the bill by title. The assistant legislative clerk read as follows:

A bill (H.R. 4095) to increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question occurs on H.R. 4095.

Mr. BENTSEN. 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 are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. INOUE] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—94

Adams	Bumpers	Danforth
Akaka	Burdick	Daschle
Baucus	Burns	DeConcini
Bentsen	Byrd	Dixon
Biden	Chafee	Dodd
Bingaman	Coats	Dole
Bond	Cochran	Domenici
Boren	Cohen	Durenberger
Bradley	Conrad	Exon
Breaux	Craig	Ford
Brown	Cranston	Fowler
Bryan	D'Amato	Garn

ness-as-usual is going to continue in this Congress. We will not freeze the budget. The only place the Congress will cut spending is in the defense of the country. It is the only place they will cut spending. They have been doing it every year since 1985 when we reached the peak. We have been reducing spending on defense since then.

It took the United States military 43 days to decimate the fourth strongest military organization in the world, that of Saddam Hussein's Iraq; 43 days is how long it took.

It will take the Congress about the same length of time to decimate the military service that did that wonderful job. And these are people we are talking about. When we in Congress want to cut \$100 billion out of defense, it is people. The investment is made, in many cases, in the ship or in the airplane or in the material or in the base, whatever. We are talking about cutting people out, people who have been promised work for our Nation's defense. So where will we be when Saddam Hussein himself gets reorganized and retooled? Or what if Iran goes in collusion with two of the Moslem Republics in what used to be the Soviet Union and gets fired up for another war? Where will the U.S. military be if we allow Congress to continue to cut them? I will predict here that the only thing Congress will do with reduction of spending will be to cut military spending. It will not look at anything else.

Now, Mr. President, in addition to this, this Congress and the administration, whom I usually support, will allow business-as-usual to go along. That is why we are here today to opt to just extend unemployment compensation. This is the Government that owns one-third of all the land in the United States. Now, you would think if we had economic problems, which I hear my colleagues talking about, you would think that maybe an unemployed couple in Detroit could be given an opportunity to go to Oregon or Washington or Idaho or Alaska on some of that Government-owned land and let them cut down some trees and earn a living. You would think that would be a U.S. policy. No, that is not the policy. We are going to preserve some of the best softwood timber in the world and let it fall and rot and die so that we can let two northern spotted owls have 3,600 acres. I think the American people deserve better than that, Mr. President.

Mr. President, I want to make another point. I see the distinguished senior Senator from Alaska on the floor. If we really have an unemployment problem in this country, why is it that we will not allow people in Alaska to drill oil wells in a covenant agreement that was made here when I was in the other body in 1980? They should be permitted to drill oil wells on the North Slope of Alaska.

I invite any Senator, Mr. President, who has not been to Alaska to go up

and visit the Arctic slope. What they ought to do is go in December or go in January. If you cannot drill an oil well up there, you should not be able to drill an oil well anywhere on Earth. It is a sheet of ice. But somehow we have been mixed up to think that out of 19 million acres in the Arctic National Wildlife Refuge, this Congress is blocking this country from the opportunity to have a footprint up there where oil wells would be drilled that would be the same size as Dulles Airport. That is what it is. It is so ridiculous. It is absolutely ridiculous, Mr. President. And yet we go along with business as usual.

We are bankrupting the country. We have an absolutely hostile, antagonistic Government to the producers in this country. There is no country in the world that the government is as hostile to their own producers as is the U.S. Government. The other ones that were that hostile, like the former Soviet Union, have been overthrown by their people, and now they are saying they want the people to own 60 percent of the land in those countries. In the State of the Senator from Alaska, the people only own 2 percent of the land—only 2 percent of it. This is the so-called United States, the country where private ownership is the fundamental difference between us and the countries that have failed in the recent year.

The fundamental difference between the United States and the former Soviet Union, Mr. President, is the right to own private property. But what has happened in this Government is taxes are too high, regulations are too excessive, and people cannot do business. So, they have to invest money out of the United States or lay people off because their companies are not competitive, and we, the Government's leaders, are still doing business as usual. It is as though we are the last people on the face of the Earth here in Congress to recognize what the problem is.

So it may be that it is right to extend unemployment. But, I would say that what is happening is that business-as-usual in the United States is that the people here in this Congress in the majority, who are running the agenda—and then the administration is forced to capitulate and cave in to them—if they were in the politburo in the former Soviet Union, they would be opposing perestroika. They would say, "Oh, no, we have to have more socialism, more government, that is our solution."

The solution is private ownership. The solution is to allow people an opportunity to go out and work, earn some money and keep it, but we are destroying that initiative in this country. So I only cast that vote just as a protest to the fact that I believe the American people deserve better. I hope they will start paying attention to what their Congressmen have been

doing and their Senators have been doing in the Congress these past many years and make some changes this fall, because the American people have it within their grasp to change this. They do not have to put up with a government that continues to run \$300 billion deficits, continues to raise their taxes, continues to regulate them, continues to tell every theater owner, every small business operator exactly how they have to fix everything in the store to comply with some utopian regulation.

I know the two Senators from Alaska must feel a great frustration to know the potential resources that their State can put out. The potential resources that their State could put out to help solve the unemployment problems in the United States of America could lead an economic recovery nationwide. But, the coercive utopians have the votes so they cannot open up their resources.

So what do we do this afternoon? Vote to extend unemployment compensation so we encourage people to stay there and sit by a factory that may never open again. Then we will wonder why it does not open. The reason it will not open again is because there is such an anticapitalistic attitude on the part of the Government here in the United States of America, Mr. President. That is what the problem is. I think we should start protesting business-as-usual and start getting back to basics, getting back to freedom, getting back to opportunity, capital growth and development, and give people an opportunity to be rewarded when they work and save and invest.

Mr. President, I yield the floor.

NATIONAL ENERGY SECURITY ACT

MOTION TO PROCEED

The PRESIDING OFFICER. The question recurs on the motion to proceed to S. 2166. The clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to S. 2166, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes.

The Senate continued with the consideration of the motion to proceed to the bill.

Mr. WALLOP. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. The Senate is still on the motion to proceed to the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. WALLOP. I thank the Chair.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH HOUSE OF COMMONS

Mr. MITCHELL. Mr. President and Members of the Senate, I call the attention of Senators to the presence in the Chamber of five of our distinguished colleagues from the British House of Commons, who have joined us here today. They are Mr. Twinn, Mr. Coombs, Mr. Corbet, Mr. Cox, and Mr. Gale.

We welcome them, as we have others. The British House of Commons is the institution most responsible in all of human history for the establishment and preservation of individual liberty. We are grateful to them for the heritage which they passed on to our Congress and for their cooperation today. We welcome our colleagues from the British House of Commons.

[Applause, Senators rising.]

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, last October, I appointed a Senate Democratic Task Force to determine what improvements, if any, could be made in the nomination and confirmation process. The task force was chaired by our distinguished majority whip, Senator FORD, and included four committee chairmen who have important responsibilities in this area: Senators BIDEN, BOREN, NUNN, and PELL.

That task force has made its report to me. I, in turn, have shared it with the President and with the distinguished Republican leader. Today, I am placing this report in the RECORD. I ask each Senator to give it consideration.

The American Constitution does not assign different weights to the President's nominating power and the Senate's decision as to whether it shall "advise and consent" to the confirmation of nominees. Instead, it establishes a process whereby the principal positions in our government can only be filled when the President and the Senate act jointly. Thus, from the time of our Founders, the Senate has been a vital partner in the process of evaluating candidates for service in high government positions.

Even Alexander Hamilton—an exponent of executive power—called this process a "union of the Senate with the President, in the article of appointments." In rejecting the argument that the "advise and consent" power would give the Senate undue influence over the President's selections, Hamilton wrote, "if by influencing the President be meant restraining him, this is precisely what must be intended."

The Senate's role in the process of evaluating nominees is particularly important, and particularly significant, when it comes to filling vacancies in the independent, third branch of government: the judiciary. Early drafts of the Constitution vested the power to

select judges in the Congress alone, and then in the Senate alone. Only in the final hours of the Constitutional Convention was the President assigned any role in the selection process—and then, as I noted earlier, it granted him a power that could only be exercised in concert with the Senate.

Thus, our constitutional history and tradition firmly establish an active role for the Senate in evaluating the fitness of candidates to serve in high executive branch offices, and in the Federal judiciary. Any proposed reforms of this process must begin with this basic understanding.

The task force started from this point, and sought to provide answers to four key questions about the confirmation process. First, how can we make this process less contentious? Second, how can we make it function more quickly, without sacrificing thoroughness? Third, how can we improve the way in which the Senate gathers information on nominees? And fourth, how can we make committee hearings on nominees more useful to the Senate and the public?

First, how can we make the confirmation process less contentious?

Controversial nominations gain considerable attention from the press and the public. But the fact is that, far more often than not, the Senate's confirmation process functions without contention. In the last 10 years, the Senate has received over 600,000 nominations from Presidents Reagan and Bush—and of that number, over 97 percent have been confirmed. In the last Congress, the Senate confirmed 99.8 percent of the 850 civilian nominations that it considered. In only a handful of these cases were any dissenting votes cast against the nominee.

Nonetheless, there have been several contentious nominations of the past few years. Though they are few in number, these are experiences that none of us involved in the confirmation process—either in the White House or the Senate—should wish to repeat.

As the task force suggests, one way to avoid such confrontations in the future is for the President to engage in meaningful consultation with the Senate before making significant nominations. With respect to the selection of Supreme Court Justices—where such consultations are most especially needed—a long line of President Bush's predecessors, starting with George Washington and going right through to Ronald Reagan, have consulted with Senate leaders on their selections. Countless historical examples justify consultations; the public supports it; and common sense counsels it.

In the past, President Bush has rejected the idea of consultation, saying that he will not yield on his "Presidential prerogatives." Yet this concern did not prevent many of his predecessors from undertaking consulta-

tions, nor does it prevent him from consulting Senators on nominees for the lower Federal courts—nominations which, as a result, almost always move through the Senate without controversy.

We do not expect the President to shrink the scope or exercise of his constitutional powers—but he cannot expect Members of the Senate to do so either. The American system of government is a constitutional democracy, where power is shared, not a monarchy, where power is concentrated in one person.

In an era of divided government, the choice the two branches face with respect to nominations is the choice we face with respect to all other matters: cooperation or confrontation.

Senate Democrats stand ready to consult with the President to discuss future nominations, to avoid the kind of conflict we have seen in the recent past. We are confident that meaningful consultation can occur without reducing the prerogatives of either branch of government, and in a way which more fully informs the President of other points of view prior to rather than after a nomination is made.

Our second challenge is to make the confirmation process function more quickly, without sacrificing thoroughness.

Last October, the President called on the Senate to act on nominations within 42 days. It is a reasonable goal, one we should seek to achieve here in the Senate. While there will be exceptions, I believe the committees can report, and the Senate can act upon nominees, within 42 days of the date on which their necessary paperwork is available for our consideration. And we say to the President we accept your recommendations. We will try to meet it.

So the Senate can and will do its part to speed up this process. But no one should over estimate the impact this will have on the process as a whole. The task force report shows that an average of 350 days—almost a year—passes between the creation of a vacancy and the Senate's confirmation of a nominee to fill that position. But of these 350 days, about 270 pass, on average, while waiting for the President to determine whom he will nominate. Then on average, another 28 days are consumed while the executive branch delays in submitting the paperwork needed to process these nominations.

Put another way: currently, the Senate waits almost 300 days before a nominee is selected by the President and his or her paperwork is completed—and then the Senate, on average, moves to confirm these nominees within roughly 50 days after this point.

I agree that the Senate should try to reduce its period for action from 50 days to meet the President's 42-day goal. But if this extra week is significant enough to merit the President's

attention, then surely the 300-day period that lapses while the Senate awaits action by the executive branch is also worthy of review. If we speed up our consideration of nominees, which accounts for just one-seventh of the time consumed in the appointments process, than surely the executive branch, which consumes six-sevenths of the time, has a duty to do the same—and more.

The delays in executive branch's action on nominees are dramatic, and at times inexcusable. After taking almost 270 days to select a nominee, why does it then take the administration, on average, another month to submit the nominee's forms to the Senate? Why not, as the task force urges, submit all the needed forms when the nominee's name is submitted to the Senate?

Currently, almost one of every six Federal judgeships is vacant. Yet for 91 of these 135 posts, the President has failed to submit any nominee to the Senate. One of these judgeships has been vacant for over 1,000 days without a nominee; 10 vacancies have been open for more than 600 days without a nominee from the President.

The President should take action to address these inordinate delays in the nomination process, as the Senate looks at the reductions needed in the time consumed in our confirmation process.

The task force's third challenge was to determine how we can improve the process under which the Senate gathers information on nominees.

We start with the recognition that the necessary process of reviewing a candidate's background, character, and fitness for high office inevitably involves the collection of sensitive information about a nominee, and perhaps other persons as well. When the Senate, its Members, its committees, and their staffs review such information, the privacy rights of those involved must be respected.

The task force reaffirms the seriousness of this trust, by calling for the "swift and severe punishment" of any Member or employee of the Senate who discloses confidential information obtained in the confirmation process. The task force also recommends a procedure for investigating any suspected leaks, and timetable for disciplining employees found to have engaged in unauthorized disclosures.

The task force addresses several other aspects of the information gathering process.

The first of these concerns the forms which nominees must complete before they take office. The President has commented on the burdensome nature of the confirmation process, and an earlier commission that he appointed called on Senate committees to adopt one standard form for all nominees, with specific addenda as appropriate. The task force accepted this proposal,

and has recommended it to the Senate, a position with which I agree as well.

But as we undertake this reform, perhaps the executive branch should reconsider its forms, too. While Senate committees may now have different forms, each generally asks nominees to complete only one form. The executive branch, by contrast, often asks for duplicative data on three distinct forms from each nominee. Once again, if the Senate is to consider whether our single form is too burdensome—as it will—surely the executive branch can determine how its multiple forms can be streamlined.

Another area reviewed by the task force was the willingness of the executive branch to share the information it compiles about nominees with the Senate.

As noted above, the executive branch takes more than five times as long to perform its portion of the appointments process as does the Senate. Yet if the Senate is not given the benefit of the information obtained in this lengthy process, then surely the length of Senate review will grow closer to that of the White House. As a result, the task force specifically recommends—and I endorse—restoration of the previous agreements between the executive branch and Senate committees regarding the sharing of background information. It is my understanding that the specific arrangements between the administration and the Judiciary Committee are under discussion at the present time.

The task force also calls on the executive branch to provide a certification that its files on a nominee contain no adverse information on that person—or an explanation when a nominee is submitted to the Senate notwithstanding the presence of such information.

The task force also calls for greater thoroughness in initial background checks performed on nominees by the FBI, so that fewer followup investigations by the Bureau or the Senate—which add to delay—are required.

The report also observes, properly in my view, that if the appropriate information on nominees is not forthcoming from the executive branch, the Senate will have no choice but to expand its own investigative capacities to make up the difference. This is a step I hope we will not have to take.

Finally, the task force considered how committee hearings on nominees can be made more useful to the Senate and to the public.

It is appropriate to begin by reviewing how the Senate's process for considering nominees differs from the executive branch's process. While there are many differences, none is more fundamental than this one: The Senate's process, unlike the President's, is conducted within the full view of the public, in the form of open confirmation hearings.

Critics bemoan the nature, the extent, or the scope of the questioning in Senate confirmation hearings. But these critics should keep in mind that they have no idea what questions—what political or ideological considerations—are brought to bear in the executive branch's review of potential candidates for a position. That is a process conducted entirely in private. It is insulated from public scrutiny. It is wholly unbalanced to hyperanalyze the process that the Senate uses to consider nominees, while uttering not a word about the process the President uses to consider and reject many possible candidates for each nomination.

The wisdom of the open nature of Senate hearings was widely questioned during the Judiciary Committee's consideration of the charges of sexual harassment against Judge Thomas last fall. After being criticized for conducting its investigation of the charges in confidence before the public disclosure of the allegations, the committee was then criticized even more for conducting its subsequent hearings on these matters in public.

As Chairman BIDEN noted at the time, Senate rules already provide for the closing of hearings under certain circumstances. Among those circumstances is the prospect that a witness testimony would constitute an undue burden on his or her right to privacy. At the outset of the Thomas-Hill hearings, Chairman BIDEN invited any witness so concerned to request a private session—a request he pledged to honor with the committee's assent. No witness who appeared those days ever made any such request of the committee—all preferred to have their stories heard by the public, rather than behind closed doors.

The task force reviewed this situation, and concluded that the current Senate rules strike an appropriate balance between an individual's right to privacy and the public's right to know. The task force calls on Senate committees to consider a closed session on a nomination when any witness deems that his or her testimony in open session will invade or injure his or her reputation.

Though ultimately it is each committee's decision whether to hold a closed session, the task force properly recognizes that the initial choice must be that of a witness who appears in a confirmation proceeding. If that witness makes no request to testify in private, after having been notified of the right to do so, then the Senate rules and the public interest support an open session. If, conversely, a private session is requested, then the rules provide the appropriate factors to be weighed when the committee votes upon that request.

The task force further reviewed various proposals that have been made for changing the conduct of confirmation

hearings. By and large, it concluded that each committee must determine what processes and procedures are right for its needs, under the circumstances. But some general conclusions, with applicability to all confirmation hearings, were reached by the task force.

It flatly rejected the notion, which has been mentioned recently, that the Senate should abandon its modern practice of inviting nominees to appear before committees as part of the confirmation process.

Some critics have complained about confirmation hearings, and have suggested that they are unfair to nominees. Yet it is hard to imagine anything more unfair than a return to the earlier era in which the Senate voted on nominees without giving them the opportunity to present their views to the public. The President knows this, and so do nominees—they come to testify of their own free will. Indeed, it has been my observation that nominees whose confirmations are contested are among those most eager to come to make their case.

Like many other criticisms of the confirmation process, the complaint that nominees are obliged to appear before our committees is unfounded. And for all the concern expressed over such hearings, they create an atmosphere that is fairer to all involved, and more likely to result in the confirmation of a worthy nominee, than does the alternative. As an aside, I note that in the case of Supreme Court nominees, the Senate's rate of confirming justices has been higher since the advent of hearings than it was in the period before such hearings were conducted.

The effect of hearings has been to increase the rate at which confirmations have occurred.

One hearing reform proposal that the task force did recommend was better communication between nominees and committees prior to the onset of confirmation hearings. Specifically, the task force called on Senate committees to make clear, in advance, which subjects and which documents will be the basis for questioning a nominee, before any confirmation hearing is held. The task force also said, however, that in exchange for such advance notice, nominees should come to their hearings familiar with these subjects and documents, and prepared to answer any appropriate questions about them.

In closing, I want to reemphasize that genuine reform of the appointments process will require cooperation from both the Senate and the President.

I hope the President is interested in joining us in the spirit of true reform. The task force report lays out a sound and balanced agenda for such action. I hope we will not see more delay and more confrontation in the appointment process.

That is an outcome that I do not want to see; that, Senate Democrats do into want to see; that I am confident our Republican colleagues do not want to see, and that the American people do not want to see.

I thank Chairman FORD and the other members of his task force for their work on this report, and I ask unanimous consent that it be printed in the RECORD.

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

REPORT OF THE TASK FORCE ON THE
CONFIRMATION PROCESS
(U.S. Senate, December 18, 1991)

FOREWORD

Article II, Section 2 of the Constitution provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States * * *." Through the debates at the Constitutional Convention, the debates on the ratification of the Constitution, and two centuries of Senate precedent, the confirmation process has become deeply rooted in our nation's constitutional heritage.

Several recent confirmations of presidential nominees have generated intense interest in the confirmation process. Much of this scrutiny has focused on only a few of the thousands of nominations which are routinely and expeditiously considered by the Senate during each legislative session. Most confirmations are considered without fanfare and with little public attention. There are exceptions and these have generally involved nominations to high public offices involving issues of a national and sensitive nature.

The Task Force has carefully examined current Senate Rules and has concluded that they provide a sound basis for conducting confirmation proceedings in a manner that balances the nominee's privacy interests and the public interest in open confirmation proceedings. It would be a mistake for the Senate to abandon its role of "advice and consent" by revising the Standing Rules simply to avoid controversy. Rather, the President should seek to engage in prior consultations with the leadership of the Senate in an effort to minimize unnecessary conflict and controversy in the confirmation process.

In a system of government composed of three separate and equal branches, the Senate cannot abrogate its constitutional responsibilities for any nomination, especially those for a lifetime appointment. The Senate confirmation process is an integral part of the system of checks and balances. Without the confirmation process, the Executive Branch would be able to dominate the Judicial Branch to the point that it would no longer function as a separate and independent branch of government.

The objective of the Task Force on the Confirmation Process was to consider ways in which the Senate can fulfill its constitutional responsibilities in the confirmation process in a timely and accountable manner, maintaining the integrity of three separate and equal branches of government with the checks and balances devised by the Founding Fathers.

I. HISTORICAL PERSPECTIVE OF THE "ADVISE
AND CONSENT" CLAUSE

The Constitution does not speak of a confirmation process. It assigns to the Senate

the responsibility to provide its "advice and consent" before nominees are permitted to assume government office. Consultations between the branches before a nominee is selected permits the Senate to exercise its advisory role under the Constitution. This is particularly true in the appointment of members of the third and independent branch of government, the judiciary.

The history of the Constitutional Convention demonstrates that the Framers did not intend to give the appointment power solely to the President. As the Convention met, it adopted a plan to vest the Congress with the exclusive role of appointing officers. As the Convention progressed, alternative proposals to give the President the exclusive authority to make appointments were rejected because of a shared commitment to keep the President from amassing too much power. Not until the closing days of the Convention was a compromise reached which gave the President any role in the nomination process, and even then it was only with the "advice and consent" of the Senate.

The ratification debates make it clear that the Senate was expected to play an active role in the appointment process, particularly with respect to judicial nominations. In *Federalist 76*, Hamilton wrote that Senatorial review would prevent the President from appointing justices to be "the obsequious instruments of his pleasure." Responding to the argument that the Senate's refusal to confirm a nominee would give the Senate an improper influence over the President, Hamilton wrote in *Federalist 77*: "If by influencing the President, be meant restraining him, that is precisely what must have been intended."

From the beginning, the Senate has taken its "advice" function as seriously as its "consent" role. During the first four Presidential administrations, a committee appointed by the Senate occasionally consulted with the President as an advisory council regarding nominations. This formal consultation was not practiced routinely. An informal process developed whereby the President conferred in person or through assistants with the leadership of his party in Congress. At other times, the entire congressional leadership met with the President.

There is considerable precedent of informal consultations between the President and the Senate in the selection of nominees, particularly those for the Supreme Court. In a famous incident, President Hoover consulted with Senate leaders, presenting them with a list of names that placed New York judge Benjamin Cardozo at the bottom. Senator William Borah, after reviewing the list is said to have told President Hoover: "Your list is all right, but you handed it to me upside down." Hoover nominated Cardozo.

The Senate became involved in the selection of officials for certain positions through a procedure which has become known as "senatorial courtesy." This procedure permits Senators of the President's party to express their views on a candidate or to even propose a candidate for positions in their respective States. If a Senator does not favor a nominated candidate, that Senator may claim the candidate to be objectionable, which can lead to withdrawal or rejection of the nominee. This custom may also be invoked by Senators when a citizen of their State is nominated for a regional or national position. While the growth of the professional civil service has reduced the scope of senatorial courtesy, numerous positions are still subject to the custom. These positions include appointments to U.S. district courts

and the offices of U.S. Attorneys and U.S. Marshals.

Under Article 2, Section 2 of the Constitution, virtually all executive officers and judges must be confirmed by the Senate unless Congress, by law, vests the appointment power in the executive branch. Although Congress has authorized the President to appoint a wide variety of officers without Senate confirmation, Congress has reconsidered such delegation when necessary to strengthen Congressional oversight of appointments. For example, in 1974 the Director and Deputy Director of the Office of Management and Budget were made subject to Senate confirmation. Additionally, the Congress has sought to enhance the Senate's role by creating fixed terms for certain positions.

The Congress has also sought to protect the Senate's role in the appointment process by enacting legislation concerning the President's authority to make recess appointments during the periods the Congress has recessed or adjourned. By statute, a recess appointment to a position that was vacant while the Senate was in session may trigger a salary cutoff of Treasury funds for the position, unless specific criteria are met, i.e. the vacancy arose 30 days prior to the end of the Senate session; a nomination was pending at the end of the session; or a nomination was rejected by the Senate 30 days before the recess or adjournment and the individual appointed is other than the nominee previously rejected. 5 U.S.C. § 5503(a).

II. STATISTICAL ANALYSIS OF CONFIRMATIONS

In any given year, less than one percent of all nominations are subject to intense scrutiny by the Senate. Historically, the Senate has confirmed the overwhelming majority of nominations, including those for full-time policy making positions. In the last ten years, the Senate has received over 600,000 nominations. Of that amount, 97 percent have been confirmed.

Since the confirmation process began in 1789, approximately twenty percent of the nominations to the Supreme Court have failed to gain Senate approval. In contrast, less than two percent of Cabinet nominations have failed to receive that approval. Over the course of two centuries, the judicial system has grown dramatically; this has resulted in a corresponding increase in judicial nominations requiring Senate approval. Today, under existing law, there are ten distinct court systems in the United States, involving a total of 961 judgeships.

During the last ten years, the Senate received 630 judicial nominations. Of these nominations, 86.6 percent submitted by President Reagan and 95 percent submitted by President Bush, received Senate confirmation. These percentages actually understate significantly the success in nominations approved because some nominations that failed to receive Senate confirmation involved nominees who eventually were confirmed after being renominated at a later time. Only twice during this ten-year period did a negative committee vote prevent a judicial nomination from being considered by the full Senate, and only once did the Senate vote to reject a judicial nomination.

In the 101st Congress, the Senate received over 93,000 nominations and promotions for confirmation. The nominations were to civilian positions; civilian positions in the Foreign Service, Coast Guard, National Oceanic and Atmospheric Administration, and the Public Health Service; and military positions in the Army, Air Force, Navy and Marine Corps. Promotions requiring confirmation include those in the military and the

Coast Guard, Foreign Service and civilian uniformed services (National Oceanic and Atmospheric Administration, and Public Health Service). Of the total nominations received in the 101st Congress, 1021 were civilian nominations (exclusive of those to the Foreign Service, Coast Guard, National Oceanic and Atmospheric Administration, and the Public Health Service); of those, 853 nominations were actually considered by the Senate, and 99.8 percent of those nominations were confirmed.

Not only has the Senate confirmed the vast majority of nominations, but it has done so in an expeditious and timely manner. In preparing its analysis of the confirmation process, the Task Force surveyed the Standing Committees of the Senate on the various issues surrounding the confirmation process. This survey requested information from the committees spanning the last five years. Based on the information provided by committees which receive and consider nominations, the average time of consideration for a nomination was 48 days. This figure represents the time between the date the committee received all the necessary paperwork and information on a nominee and the date the committee reported the nomination to the full Senate.

These statistics indicate that the real delay in the process lies with the Presidential nomination rather than the Senate confirmation. Based on information provided by the committees in response to the Task Force survey, the average length of time a position has been vacant, before a nomination is made by the President, is 267 days. The White House has averaged almost 28 days between making a nomination and transmitting the information relevant to that nomination to the appropriate committee. A timely and accountable appointment process requires prompt action by the White House. The Senate cannot begin confirmation procedures until a nomination is submitted by the President. Nevertheless, the Senate recognizes its responsibilities and should review and streamline the confirmation process to assure the public that it can and will act responsibly.

III. NATURE OF POSITIONS

Senate confirmations encompass a wide range of positions, with considerable differences in the nature of duties, impact on national and international affairs, the degree of independence from the President, full or part-time status, and tenure. In assessing the fitness of any nominee, it is difficult at best, to establish one standard that could be applied by either the President or the Senate.

The nominations considered by the Senate include: Ambassadors; U.S. representatives to international organizations; Cabinet and sub-Cabinet positions; officials in the Executive Office of the President; officials in separate agencies; officials in independent agencies; officials serving in short-term positions addressing specific policy decisions; officials in part-time positions on advisory panels; foreign service officers; military officers selected for promotion by statutory selection boards; military officers selected for promotion under the President's Article II appointment authority without the involvement of a selection board; military officers selected for assignment to a position for which a selection board is not required; Article I judges; and Article III judges.

The terms of office vary as well as the positions. Executive branch officials usually serve at the pleasure of the President, while officials of independent agencies normally

serve terms that extend beyond the term of a President. Military officers also serve at varied tenure levels. Article I judges, i.e. Tax Court, Claims Court, Court of Military Appeals, Court of Veteran Appeals, usually serve a 15 year term, and may be removed for a specified statutory reason.

The unique distinction of Article III appointments makes the Senate role all that more crucial. Appointments to the Supreme Court, and the various Federal circuit and district courts, are to an independent branch of the Federal government and are tenured for lifetime. Removal is only through impeachment. The Senate has one opportunity to review the credentials, the political and constitutional views of the nominees. For positions to the Supreme Court, this review is of paramount importance. As the only court of no further appeal, the Supreme Court itself is the only court with unreviewable power to change precedents. Only the Senate can guard against the abuse of this power.

IV. THE COMMITTEE HEARING

The appointment process for federal positions that require Senate confirmation begins with the President's selection. This aspect of the process is conducted, for the most part, in private. The President's selection process involves background investigations, including an investigation conducted by the Federal Bureau of Investigation. Access to this information is controlled by the President, and he selects which, if any, of his advisors may review that information. Only such information as the President chooses to divulge is released to the public.

The Constitution assigns to the Senate alone the responsibility for reviewing Presidential nominations. In conducting this responsibility, the Senate has made the determination to conduct a significant aspect of its nomination process in public. The confirmation hearing is the only point in the appointment process of Federal officials that offers the public an opportunity to evaluate the qualifications of a nominee. The Senate has taken this obligation seriously and believes that the public hearing process is vital to the Senate's constitutional role of "advice and consent."

The Senate has not formally established a set of uniform guidelines for the evaluation of a nominee's fitness for a particular position. This reflects the fact that there are significant differences in the nature of the duties, authorities, and tenure of the positions subject to Senate confirmation. Each committee, however, has developed similar rules and criteria for judging a nominee's qualifications. In the process, the Senate and its committees routinely focus on four factors—conflicts of interest, character and integrity, professional competence and relevant experience, and views and ideology.

Any consideration of the confirmation process must also recognize that concern about a nominee must focus on public policy issues, and how the nominee is likely to affect those issues. This concern has been apparent from the very beginning of the Senate's history when the Senate rejected John Rutledge to be Chief Justice of the Supreme Court in 1795 because of his outspoken opposition to the Jay Treaty. Two centuries of Senate precedent firmly establish that the Senate has taken seriously its role in restraining the President by considering the political and constitutional views of nominees to determine their fitness to serve in high government positions. Since Washington's day, and the Rutledge rejection, the precedent of considering political and con-

stitutional views of a nominee has been frequently reinforced and extended.

Confirmation hearings are not adversarial proceedings; they are part of the Senate's exercise of a constitutionally-mandated duty. They should consist of a productive exchange of views. The American people have a right to hear the testimony of nominees, wherein they describe their competence and their positions on issues of public policy relating to the office for which they have been nominated. The public hearing is an integral part of the confirmation process for determining the fitness of a nominee to fill a specific position; it is important for the nominee to actively participate in the process. As the only public aspect of the appointment process, the Senate hearing is necessary so that the public may witness and judge a nominee's fitness and qualifications.

The duty of reviewing a nominee's qualifications should remain with the Members of the Senate. Senators have the unique qualifications and historical perspective to put nominee's answers in their proper context, based on prior confirmation hearings in which those Senators have participated. The Task Force considered recommending that all committees use committee counsel to conduct the questioning of nominees at confirmation hearings and rejected that option. Current rules permit committees to give their legal counsel a more active role in a committee hearing, including a confirmation process. The determination to use committee counsel should be made by the respective committees, based on their unique needs and circumstances.

V. CONDUCT OF HEARINGS—PRIVACY RIGHTS OF THE NOMINEE AND COMPETING PUBLIC INTEREST IN OPEN HEARINGS

There is a natural tension between the interest of privacy and the context of a public hearing in the confirmation process. Given the critical importance of the Senate's consideration of a nominee in public, only in the case of significant concern for the interests of an individual's right to privacy should a hearing be closed to the public and then, only to the extent necessary to protect the specific privacy interest.

The first public confirmation hearings were held in 1916 to consider the nomination of Louis Brandeis to be an associate justice of the Supreme Court. The Standing Rules of the Senate were not amended until 1975 to require public committee hearings. A significant development has been the advent of television coverage. Like the practice of public hearings, the televising of hearings began before a provision in the Senate rules. The first televised hearings were in 1969 with the confirmation proceedings of Walter J. Hickle to be the Secretary of the Interior, followed in 1973 and 1974 by the Committee on Rules and Administration hearings on Gerald Ford and Nelson Rockefeller, respectively, to be Vice President.

Rule 26 of the Standing Rules of the Senate provides that committee hearings are to be open to the public, except that a hearing may be closed "on a motion made and seconded to go into closed session to discuss" whether certain enumerated provisions of the rule require a closed meeting. Such a motion must be determined by a recorded and public vote of the committee. The rule's specific reasons to conduct a closed meeting cover a wide array of situations which are set forth in paragraph 5(b)(3) of Rule 26. The rule provides a committee sufficient latitude for the exercise of discretion in determining when to conduct a closed hearing. The rule accomplishes this while safeguarding the

right of public access to information regarding nominees. Committees should be cognizant of the importance of a nominee's, or a witness' right to privacy. In instances when the testimony is likely to involve allegations that could invade and injure a person's reputation, a committee should consider a closed session when that person so requests.

While the Standing Rules of the Senate permit the closing of hearings to protect individuals' privacy interests, the entire nomination and confirmation process is undermined by unauthorized disclosures of confidential information. Confidentiality must be respected by the Executive Branch as well as the Senate.

The release of confidential information, whether by the Executive Branch or the Senate, is condemned as injurious to the nomination and confirmation process. The Senate should be aggressive in pursuing the source of unauthorized disclosures of confidential information. Each committee should adopt a rule on improper disclosures of confidential information. Any staff member of the Senate who improperly releases information, without the authorization of the committee, should be subject to swift and severe punishment, which could extend to termination of employment. In those instances where information is improperly released, the committee involved should immediately undertake an investigation to determine the responsible party. In the event that a committee does not act promptly, the Senate Leadership should be authorized to appoint outside counsel to conduct an investigation pursuant to established procedures of the Senate with regard to contracting for professional services.

The improper release of information by a Member should be subject to consideration by the Select Committee on Ethics.

VI. ACCOUNTABILITY AND RESPONSIBILITY FOR A TIMELY CONFIRMATION PROCESS

While the confirmation process has been criticized as lengthy and unduly contentious, a review of the facts with respect to nominations demonstrates that the Administration's approach to the nomination process is responsible for the vast majority of delays. Judicial appointments in the 102nd Congress have been confirmed, on average, in 10 weeks. The President has averaged 10 months or more to select nominees. One out of ten federal judgeships are currently vacant. Eleven federal judicial circuits and district courts are in an officially proclaimed "state of judicial emergency" because of these vacancies. For 100 of the 135 vacant positions, President Bush has yet to nominate a candidate for Senate consideration. Ten judgeships have been vacant for 550 days, and seven judgeships have been vacant for over two years, without the President making a nomination.

The most critical evaluation of potential nominees occurs before submission to the Senate. If the process functions properly, unsuitable candidates will be screened out by the President before they are nominated. The responsibility for screening nominees lies first and foremost with the President and his administration. Their investigations must be thorough and complete. It is not in the interest of any party for unfit candidates to be nominated, with the Senate left to identify and reject such an unfit nominee. Too often, Executive Branch investigative reports received by the Senate are incomplete in obvious respects. The confirmation process is needlessly slowed when Senate committees are forced to ask the President for supplemental information where such re-

quests are reasonably capable of being anticipated by the Administration.

Historically, comity has existed between the Executive Branch and the Senate in the nomination process. Through its investigation of nominees, the White House compiles a substantial amount of information about candidates. These investigations include the development of detailed reports by the Federal Bureau of Investigation. As part of the comity between the two branches, the White House has traditionally shared such F.B.I. information with senior Committee members. Recently, the Administration made the determination to provide only summaries of these reports to committees. Such summaries are known to be incomplete and potentially misleading. The Task Force does not challenge or question the quality of the F.B.I.'s investigative work; the routine F.B.I. background investigations on nominees are generally thorough and usually reliable. However, when difficult questions are raised in a committee regarding a nominee, reliance on the summaries is not acceptable. The Senate is restricted in directing the F.B.I. to provide further investigative reports because that agency works at the direction of the White House counsel, who, having participated in the selection of a nominee, has a strong interest in the nominee's confirmation.

If the Administration does not provide timely and responsive access to investigative materials, the Senate will be compelled to expand its resources and establish an internal process for committees to investigate serious allegations about a nominee. Committees with their own existing investigative personnel might expand their staffs; experienced special investigative counsel could be retained on an as-needed basis; such counsel could be retained on a full-time basis by a centralized unit in the Senate and detailed to different committees as required; or investigators and auditors could be detailed from existing Federal agencies, such as the General Accounting Office.

Despite the utilization of extensive resources in the Government (including the F.B.I., the Internal Revenue Service, military, intelligence and diplomatic security clearance procedures, agency or department ethics officials, Inspector General offices, and the Office of Government Ethics) to review the character, qualifications and fitness of a nominee, at present only one formal certification of nominees is prepared: that of the Office of Government Ethics. This certification is based solely on a review of the financial information submitted by a nominee pursuant to the Ethics in Government Act, and reports to the appropriate Senate committee the nominee's compliance with applicable laws and regulations governing conflict of interests with respect to the nominee's proposed duties.

In addition to the information provided by the Executive Branch, the Senate should request that the Administration submit a certification or other formal statement that indicates that in the full field background investigation and White House conflict of interest review, nothing was found that reflects adversely on the nominee that is not explained or revealed in the reports submitted by the Administration. Should adverse information have been found and viewed by the White House to be not disqualifying, the President's counsel should so inform a Committee of this information in a confidential communication or meeting. It should be noted that the current practice of the Committee on Armed Services requires that the

Executive Branch submit a similar certification when it transmits nominations for promotion to a general officer position.

In 1990, a Presidential Commission proposed that the Senate committees adopt one standard questionnaire for completion by all nominees to be confirmed by the Senate. The Commission recommended that each committee would be able to use a supplemental questionnaire for specialized information relevant to that committee's area of expertise. While the development of a standard Senate form is a desirable goal, the nomination process requires the cooperation of the nominee and the President. Expeditious handling of the Senate's request for information would propel the confirmation process.

An indispensable element of information gathering on nominees is the submission of Senate committee questionnaires. Some have complained that these questionnaires are unduly burdensome. It should be noted that nominees are currently required to complete two similar questionnaires for the Executive Branch—the Presidential Data Form and the Standard Form (SF-86). Neither form is shared with the Senate. The single Senate form provided by committees to nominees is a necessary aspect of the confirmation process. In developing a single form for nominees to complete, committees would not be precluded from requesting supplemental information. In an effort to streamline the confirmation process, the Executive Branch should transmit the completed Senate questionnaire at the same time it transmits the nomination to the Senate.

Through joint cooperation, the Senate and the Administration would be able to act quickly and confidentially to evaluate and resolve potential problems at the outset of the process. By restricting access and availability of information, the Senate is placed in the position of delaying the confirmation process through needless repetitive investigations which only results in a harmful delay to the nominee and the Senate's ability to act in a deliberative manner.

VII. RECOMMENDATIONS

Having considered the constitutional and historical perspectives of the confirmation process, and in an effort to expedite the process and preserve the Senate's constitutional role of "advice and consent," the Task Force makes the following recommendations:

1. The President should respect the "advice and consent" role of the Senate by engaging in more extensive consultations with Senate leaders before making future nominations. Under the Constitution the Senate has the obligation to provide its "advice and consent" to Presidential nominations. Consultation between the branches would enhance comity between the Executive Branch and the Senate. Specifically, the Task Force recommends:

a. Immediate consultations between the President and Senate leaders on future Supreme Court nominations should now begin. There is strong precedent and broad public support for such cooperation. The Supreme Court is part of the independent branch of government that both the Executive and Legislative Branches must jointly shape, and it, in turn, shapes them.

b. Consultations on Executive Branch nominees should be conducted, with advanced notice wherever possible. Such consultations would minimize conflict between the two branches, and expedite the confirmation process.

2. To speed the confirmation process, the Executive Branch should submit nomina-

tions promptly when a vacancy occurs, streamline and expedite its investigative process, and certify that nominees are fit for confirmation. The Task Force recommends the following:

a. The Executive Branch should set a target date for filling vacancies.

b. Administration investigations of nominees should be thorough and complete. The failure to conduct a thorough investigation of a nominee results in a duplication of efforts because the Senate must conduct supplemental investigations. As a result, time is needlessly consumed.

c. The Executive Branch should consolidate forms it asks nominees to complete. The Senate requests one form from nominees, while the Executive Branch asks nominees to complete three forms.

d. The Executive Branch should certify that its files contain no adverse information on a nominee that is not explained or disclosed in the reports submitted to the Senate. In the event that the Executive Branch investigations reveal adverse information which is viewed as not disqualifying, and the President nonetheless proceeds to nominate the candidate, the President's counsel should so inform a committee in a confidential communication or meeting.

e. All information needed to review a nominee should be submitted when the President forwards the nomination to the Senate. In an effort to streamline the process and confirm the nominee in an expeditious manner, the White House should forward all relevant information and forms, including ethics forms and a completed Senate questionnaire, at the same time the President submits a nomination to the Senate.

3. Any unauthorized release of confidential information in the confirmation process should be promptly investigated and fully punished. Each committee should adopt a rule on improper disclosure of confidential information. The Task Force recommends:

a. Any unauthorized release should be swiftly and severely punished.

b. Any such unauthorized release (i) by staff, should be subject to sanctions, which could extend to termination of employment; and (ii) by a Senator, should be subject to consideration by the Select Committee on Ethics.

c. Any suspected leak should be promptly investigated. If a committee does not undertake an investigation, the Senate Leadership should be authorized to direct the Senate Legal Counsel to appoint an outside counsel to conduct an investigation. Within ten days of any report revealing an unauthorized disclosure by a Senate employee, his or her employer should report to the Senate Leadership the disciplinary action taken.

4. The Committees of the Senate should adopt a questionnaire for Presidential nominees, with each committee permitted to request supplemental information as needed. This is a recommendation of the President's Commission on the Federal Appointment Process which the Task Force endorses. The Task Force urges the Administration to provide Senate forms to nominees for advance completion, and to submit the form at the same time and the nomination is transmitted to the Senate.

5. Comity should be restored between the Executive Branch and the Senate with the sharing of information on nominees; the failure to exchange information will require the Senate to conduct more extensive independent investigations in the future. Historically, the Executive Branch has shared the background information it compiles on can-

didates. This sharing of information eliminates the need for duplicative Senate investigations. Recently, the Administration has announced new restrictions on the use of this background information by Senate committees. The Task Force recommends that the Administration restore the previous agreement for Senate access to background information. This generally entailed providing FBI summaries to committee chairmen and ranking members; in some cases, where appropriate, wider access to the data or access to the full reports was provided. The previous arrangements functioned well.

6. If the Administration restricts the background information on nominees it provides to Senate committees so that the committees cannot adequately evaluate the qualifications and fitness of nominees, it will be necessary for the Senate to expand its capabilities for Senate committees to conduct thorough investigations of nominees. Committees with investigators now on staff might expand their existing personnel; special investigative counsel could be retained on an as-needed basis; such counsel could be retained on a full-time basis by a centralized unit in the Senate and detailed to different committees as required; or investigators and auditors could be detailed from existing Federal agencies, such as the General Accounting Office.

7. The confirmation process must carefully balance the nominee's right to privacy against the public's right to know, with any curtailment of the latter approached cautiously. Unlike the Executive Branch's closed process for selecting nominees, the Senate's confirmation hearings are the only aspect of the appointment process open to the public. The Task Force recommends:

a. While the nominee's right to privacy is important, the public's right to know must be zealously guarded. Any curtailment of this right to know must be approached cautiously.

b. The Standing Rules of the Senate should be applied carefully in determining whether to conduct a closed hearing. In instances where testimony is likely to involve allegations that could invade and injure the reputation of a nominee, a committee should consider a closed session when a nominee so requests.

8. Committees and nominees should work together to make the confirmation hearings useful inquiries into the nominee's background, qualifications, and views. The Task Force continues to believe that Committee hearings play a vital role in the confirmation process. The Task Force recommends:

a. Committees should continue to invite nominees to appear at confirmation hearings. These hearings provide the only opportunity for the Senate and the public at large to judge the qualifications and fitness of nominees.

b. Committees should make clear, in advance, which subjects and documents will be the basis for questioning a nominee; in return, the nominee should be familiar with these matters, and prepared to answer questions about them.

9. Serious consideration should be given to the establishment of a separate office in the Executive Branch for the purpose of processing nominations. This office could serve to process nominations in a timely, efficient and objective manner. In addition, the information needs of the President and his staff, as well as the needs of the Senate could be served by this office. The Task Force recognizes that the creation of a separate office within the Executive Branch will not nec-

essarily result in an objective analysis of a nominee's qualifications. It would represent an improvement in the compilation of information about a nominee over the current process which uses the Office of the White House Legal Counsel, who serves as an advocate for the President.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. FORD. Mr. President, late last fall, the majority leader appointed a Task Force on the Confirmation Process, consisting of Senators BIDEN, BOREN, NUNN, PELL, and myself. We were asked to find a way to restore the confidence of the American people in the appointment process.

Our objective was to streamline the confirmation process with full recognition of the constitutional responsibilities of the Senate and our accountability to the American people. The recommendations of the task force are premised on that objective and are incorporated in our report.

The Constitution is very clear. The Senate and the President have roles in the appointment process. For the system to work best, comity between the two branches is necessary. Consultation and cooperation, rather than conflict and confrontation, are the most effective ways to fill important positions in the judicial and executive branches which affect the shaping of national policy.

Several recent confirmations of Presidential nominees have generated intense interest in the confirmation process. Much of this scrutiny has focused on only a few of the thousands of nominations which are routinely and expeditiously considered by the Senate during each legislative session. Most confirmations are considered without fanfare with little public attention. There are exceptions—and these have generally involved nominations to high public offices involving issues of a national and sensitive nature.

The task force reviewed considerable material. Each committee of the Senate was contacted and responded to our request for information on confirmations. Statistical data on nominations and confirmations was reviewed. Briefs were also prepared by staff on major issues involved in this process. Thus, our report is based upon a careful review of the history and practice of the confirmation process in the Senate. I would like to point out that the task force invited the President's White House counsel to submit suggestions for improving the confirmation process. Unfortunately, no written response was received from the White House prior to our deadline for completing our report.

Our objective was to streamline the confirmation process with the full recognition of the constitutional responsibilities of the Senate and our accountability to the American people.

The task force carefully examined current Senate rules and concluded that they provide a sound basis for conducting confirmation proceedings in a manner that balances the nominee's privacy interest and the public interest in open confirmation proceedings. It would be a mistake for the Senate to abandon its role of "advice and consent" by revising the Standing Rules simply to avoid controversy. Rather, the President should seek to engage in prior consultations with the leadership of the Senate in an effort to minimize unnecessary conflict and controversy in the confirmation process.

Moreover, in a system of government composed of three separate and equal branches, the Senate cannot abrogate its constitutional responsibilities for any nomination. The Senate confirmation process is an integral part of the system of checks and balances. Without the confirmation process, the executive branch would be able to dominate the judicial branch to the point that it would no longer function as a separate and independent branch of Government.

After extensive review of the materials provided by the committees and submitted by staff, the task force reported nine recommendations. Let me take this opportunity to briefly discuss these recommendations.

First, the President should respect the "advice and consent" role of the Senate by engaging in more extensive consultations with Senate leaders before making future nominations. Under the Constitution, the Senate has the obligation to provide its "advice and consent" to Presidential nominations. Consultation between the branches would enhance comity between the executive branch and the Senate.

It is important to note that the Constitution does not speak of a confirmation process. Rather, it assigns to the Senate the responsibility to provide its "advice and consent" before nominees are permitted to assume their duties. The debates of the Constitutional Convention and the ratification of the Constitution indicate that the Framers intended that the Senate play an active role in the appointment process, particularly with respect to judicial nominations. Second, to speed the confirmation process, the executive branch should submit nominations promptly when a vacancy occurs, streamline and expedite its investigative process, and certify that nominees are fit for confirmation.

In any given year, less than 1 percent of all nominations are subject to intense scrutiny by the Senate. Historically, the Senate has confirmed the overwhelming majority of nominations, including those for full-time policymaking positions. In the last 10 years, the Senate has received over 600,000 nominations, of which 97 percent have been confirmed.

Not only has the Senate confirmed the vast majority of nominations, but it has done so in an expeditious and timely manner. The task force surveyed the Standing Committees of the Senate on various issues surrounding the confirmation process and specifically requested information spanning the last 5 years. Based on the information provided by the committees which receive and consider nominations, the average time of consideration for a nomination was 48 days. This figure represents the time between the date the committee received all the necessary paperwork and information on a nominee and the date the committee reported the nomination to the full Senate.

These statistics indicate that the real delay in the process lies with the Presidential nomination rather than the Senate confirmation. The average length of time a position has been vacant, before a nomination is made by the President, is 267 days. The White House has averaged almost 28 days between making a nomination and transmitting the information relevant to that nomination to the appropriate committee.

The executive branch should certify that its files contain no adverse information on a nominee that is not explained or disclosed in the reports submitted to the Senate. In the event that the executive branch investigations reveal adverse information on the nominee, the President's counsel should inform the committee leadership in a confidential communication or meeting. It should be noted that the current practice of the Committee on Armed Services requires that the executive branch submit a similar certification when it transmits nominations for promotion to a general officer position.

The task force calls for the restoration of comity between the executive branch and the Senate. Historically, the executive branch has shared the background information it compiles on nominees. This sharing of information eliminates the need for duplicative Senate investigations. Recently, the administration announced new restrictions on the use of this background information by Senate committees. The task force recommends that the administration restore the previous agreement for Senate access to background information. This generally entailed providing FBI summaries to committee chairmen and ranking members only; in some cases, where appropriate, wider access to the data or access to the full report was provided. The task force found that the previous arrangements worked well and should be restored.

If the administration restricts background information on nominees it provides to Senate committees so that the committees cannot adequately evaluate the qualifications and fitness of nominees, the task force recommends

that the Senate expand its capabilities for Senate committees to conduct thorough investigations of nominees.

Committees with investigators now on staff might expand their existing personnel. Special investigative personnel could be retained on an as-needed basis. Alternatively, such counsel could be retained on a full-time basis by a centralized unit in the Senate and detailed to different committees as required. Another alternative would be to detail investigators from other existing Federal agencies, such as the General Accounting Office.

The committees of the Senate should adopt a single questionnaire for Presidential nominees, with each committee permitted to request supplemental information as needed.

In 1990, a Presidential Commission on the Federal Appointment Process recommended that the Senate committees adopt one standard questionnaire. The task force endorses this recommendation. However, while the development of a standard questionnaire is a desirable goal, the nomination process requires the cooperation of the President and the nominee. Expedient handling of the Senate's request for information would propel the confirmation process. The task force recommends that the executive branch should transmit the complete Senate questionnaire at the same time it transmits the nomination to the Senate.

Moreover, committees and nominees should work together to make the confirmation hearings useful inquiries into the nominee's background, qualifications and views. Committee hearings play a vital role in the confirmation process. In fact, the confirmation hearing is the only point in the appointment process of Federal officials that offers the public an opportunity to evaluate the qualifications of a nominee. Therefore, the task force recommends that committees should continue to invite nominees to appear at confirmation hearings. Moreover, committees should make clear, in advance, which subjects and documents will be the basis for questioning a nominee; in return, the nominee should be familiar with these matters and prepared to answer questions about them.

The confirmation process must carefully balance the individual's right to privacy against the public's right to know, with any curtailment of the latter approached cautiously. This right to privacy extends not only to nominees but to witnesses as well. Unlike the executive branch's closed process for selecting nominees, the confirmation hearings are the only aspect of the appointment process which is open to the public.

Rule 26 of the Standing Rules of the Senate provides that committee hearings are to be open to the public, except that a hearing may be closed "on a motion made and seconded to go into

closed session to discuss" whether certain enumerated provisions of the rule require a closed meeting. Such a motion must be determined by a recorded and public vote of the committee. The rule's specific reasons to conduct a closed meeting cover a wide array of situations which are set forth in paragraph 5(b)(3) of rule 26. The rule provides sufficient latitude for a committee to make a determination when it should conduct a closed hearing. And the rule accomplishes this while safeguarding the right of public access to information regarding nominees and witnesses. Committee's should be cognizant of the importance of an individual's right to privacy. The task force recommends that in instances when the testimony is likely to involve allegations that could invade and injure the reputation of an individual, a committee should consider a closed session if requested by an individual.

Another recommendation of the task force relates to the unauthorized release of confidential information. The task force specifically recommends that each committee adopt a rule on improper disclosure of confidential information. Moreover, any unauthorized release should be swiftly and severely punished. Any unauthorized release by staff should be subject to sanctions, which could lead to termination of employment. Any unauthorized disclosure by a member should be subject to consideration by the Select Committee on Ethics. Any suspected leak should be promptly investigated. If a committee does not undertake an investigation, the task force recommends that the Senate leadership should be authorized to direct the Senate legal counsel to appoint an outside counsel to conduct an investigation. Within 10 days of any report revealing an unauthorized disclosure by a Senate employee, his or her employer should report to the Senate leadership the disciplinary action taken.

Finally, serious consideration should be given to the establishment of a separate office in the executive branch for the purpose of processing nominations. This office could serve to process nominations in a timely, efficient, and objective manner. In addition, the information needs of the President and his staff, as well as the needs of the Senate could be served by this office. The task force recognizes that the creation of a separate office within the executive branch will not necessarily result in an objective analysis of a nominee's qualifications. However, the task force believes that it would represent an improvement in the gathering of information about a nominee over the current process which uses the Office of the White House Legal Counsel, who serves as an advocate for the President.

Mr. President, two centuries of Senate precedent have firmly established the role of the Senate in the confirma-

tion process. While these two centuries have not been without controversy, the system has worked well. I hope that my colleagues will take the opportunity to read the task force report and that they will support the majority leader in seeking to improve the confirmation process.

Mr. PELL. Mr. President, I was pleased to participate as a member of the Task Force on the Confirmation Process under the able leadership of the Senator from Kentucky [Mr. FORD] at the request of our distinguished majority leader.

Under article II, section II of the Constitution, the appointment power is shared between the President and the Senate. The President alone has the power to nominate and with that power comes a responsibility to select individuals of suitable character and qualifications to hold public office.

Under the Constitution, the Senate is given the power of advice and consent. With that power comes a responsibility to consider a nomination in a timely manner and to exercise the independent collective judgment conferred upon it by the Constitution.

The objective of our task force was to consider ways in which the Senate could continue to fulfill its constitutional responsibilities in a timely and accountable manner, while maintaining the integrity of three separate and equal branches of Government.

I commend the specific recommendations of our task force to the Senate and the President as constructive proposals which will enhance the historical comity between the executive branch and the Senate. I am hopeful they will result in closer consultation between the White House and the Senate prior to the submission of nominees for advice and consent. They will also facilitate the Senate's timely consideration of nominations, assure that the nominee's right to privacy is carefully balanced against the public's right to know and enhance the Senate's ability to fulfill its obligations to the country under the Constitution.

The Committee on Foreign Relations has responsibility for a wide variety of distinguished and sensitive nominations for positions with extensive foreign policy and national security responsibilities. During the 101st Congress, this committee considered 288 nominations not including foreign service promotions which totaled 1758. During the first session of the 102d Congress our committee considered 122 nominations, plus 1,248 foreign service promotions.

As chairman of the Committee on Foreign Relations, I look forward this year to working with the distinguished ranking minority member of the committee, Senator HELMS, and the other members of the committee, as we consider what may become the most important ambassadorial nominations to

be submitted by the President to the Senate.

On January 28, Senator HELMS and I informed the President of our strong support for his recent decision to establish diplomatic relations with Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Ukraine. I believe that it is a matter of urgent priority to send ambassadors to those countries and urged the President to submit nominations to the Senate as soon as possible.

With regard to the Baltic States, where the United States is currently represented by chargé d'affaires, we indicated we were pleased to be advised of the President's intention to nominate an ambassador to Estonia. We urged him to do the same with regard to Lithuania and Latvia.

Regarding the six States of the former Soviet Union that the administration has recognized, but with which it is not yet prepared to enter into diplomatic relations, I hope that the President will review the applicable criteria with a view toward establishing an early diplomatic presence, even if it is only at a chargé level, with Moldova, Tajikistan, Turkmenistan, and Uzbekistan. In the cases of Georgia and Azerbaijan, I believe that the establishment of diplomatic relations should be withheld until there is a resolution of the government crisis in Georgia and the status of Nagorno-Karabagh in Azerbaijan.

I ask unanimous consent that the full text of the letter to President Bush on this important matter be included in the RECORD at the conclusion of my remarks.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, January 27, 1992.

The President,
The White House.

Dear Mr. President: We strongly support your recent decision to establish diplomatic relations with Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Ukraine. We believe that it is a matter of urgent priority to send ambassadors to those countries; consequently we urge you to submit nominations to the Senate as soon as possible.

With regard to the Baltic states, where the United States is currently represented by chargés d'affaires, we were pleased to be advised of your intention to nominate an ambassador to Estonia. We urge you to do the same with regard to Lithuania and Latvia.

Regarding the six states of the former Soviet Union that the Administration has recognized but with which it is not yet prepared to enter into diplomatic relations, we hope that you will review the applicable criteria with a view toward establishing an early diplomatic presence, even if it is only at the chargé level, with Moldova, Tajikistan, Turkmenistan and Uzbekistan. In the cases of Georgia and Azerbaijan, we believe that the establishment of diplomatic relations should be withheld until there is a resolution of the government crisis in Georgia and the status of Nagorno-Karabagh in Azerbaijan.

We understand that Robert Strauss, who was confirmed as ambassador to the former Soviet Union, will serve as ambassador to Russia as well as to Armenia, Belarus, Kazakhstan, Kyrgyzstan and Ukraine until ambassadors to those countries have been confirmed. If this is correct, we would appreciate a clarification as to why the Administration apparently believes that Mr. Strauss need not be reconfirmed as ambassador to Russia. We would also appreciate being informed as to the legal basis for his interim representation to the five other states listed above; and will he also represent the United States in the six states in which the Administration does not now intend to establish embassies?

Finally, we are concerned about the status of our embassy personnel in Moscow when they travel outside Russia. Will their diplomatic status be respected by the other former Soviet republics, particularly those with which the Administration has no current plans to establish diplomatic relations? With very real regard and respect.

Sincerely yours,

CLAIBORNE PELL,
Chairman.
JESSE HELMS,
Ranking Minority
Member.

NATIONAL ENERGY SECURITY ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

PRIVILEGE OF THE FLOOR

Mr. FORD. Mr. President, I ask unanimous consent that David K. Sharma, an IEEE Congressional Fellow assigned to my personal staff, be granted temporary floor privileges to be exercised during consideration of S. 2166, the revised national energy strategy legislation.

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

The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, I have just had a discussion with the majority leader, and in about 10 or 15 minutes I am going to propose a unanimous-consent request, and let me state what it is. I guess it has to be hotlined on the Democratic side. We have it cleared on our side, and I have given copies to the manager and others on the Democratic side.

I will ask unanimous consent that at an appropriate time to be determined by the majority leader after consultation with the Republican leader, the managers of S. 2166 and the sponsors of the ANWR amendment, the Senator from Alaska [Mr. MURKOWSKI] be recognized to offer an amendment for himself and Mr. STEVENS regarding ANWR; that there be 4 hours to be equally divided with no amendments in order to the Murkowski-Stevens amendment.

I further will ask consent that following the use or yielding back of time, the Senate proceed to vote on the amendment without any intervening action or debate.

That is the request I will make whenever I am advised by the majority leader—

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. DOLE. I will be happy to yield.

Mr. JOHNSTON. If this were voted affirmatively—and I have said all along I think this would not pass—but if all the vote counts are wrong and this were passed, would the bill then be open for further amendment, that is, for filibuster and for further action?

Mr. DOLE. That would be my understanding, yes; unless cloture would be invoked.

Mr. MITCHELL. Mr. President, will the Senator yield just for a question?

Mr. DOLE. I will be happy to yield.

Mr. MITCHELL. As the Senator knows, I have just this moment seen it and I just wanted to be clear.

Does this give the majority leader the authority to determine when the amendment would be called up after consultation with the Republican leader, and the Senators from Alaska would have to be present at that time or would they not have the opportunity to offer the amendment?

I am not clear under that what happens under this agreement if I make the decision, after consultation with the Republican leader, to set a designated time and the designated Senators simply do not appear to offer the amendment at that time.

Mr. DOLE. It would be my hope that that would be discussed in the consultation with the Republican leader.

Mr. STEVENS. And it says "and the sponsors of the amendment and the managers of the bill."

Mr. DOLE. Managers and sponsors.

Mr. STEVENS. We would work out an appropriate time, but the leader has the right to determine that time.

Mr. MITCHELL. Mr. President, as the distinguished Republican leader indicated, this has not been communicated to democratic Members of the Senate. We will engage in that process right now, and perhaps before it is put to the Senate, we can have an opportunity to discuss it and perhaps make it clear so there is no misunderstanding as to how we proceed if that is agreeable.

Mr. DOLE. That is agreeable. I have discussed this agreement—in fact, it has been worked out with the help of both Senators from Alaska, and we believe this might expedite consideration of the energy bill. And that is the purpose of this request. We would like to move as quickly as we can. We do not have any desire to hold up any further consideration. We would be happy to move to the bill immediately after this agreement. If this agreement is granted, we are ready to go to the bill immediately without any vote on the motion to proceed.

Mr. MITCHELL. Mr. President, I thank my colleague.

As Senator DOLE knows, I have another meeting in the office now that he and I have to go into. We will hotline

this and then in just a few minutes, if we could discuss this in a little more detail, put it to the Senate.

I thank my colleague, and I thank the distinguished chairman.

Mr. President, I yield the floor. 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. JOHNSTON. 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. JOHNSTON. Mr. President, the results of our hotline are in, and I understand there are some six objections to the unanimous-consent request that are ready to be lodged.

So as soon as the minority leader comes on the floor to make the unanimous-consent request, then I will, on behalf of the objections on our side, even though I would like it to be otherwise, lodge that objection. Here he is.

I was just saying, unfortunately, there are some 6 objections on our side to the unanimous consent-request. So if the Senator would lay down his request, I will object 6 times.

Mr. DOLE. addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, earlier I indicated that, after there has been time to check with our colleagues, I would entertain a unanimous-consent request, and I now make that request.

Mr. President, I ask unanimous consent that at the appropriate time, to be determined by the majority leader, after consultation with the Republican leader, the managers of S. 2166 and the sponsors of the ANWR amendment, that the Senator from Alaska [Mr. MURKOWSKI] be recognized to offer an amendment, for himself and Senator STEVENS, regarding ANWR, and there be 4 hours equally divided with no amendments in order to the Murkowski-Stevens amendment.

I further ask unanimous consent that, following the use or yielding back of time, the Senate proceed to vote on the amendment without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BAUCUS. Mr. President, I object.
The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON. Mr. President, on tomorrow, when and if this bill is laid down, I ask unanimous consent that the Senator from Vermont [Mr. JEFFORDS] be recognized to offer up an amendment when the bill is laid down, if it is laid down.

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

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. I thank the Presiding Officer.

I deeply appreciate the ability to proceed in an orderly manner on my amendment. I think it would be appropriate at this time if I did alert the body as to just what that amendment is and the controversy.

I am sure every office has been visited by the big oil companies informing them that they consider this amendment worse than ANWR and CAFE combined, and thus I can understand the consternation of those who may feel constrained to oppose it. I also know that the administration and Admiral Watkins have let it be known that they are also opposed to the amendment. I am hopeful, though not at all confident, that they have not seen the most recent version of my amendment.

Some time ago, as you may remember, we had a previous vote on a motion to proceed which was defeated. At that time, I met with the administration and agreed to work with the Department of Energy to try and find a compromise. I was told at that time that perhaps if we could do something for oil that we might be able to reach an agreement.

The amendment that I will propose and have distributed did make that move forward on our part by including stripper wells in the definition of those fuels which would qualify in this case as replacement fuels. I did that with the recognition that stripper wells would be assisted by the program that I am proposing by placing a floor under their price and allowing them therefore to operate for a greater length of time and therefore enhance our ability to cut back on the amount of oil that will be imported into this Nation.

Now let me turn to the rationale and the reasoning behind my amendment.

I believe we need an energy policy, yet I do not believe the current legislation addresses our oil dependency. Thus, I have an amendment that I will offer to this bill. Contrary to what my colleagues and their staff may have heard from the oil industry, my proposal is not anti-American, not an expensive boondoggle, not a command-and-control solution to our energy security problems.

This proposal, if enacted, will put us in the position, will give us the option, to become energy independent in the future. Without this amendment, we will not be headed toward energy independence. And I do not think there is anyone that will get up here and say that the present energy program, even with ANWR in it, will lead us toward energy independence, but rather toward more energy dependence.

In fact, in preparing for this debate, which I expect will be very contentious

by those who oppose this concept, I spent a great deal of time reviewing our current energy situation and the present bill. I realize that my colleagues on the Energy Committee spent considerable effort putting this bill together, and I appreciate that. I believe it represents a significant improvement over an earlier version of the bill or over many of the competing bills. One of my concerns about this legislation is what I perceive to be the underlying philosophy that I believe is represented by this bill. It is the belief that America cannot be energy independent. A man I have a great regard for, Admiral Watkins, himself has been quoted as saying that the national energy strategy that we are voting on here is based on the premise that we cannot be energy independent. One of my colleagues on the Energy Committee echoed this belief during the hearing on my legislation. I believe America can be energy independent. Not today, not tomorrow, but in the years ahead if we adopt my plan to shift us gradually away from oil to the more plentiful resources of this Nation.

We have more energy resources in this country than I dare say any other country. We have billions of barrels of oil—not enough—billions of tons of coal—more than enough—plentiful oil shale and tar sands, and a great deal of natural gas. In terms of renewable resources—a more favorable option—again, I believe we are unmatched. We have the best farmers in the world. Put to the task, I believe they could produce enough biomass to fuel the whole country. So how come we cannot be energy independent? Why must we give up without even a fight; without even a whimper? How can we expect Americans to believe in us if we are unwilling to believe in them. I believe Americans can reach any goal we have the vision to set. I believe in my countrymen.

I agree with my colleague from Louisiana when he said "The administration's position seems to be 'don't worry, be happy, everything will be all right.'" He was right on target. The oil companies would have us believe that they are the good hands people. Trust us, they say, we will take care of you. Well, some of my colleagues, and I suspect, a certain insurance company, take issue with their claims. Everything is not going to be all right. The Energy Information Administration believes that by the year 2010, our oil import bill could more than triple. That will put our trade deficit off the chart. Meanwhile, we are losing hundreds of thousands of barrels of oil production each year in this country. And it does not have to be that way. My amendment can be used to help our domestic oil producers without controversial import fees, floor prices, or further tax subsidies. We must act to do that.

Unfortunately, I confess some of my colleagues share the administration's

and their friends the oil companies' sentiment, there is no problem. I know my colleagues on the Energy Committee understand the problem, although we disagree on the solution. Again, the distinguished chairman of the Energy Committee is correct when he said that Americans do not think in long-range terms when it comes to energy. He is right that many only think about tomorrow. But that is why we are here: To think about the future and to put this country on course for a sound, secure future.

My Republican colleague from New Mexico commented last year that within 4 or 5 years, 6 at the most, our energy dependence will be at the top of the political agenda. Our citizens will be clamoring that something be done to counteract yet another devastating energy crisis. I hope then that they look back at the vote on this amendment and they read the statements of those in opposition who say we cannot strive for energy independence, I hope they will recognize what we are up to here today.

My colleagues know how strongly I believe in reaching the goal of an energy secure America. I am looking forward to offering my amendment to this bill. My predicament is that I also strongly disagree with some of the provisions of the bill and in the philosophical basis of the bill.

Admiral Watkins, Secretary of Energy, as I mentioned before, was quoted at a conference earlier this year as saying that the national energy strategy begins with the premise that the independence of this country from foreign energy sources cannot be achieved. An earlier version of this bill proposed that to reduce our dependence we look north to the Arctic National Wildlife Refuge. Another of my colleagues has been quoted as saying, "If you gut the ANWR provisions, you don't have an energy policy, because you haven't got any funding for all the technologies we want to adopt."

Basically, this implied that our entire energy policy rests on ANWR. Since ANWR is no longer in the bill, how do we pay for the bill? It seems that the basis for our energy policy still rests largely on opening up an area for oil exploration that I believe, personally, should be left alone. Even if you favor ANWR development, our strategy should not be based on an area with uncertain resources.

I would like to say for the record that I appreciate the respect and consideration my colleagues on this committee and their staffs have shown me. I know they disagreed with my earlier proposal. I have yet to hear their opinion on the modified approach. I know I will. In spite of this, I believe my staff and I were accorded the full courtesy of the committee, and I deeply appreciate that.

Months ago, Mr. John Sawhill of the Nature Conservancy predicted a stale-

mate on energy. He said that both the energy industry and environmentalists have firm beliefs about what our energy policy should be and neither seems desirous of compromise. This stalemate results in an energy policy of the status quo.

Mr. Sawhill said:

The strong differences between the parties to the debate—on the one hand, those that stress energy efficiency, energy conservation, and alternative energy sources and, on the other, those that seek expanded energy supply—constrains progress toward a comprehensive national energy policy. There is clear evidence that the groundwork for the sort of compromises necessary between these parties has not been laid.

I do not like the status quo, and I imagine neither side of the debate likes the status quo either. Someone has to come into the middle and try to provide some sort of a compromise. We have become a Nation dependent on foreign governments for our energy, our debt financing, and our consumer products. I remember quite well the time when we supplied the world.

We have to move forward. I congratulate my colleagues for their efforts to end the stalemate. A stalemate benefits no one but our foreign energy suppliers. Conservation measures as well as production measures will languish. Environmentalists lose, the energy industry loses, most important, the American people lose.

Again, I would like to thank my colleagues on the Energy Committee for their efforts thus far and I look forward to working with them soon as we move to the bill and when I offer an amendment to put the country in a position to be energy independent.

I know that I have talked for some time, but I beg the indulgence of my colleagues and staff for a little while longer. The oil companies have bent the ear of most of the energy legislative assistants. I believe it is important that we set the record straight and, in fairness, some of that, if not most of it, was aimed at my previous amendment offered to the committee.

As many of you know, I have been working on this proposal for many years. I developed it during the debate on authorizing the Synfuels Program. At that time, I knew Synfuels would not work. Our country cannot afford to subsidize the differential between OPEC production and domestic costs. OPEC's production costs are as low as \$2 a barrel. If they wanted to, there is no reason why we could not have oil prices 5 to 10 times lower than they are right now. But, of course, we do not. OPEC is a cartel whose sole purpose is to control prices and protect market share. They own two-thirds of the oil in this world.

No proposal based on a Government subsidy can work if OPEC plays hardball. Tax incentives are a subsidy. Synfuels was heavily subsidized. We have a budget crisis. The Government

cannot afford it. This is where my proposal comes in. My proposal is to provide a free market separate from OPEC, a market where domestic producers can compete without fear of OPEC plunging the oil price to defend market share and bankrupting them. My proposal does not pick a winner. It is not central planning, as some would claim. In fact, I am getting pretty tired of hearing about how the centrally planned economies have failed and how this is proof the Government should not "interfere in the market or take actions to protect its citizens or workers."

The function of Government is to protect its citizens and to provide opportunities for them to provide for themselves and their families. The function of Government is not to sit idly by while our country is sold acre by acre to foreign interests in order to pay for our oil imports. The function of Government is not to impoverish our citizens, and that is what we are doing. We are creating a debt burden that our grandchildren will still be paying. What I am trying to create is an opportunity for Americans to participate in providing for the energy for tomorrow here in this country with our resources.

In a centrally planned economy, the planners describe what products will be made and in what quantity. Nowhere in my amendment can anyone find any evidence that my bill will have DOE saying what energy company will be producing what.

All my amendment says is that in the year 2001, at least 10 percent of our gasoline demand should be produced domestically, or substitutes for it. The fuels used to meet this goal and the quantity of each is left entirely to the market, a free market. No Government planner is going to tell the refiners what fuels they have to produce. They can keep right on producing gasoline if they want. Let me make that clear: Gasoline counts. The energy industry has gone around saying that there will not be the demand for these new fuels I am mandating. Since when have they had any problem selling gasoline? So to those who have been swayed by the industry's argument that we are going to have to produce millions of dedicated vehicles to burn exotic fuels, please re-examine this issue. That is an irrelevant argument. Gasoline counts.

Reformulated gasoline counts as long as the reformulated aspects are domestically produced. Ethanol counts.

Methanol counts. Electricity counts. Pick a fuel that will work in a motor vehicle and it counts. And nowhere in the bill is a winner picked. Nowhere.

I hope I have dispelled that misinformation. The oil industry's misinformation campaign has been very effective. Now let us look at another issue related to this central planning bunk: The free market. When I was

putting this proposal together, I got a tremendous amount of help from the Department of Energy and I deeply appreciated the help they gave me. The facts that we will use will be from the Department of Energy. To verify my confidence in the approach I would note that they made a similar proposal. DOE made a similar proposal. But it was knocked down at the White House.

As they have been called, the "keepers of the White House Economic Gospel" shot it down. And do you know why? Because it was messing with the free market. The almighty free market. Who are we kidding. There is no such thing as a free market in energy. Cartels, like OPEC, are not instruments of a free market. Vast subsidies, which are an integral part of both our Tax Code and our current energy policy, are not the instruments of a free market. The energy market is not free. Let me repeat this again, the energy market is not free. I know, however, that when debate on my amendment comes up, I will probably be debating this point countless times. It is one of the sound bite phrases that is being used to try to defeat this amendment.

What my amendment will do is create a free market for domestic producers. That is right, my amendment will create a free market; a market safe from the power and the hammer of OPEC. And that terrifies the oil companies. So much so that my amendment is their No. 1 target.

The one thing they are most afraid of is a truly free market. Why is that? Because we do not have the oil. The energy industry has sold their infrastructure here for a promise of oil tomorrow. Anything that interferes with selling our country piece by piece for oil scares them. This amendment is their No. 1 target out of the whole energy bill. That is a rather sad commentary on our domestic energy producers. I am trying to create an independent market for domestic producers, a market safe from the Middle East, and American companies are fighting it. What happened to the pride American companies used to have in our country? What happened to American companies trying to put Americans to work?

Oh, they will say it is a global business environment out there now. We must go where resources are the cheapest even if they are kept artificially high and indefinite and subject to interdiction. I would like to quote from a recent Greenpeace report. This report says that Saudi Arabia and Texaco jointly own 3 major refineries and gas stations in 26 States. Texaco agreed to use Saudi oil for its refineries and Saudi Arabia gets 50 percent of the profits. As a recent Time magazine article put it: "The man who wears the star is also wearing an Arab burnous."

I do not mean to pick on Texaco. In 1986, for instance, Venezuela acquired

50 percent of CITGO and in 1987 purchased equity in Champlin refining. This gives Venezuela 6,000 or so gas stations to sell their product. More chances for Americans to invest in countries other than ours. That is the key issue of this debate. Let there be no mistake. What this bill comes down to is Americans investing in Americans.

The oil companies say my amendment is not consistent with the Clean Air Act which, by the way, they now say they endorsed heartily. That is not quite the way I remember it a year or so ago. That is not true. Reformulated gasoline counts as long as the contents are domestically produced to comply. But here is what they are really saying. They are saying, yes, we are making the investment in providing the Clean Air Act fuels. What they are not saying is that they are building the plants everywhere but here. That is right, they are not investing here to meet the Clean Air Act. When I voted for the Clean Air Act, it was certainly not my intent to give the oil companies an excuse for abandoning Americans. Does that not just gall you? I would like all of my colleagues and their staffs who may be listening now to pause for a minute and ask yourself is it not about time we provided opportunities in America. Do you want a future for your children of limited jobs?

Allow me to quote Mr. Fred Potter, president of Information Resources, Inc. He said that you would hear opposition to bills like mine.

Primarily, the opposition will come from the oil companies. Specifically, from those oil companies which have international crude oil assets in other nations. Of course, it is this same crude oil, owned by U.S. companies overseas, which we as taxpayers finance, and the American Armed Forces are required to defend in the Persian Gulf and elsewhere. * * * Congress must recognize that the primary objective of the international oil companies is to maintain crude oil and gasoline market share in the United States. Concerns over preserving their market share, rather than technical or general economic considerations, lie at the heart of their opposition.

Let me ask my colleagues, have any of you heard one word of opposition from anybody who was not somehow, past or present, associated with an oil company? I have not. My staff has not. I suspect you have not.

The oil companies are not about making America better. They are about making money. That is perfectly appropriate. Money at our expense? Money at your constituents expense?

We are a debtor nation. We used to be a creditor. We are a net importer. We used to be an exporter. We used to be the land of opportunity. What happened?

America has been living beyond its means. That is basically what the trade deficit means. It means we import more than we export. We buy

more than we sell. Allow me to borrow an idea from Sir John Hicks. He says a man's income should be defined as the maximum value which he can consume during a week and still be as well off at the end of the week. Thus, when a person saves, he plans to be better off in the future, when he lives beyond his means he plans to be poor in the future. This same idea holds true for a country. We consume more than we produce. We are living beyond our income. We are planning to be worse off tomorrow than today.

We are planning to be worse off tomorrow than today. That sure is not why my constituents sent me here. I am doing all I can to see to it that we are better off tomorrow.

Oil is the largest part of our trade deficit and gasoline consumption is the largest part of our oil use that cannot be easily replaced now. That is why I am focusing on gasoline. My amendment does not interfere with oil for plastics, consumer products, home heating oil, jet fuel, you name it. My amendment is targeted at gasoline. We must begin to develop an energy system that does not guarantee continuing trade deficits.

Do you want to hear something frightening? We are now hooked on \$20 a barrel of imported oil. This cost will gradually increase. The oil companies are planning to import \$60, \$70, \$80 a barrel reformulated gasoline components. Our trade deficit will soar out of sight.

I hope I have given enough background for now about why my amendment is so important. If we miss this opportunity to act, I fear for our future. I feel that we will have lost perhaps the only moment we will have, the last energy bill. You heard the distinguished ranking Republican on the Energy Committee say it was 15 years ago. It was back in that urgent time of the tremendous oil shortages and gas shortages of the 1970's. I do not know when the next opportunity will be. This may be it. If we do not do it now, when will we ever do it?

Tomorrow we will begin in earnest on the bill starting in the morning, and I urge everyone to listen very carefully to the arguments and ask yourself: If you vote against this amendment, do you want to try and defend that vote? Do you want to try and say that I voted no on a bill that would create hundreds of thousands of jobs, which would end our dependency on foreign oil, that would reduce the deficit, that would give us an option to be energy independent and give us an option which I did not touch on and that is to be concerned and to do something about global warming?

Only with my amendment will you be able to give this country an option to become energy independent, and it will not be for 20 years, and an option to be able to produce those fuels which will

make this country environmental neutral with respect to carbons. So I urge my colleagues to carefully look at this. It may be your only chance to save us from the problems that will be created for us in the future.

Mr. President, I yield the floor.

NATIONAL ENERGY SECURITY ACT

The Senate continued with the consideration of the motion to proceed.

Mr. STEVENS. Mr. President, while I am not surprised, it is a sad development, in my opinion, that we now note we will not have the guaranteed right to raise the issue of ANWR on this bill. The ANWR amendment was a portion of the bill as reported to the Senate floor from the Senate Energy Committee. That is the provision that would allow drilling in the Arctic National Wildlife Refuge area that has been set aside for drilling, a million and a half acres along the Arctic coast of Alaska.

This was the area the Senator from Idaho was just discussing. We had anticipated that we would have the opportunity presented to both the ANWR proponents and the CAFE proponents to offer an amendment to add to the bill the two items that were taken out of the Senate Energy Committee draft bill as reported to the floor.

It is clear that we will not have that opportunity. My colleague will discuss it tomorrow at length. But I do believe that it is clear that we have not given up on ANWR. We will pursue our rights as this bill goes forward, and as other bills come before the Senate this year.

But clearly, Mr. President, the problem that exists in this country today—someone told me it is not original, I wish I could remember exactly who said it, but our economy is like someone had laid fat wood all over the economy. As anyone knows who is from the part of the country that the current occupant of the Chair is from, fat wood is the kindling that has enough sap in it that immediately after it receives a spark it turns right into a fire.

This person was talking to me and said, look, the economy is ready to go. It needs a spark.

If there is one spark that is available to the Congress, it is ANWR. ANWR we know will create about 735,000 jobs. It will deal with one of our most pressing problems; that is, the problem of our continued increase in imported energy. We now are importing about 55 percent of our petroleum needs daily.

Mr. President, last year we imported over \$55 billion in oil and that was at a lower rate than we are importing now.

We are importing, as I am told, about 55 percent. If we recall the days of the oil embargo that was imposed by the Arab countries against this country in 1973, at that time we imported only 36 percent of our Nation's supplies.

Now production from all major fields in the United States is dropping. Mr.

President, our reserves now are at the lowest they have been in 26 years. We have a production from all fields in the United States of 7.3 million barrels a day. Currently our one field Prudhoe Bay provides 24 percent of that oil. We are now producing approximately 2 million barrels a day. But that production is dropping at a rate of 10 percent per year.

The Department of Energy projections indicate that that will result, slightly after the turn of the century, in the Trans-Alaska pipeline not having enough oil to continue operation. It really means that unless we find additional oil supplies to keep the Alaska pipeline filled when the Alaska oil pipeline shuts down, more energy will have to be imported from offshore. There is no other source in the United States.

What we were trying to do is attempt to look at ANWR, this area of 1.5 million acres set aside in 1980 to be looked at for oil and gas production, but unfortunately that is not possible.

The Department of the Interior now estimates that there is a 46-percent probability that drilling any oil or gas well in ANWR will be productive. That is a fantastic probability of success. It means that according to this estimate there is an estimated average recoverable oil of 3.5 billion barrels. The high estimate that they give us is 9.2 billion barrels.

I am reminded of the time I stood on this floor talking about the oil Alaska pipeline right after the Prudhoe discovery. There was an estimate of 1 percent chance there was 1 billion barrels. We have already produced 9 billion barrels. All of these estimates are conservative.

We believe that this will be the largest field ever discovered and produced on the North American Continent. It is a tremendous opportunity. It will bring immediately about \$3 billion into the Federal Treasury. It will mean that we will not send \$180 billion over the course of production from ANWR overseas to purchase foreign oil.

I really think it belongs on this energy bill. That is the main reason I have come here.

We just passed an unemployment compensation bill extension to extend the availability of unemployment compensation.

Mr. President, by creating some 735,000 jobs over a period of 12 years, this bill would provide the spark that would be needed to shove this economy of ours forward.

A chart was prepared for us by the oil industry in my State and reflects actual expenditures spent by them to develop Prudhoe Bay. The amount of money actually spent in the last 10 years by those who have developed the oil on the North Slope in the 10 States having the largest amount.

Just look at it, Mr. President: in Texas, \$6.7 billion; in California, \$3 bil-

lion; in Pennsylvania, \$1.5 billion; in Washington State, \$1.3 billion; in New York, \$679 million; Oklahoma, \$517 million; Colorado, \$291 million; Illinois, \$217 million; Oregon, \$209 million; Wisconsin, \$186 million.

I ask unanimous consent that this table be printed in the RECORD.

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

Dollars spent in each State for North Slope oil development: 1980-91

(In millions of dollars)

Texas	\$6,747.6
California	3,006.7
Pennsylvania	1,594.5
Washington	1,350.9
New York	679.6
Oklahoma	517.4
Colorado	291.6
Illinois	217.6
Oregon	209.0
Wisconsin	186.9

Mr. STEVENS. Mr. President, I read that to demonstrate that if the money started to be spent to pursue oil and gas exploration and develop it in my State, it spreads out all over our country. It is money spent in the United States that creates U.S. jobs from suppliers of every kind of material you can think of, from doorknobs to valves. We have to have the production of America to explore in the Arctic. It is a very costly process.

Mr. President, I am saddened that we are not going to be able to proceed now, but my real message to the Senate is we tried to expedite the consideration of this bill by seeking this agreement. We tried to assure ourselves that we would have the opportunity to give the Senate the chance to put back into this bill the major provision, really the cash resource that is necessary to make the energy bill pending before the Senate work.

It will be subject to appropriations. I ask any Senator. Where are you going to get the extra money to pay for this energy bill? There is no answer. It is just like a dozen bills that are pending around here. The people are thinking about voting for them and passing, but no one will tell the American public where the money is coming from.

In this instance, we know the oil industry is standing by, ready to explore ANWR. If there is a discovery, and we believe there would be very quickly, that is the economic spark we need to really put the oil industry back in business.

Mr. President, I hope that through the further consideration of this bill we will have the opportunity to get back into the discussion on the merits and get a vote up or down on ANWR.

I cannot tell my people at home how that will happen, but I still express the hope that it may happen.

ABESNCE FROM THE SENATE PURSUANT TO RULE VI(B)

Mr. STEVENS. Mr. President, pursuant to rule VI(b) of the Standing Rules

of the Senate, I ask unanimous consent to be excused from legislative business from Wednesday, February 5 through Friday, February 7, so that I may attend to some important business.

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

Mr. STEVENS. I state for the record that during this period I will attend conferences in Los Angeles, attend the 85th birthday celebration of a close friend, and then go to Alaska where it is my intention to consult with the Alaskan people concerning the best course of action to pursue regarding the ANWR provisions which have now been deleted from the national energy strategy legislation. As I have just stated, that issue is critical to my State. Senator MURKOWSKI and I believe it is imperative that we seek the advice of every Alaskan we can talk to during the recess regarding the course of action.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Mr. President, I ask unanimous consent that I may speak as in morning business.

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

REPUBLICAN SUPPORT FOR ANWR

Mr. MURKOWSKI. Mr. President, we have just experienced, I think, a rather revealing realization today relative to the opening of ANWR as part of the energy bill. The senior Senator, Senator STEVENS, and I had asked the Democratic leadership for a fair opportunity for an up-or-down vote on ANWR. And the matter was presented to the Republican caucus, and I am very pleased to say that we showed a commitment of solidarity and support for this very worthwhile effort.

Unfortunately, it was objected to on the other side, not once, but at least six times. As a consequence, we feel that we were denied a fair vote on the issue. And this issue, Mr. President, is by far the most significant single jobs issue before this country, meaning some 735,000 jobs in 47 States, and a contribution to the gross national product of some \$50 billion.

As a consequence of this action, by denying the opportunity for an up-or-down vote on this issue, one could conclude that the Democrats across the aisle clearly do not care about jobs, this recession, the gross national product, the balance of payments, and so forth. If one looks at the balance of payments, he can recognize that one-half is the cost of imported oil. As a consequence, we are exporting jobs

and, of course, exporting dollars. We are currently dependent on over 50 percent for oil imports coming into this Nation.

Mr. President, I think it is fair to point out that a number of my colleagues on the other side—led certainly by the leader of the Energy Committee, the chairman of that committee, Senator BENNETT JOHNSTON—have always supported the inclusion of ANWR. But the fact remains that objection was shown on that side, so we are precluded from a fair evaluation. Alaskans have asked the delegation for an up-or-down vote. We have exhausted our efforts to achieve that on this energy bill. There are other opportunities, obviously, from time to time. It is a Presidential election year, and ANWR is a very partisan issue.

But I think it is interesting to note that all six Presidential candidates on the other side, Democratic side, have indicated no support for ANWR.

So, in that climate, with an election year pending, it is going to be very, very hard to get a fair vote, and we can consider simply an up-or-down vote as a fair vote. We were offered the alternative for a vote with a proposed tabling motion and Alaskans felt that was unsatisfactory. So we continue to demand an up-or-down vote, and the response to that has already been made evident.

Now, tomorrow, we will proceed to the bill. We will have alternatives before us at that time. We also may have an opportunity to take back to Alaskans the reality of the political situation facing us in our inability to get an up-or-down vote on ANWR.

I thank the ranking member of the Energy Committee, Senator WALLOP, for his continued support of our position to try and get an up-or-down vote as it has been evidenced all along by his support of ANWR.

So, I think, in conclusion, Mr. President, what really is at issue here is a reality that the major jobs issue is not supported by our friends across the aisle, nor is there a recognition, and I think this is probably most significant, Mr. President, of the ability of this country to open up ANWR safely by using advanced technology and expertise.

We have gained, make no mistake about it, Prudhoe Bay, which is supplying this Nation with 20 percent of the total crude oil as the finest oil field in the world. If we were lucky enough to open up ANWR, we could even do a better job.

What made America great was the ingenuity and commitment toward excellence. In the advancement of scientific technology when we can put a man on the Moon to suggest we cannot open up ANWR safely just does not hold water.

Mr. President, in conclusion, I thank my senior colleague, Senator STEVENS. We have worked together in trying to

obtain this up-or-down vote. We were precluded in that by the objection.

Tomorrow is another day, Mr. President, and our commitment and our hard work will continue because what we are doing is in the national security interests of our country, I might add, totally supported by our President as evidenced by the letter which I entered into the RECORD yesterday which was presented by his Chief of Staff supporting ANWR as part of his energy package, and the statement that it was imperative, that it be so included.

Mr. President, I thank the Chair. Tomorrow, I will have more to say about the current circumstances surrounding the action taken by this body today.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I think we have reached an agreement on how to move forward with the so-called energy bill, and when the majority leader comes to the floor, if I am not here, I just say we have no objection to the agreement—in fact, with an hour debate tomorrow and then probably voice vote on the motion to proceed.

I would say that we are yielding back about 25-plus hours under the time after cloture was invoked on the motion to proceed. And it would be our understanding that we would not be in late tonight and we would not be in late tomorrow evening.

So I assume that has been mentioned at least to staff on the other side. It is our hope that we can still figure out some way to have a vote up or down on the so-called ANWR amendment. It seems to me it is very important.

I regret there was an objection today on an up-or-down vote on the other side of the aisle. But we will be working with our colleagues on both sides.

This is a very important amendment, an amendment to our national energy policy. It is also important, obviously, to the distinguished Senators from Alaska, Senators STEVENS and MURKOWSKI. We will be working with them and with the manager of the bill on the other side, Senator JOHNSTON, and the manager on this side, Senator WALLOP, to see if we can devise some way that we can get an up-or-down vote. It seems to me that it is important that that be done before we complete action on this bill. I think it is also fair to say that we may or may not complete action on this bill this week.

Mr. President, I yield the floor.

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. 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.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

ENERGY BILL CLOTURE VOTE

Mr. BIDEN. Mr. President, earlier today, I voted to invoke cloture on the motion to proceed to S. 2166, the energy bill. Last year, I voted against cloture on the motion to proceed to an earlier version of a national energy strategy. However, S. 2166 omits the most controversial issues, those relating to drilling in the Arctic National Wildlife Refuge and raising auto mileage standards, that doomed the earlier energy bill. While I do not view the unamended bill before us as representing the best in an energy policy, it is important to move forward with development of a solid plan.

I would like to emphasize this point. I am not convinced that S. 2166 as it stands right now is a bill that I would support if the vote were on final passage. The chairman of the Energy and Natural Resources Committee has acknowledged similar concerns. He has already stated that amendments which I would consider strengthening ones will be added to the bill during the Senate's debate. I have no doubt that additional amendments, beyond those already cleared by the bill managers, need to be added if the Senate is to produce a strong energy policy.

In his State of the Union Address, the President called for passage of a national energy policy. However, passage of the policy he originally proposed would have been the wrong step to take. It would have been an energy policy, but it would be a policy that continues our current foolishness on energy.

No matter how we would wish it, we cannot produce our way out of our oil deficit. Oil companies have indicated as much. There are very few areas left in our country that have not been thoroughly explored. And they tend to be in areas like coastal waters, national parks and other ecological treasures that the public does not want to lose. To base an energy policy largely on the hope that those areas will hold so-called supergiant fields that could displace imports from the Middle East is foolhardy at best. Production has a role in a national energy policy, but it cannot be the beginning and end of that policy. It must be part of a balanced approach.

We must start the process of reducing our consumption of oil. It will not be an easy task since oil and petroleum are a central part of our everyday life and our national economy. But it should be clear that those who claim cutting energy consumption means shivering in the dark, banning cars or halting economic growth are ignorant of the opportunities that have been demonstrated since the first energy shock in the early 1970's.

For years, our economy grew while energy consumption dropped; until Federal support for those efforts dwindled, that is. But the case was made clear that the notion that our Nation's economic growth can only occur with greater energy use is wrong. And there is still tremendous room for further improvements in energy conservation, energy efficiency and alternative fuels.

I expect these issues will be addressed extensively during debate on this bill. Other issues are also certain to be raised, such as those related to nuclear energy, that I believe we must develop a more reasonable and balanced approach to.

So, while I am willing to move forward with S. 2166 as a vehicle for development of an energy policy, I fully expect to support amendments to strengthen the provisions of the bill. This bill may not prove to be a dramatic turning point in our energy policy, but I hope that by the end of the Senate's debate, we will have crafted a bill that will move us away from current approaches and toward energy policies that will leave us with a more stable and secure future.

THE CRISIS THAT WON'T WAIT

Mr. MOYNIHAN. Mr. President, in his State of the Union Address President Bush observed that "in the past 12 months the world has known changes of almost biblical proportions." That he borrowed the phrase from Charles Krauthammer merely adds to the force of the observation. It is true and we all know it: even if it takes a person of special gifts to find the right term.

The joint statement issued this weekend by Presidents Bush and Yeltsin at Camp David extends and expands—if such be possible—this period of epic change. Our two nations declare that henceforth ours will be a "relationship***characterized by friendship and partnership founded on mutual trust and a common commitment to democracy and economic freedom."

In this setting I would draw the Senate's attention to a compelling analysis of this relationship presented by Jim Hoagland in the Washington Post of January 23d. It is entitled "The Crisis Won't Wait." The subtitle reads "The West must not underestimate the gravity of the danger the ex-Soviet population faces." He cites Murray Feshbach's judgment that "1.5 million

people are likely to die this year in the former Soviet Union because hospitals and doctors lack the most rudimentary medicines and other medical supplies." Food shortages could be just as devastating.

Mr. Hoagland goes on to note that "Feshbach is no stranger to controversy. While the Central Intelligence Agency, the Pentagon and others were predicting, in the early 1980's, continued and menacing growth for the Soviet economy, Feshbach was discovering and calling attention to an alarming drop in Soviet life expectancy. His assessments of the spreading rot in Soviet society were dismissed by hawks and doves alike—through for differing reasons—as too gloomy."

"We know now," writes Mr. Hoagland, "that they were understated." He goes on to note that Feshbach is worried that once again the West is missing the gravity of events in the former Soviet Union. Mr. Hoagland worries that despite the President's commitment of \$600 million in technical and emergency aid, for some reason things do not move.

Let me offer a theory of this case. I speak as one who has been in Feshbach's situation, although I could hardly claim any of his genius as demographer. My claim simply is that I read him when he began writing on this subject. It is important to the argument I present that Feshbach's findings were first published in the mid-1970's. Specifically in "The Soviet Economy in New Perspective," Joint Economic Committee, 1976. In essence he had determined that life expectancy for males in the Soviet Union was declining. I believe there is only one other instance of such a decline in the annals of 20th century demography. So much was summed up in that single fact: that and the confirming fact that the Soviets stopped publishing their data. Demography, as the saying goes, is destiny. For some of us—I was one—it was the datum that fleshed out the theoretical case that far from descending on us from the mountains of Central America, the Soviet Union was in fact about to break up.

In 1979 Newsweek had a forum on the eighties. What would happen. Large thoughts only, if you please. I wrote a brief essay. In the 1980's the Soviet Union would blow up, and if we didn't watch where those nuclear warhead went, the world could very well blow up with it. Now obviously I was both right and wrong. The Soviet Union did not blow up. It broke up. And there are good signs that they understand the problems of nuclear proliferation. Even so, the more important point is that nowhere in the U.S. Government was there anyone who could conceive of anything like that happening.

I was then a member of the Intelligence Committee; soon to be vice chairman in our nonpolitical way. I

must report. The intelligence community didn't have a clue. Nor did I drop the subject. Here are excerpts:

SENATE FLOOR, JANUARY 10, 1980

*** the Soviet Union is a seriously troubled, even sick society. The indices of economic stagnation and even decline are extraordinary. The indices of social disorder—social pathology is not too strong a term—are even more so. The defining event of the decade might well be the break-up of the Soviet empire. But that *** could also be the defining danger of the decade.

NEW YORK UNIVERSITY COMMENCEMENT ADDRESS, MAY 24, 1984

The truth is that the Soviet idea is spent. It commands some influence in the world; and fear. But it summons no loyalty. History is moving away from it with astounding speed. I would not press the image, but it is as if the whole Marxist-Leninist ethos is hurtling off into a black hole in the Universe. ***

If we must learn to live with military parity, let us keep all the more in mind that we have consolidated an overwhelming economic advantage. ***

Our grand strategy should be to wait out the Soviet Union; its time is passing. *** It will be clear that in the end, freedom did prevail.

ADDRESS TO THE COALITION FOR A DEMOCRATIC MAJORITY, NOVEMBER 28, 1984

The United States is not, and has never been militarily inferior to the Soviets. [Thinking this was] bad enough a mistake. But vastly more important is the underlying, pervasive mistake of not perceiving that the Soviet Union is a declining power.

First, that the Marxist-Leninist ideology is now largely a spent force in the world. ***

And second, Soviet society just isn't working. What was to have been a transformation in personal and social relations has simply turned into a mess.

SENATE FLOOR, AUGUST 9, 1986

Let us be clear. We are dealing with a doctrinal adversary. There is a real sense in which it must be said of the leaders of the Soviet Union, and some of their satellites, that they are a People of the Book. They have texts which prophesy the ultimate triumph of their system through the collapse of ours, not through its overthrow from outside but from its collapse from within. *** [I]t was confidently expected that the Socialist mode of production *** would be superior in its productive capacity, and that Russians *** would be richer than the West because their system would work better. That expectation soon disappeared. *** All those prophecies are gone.

There was one exception to the general obliviousness. In July 1985 I visited Geneva as a member of the Senate Arms Control Observers Group. Our chief negotiator was the Honorable Max M. Kampelman who promptly and graciously had us over to lunch. Just as promptly he turned the conversation to this subject and asked if I would elaborate my views. But Ambassador Kampelman, in a sense, proves the rule. He was not a member of the intelligence community; not a defense analyst; a policy planning staff director. He is a man of politics in the large and best sense of that term; he would not mind being called a Hubert Humphrey

loyalist. He comes out of political tradition that takes ideas seriously and can conceive what it might mean when ideas such as those of the Marxist-Leninist regime in Moscow turn out to be utterly without predictive power.

And so to my theory of the case. The institutions of American defense and foreign policy having failed so utterly to foresee the collapse of the Soviet regime are having huge institutional difficulties responding that this "Crisis [That] Won't Wait" for the simple reason that to do so would be to acknowledge that earlier failure.

Do not doubt the depth of this institutional dilemma. Writing in the fall 1991 issue of Foreign Affairs, Adm. Stansfield Turner spoke of the "enormity of this failure to forecast the magnitude of the Soviet crisis." The current issue of the Foreign Service Journal speaks of the CIA's "gar-gantuan failure to understand the problems of Communist economies." But it is not the CIA. At the end of my 8 years on the Intelligence Committee I was asked over to Langley and presented the Agency Seal Medallion, an honor of which I am more than sensible. The failure was systemwide.

But we must not now compound it by denial. The proposition goes something like this—in the institutional subconscious. If you can avoid facing the crisis in the former Soviet Union at present, maybe you can avoid facing up to the fact that you did not foresee the crisis. Nonsense. This is not worthy of the fine men and women involved. Confession is good for the soul. I plead from the Senate floor: Back the President. Help make his case. Help the country to understand Hoagland and Feshbach.

More. Penance is good for rehabilitation. One of the problems of having served on the Intelligence Committee is that you are thereafter bound by its confidantialities. Without breaking any such, I believe I can say that the American people would be baffled if they knew the true size and extent of the intelligence budget. Boggled. I recommend that they read Elaine Sciolino's article "CIA Casting About for New Missions" in this morning's New York Times. Would it not be possible to take just a small portion of this budget and devote it to emergency aid to the Soviet Union? It would.

I ask unanimous consent that Mr. Hoagland's article be printed in the RECORD at this time.

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

[From the Washington Post, Jan. 23, 1992]

THE CRISIS WON'T WAIT

(By Jim Hoagland)

The Great and the Good, in the form of 45 or so foreign ministers from around the world, have descended on Washington this week to talk about the immense human disaster spreading through the ruins of the So-

viet empire. That disaster is worse than anything the foreign ministers and their governments have admitted until now.

Worse: It has been exacerbated by the hesitant, ineffectual international response seen thus far, another reality not likely to be dealt with openly at the two-day State Department conference, due to end today.

This is the view of Murray Feshbach, a man with the credentials to make strong judgments and the boldness to state them publicly. If the Great and the Good of hearing their own voices (an unlikely event) they should walk a few blocks to Georgetown University and ask Feshbach to describe the trip he made to Russia last month.

They would hear detailed accounts of why 1.5 million people are likely to die this year in the former Soviet Union because hospitals and doctors lack the most rudimentary medicines and other medical supplies. They would hear of a food distribution system that contaminates 42 percent of all baby food sold to consumers. They would hear of pollution so severe that a health ministry official says seriously: "To live longer, breathe less."

But there is also an element of hope they could grasp in Feshbach's account of the successful distribution of 200 tons of emergency food and medicine in Russia last month by a private U.S. group he works with, the Russian Winter Campaign.

The results achieved by this citizens' effort stand in sharp contrast to the failure of the United States to deliver any food under the \$165 million emergency program announced two months ago by the Bush administration. That's right: Two months after Washington said it was sending free food to help starving Russians, none of that food has been shipped.

The U.S. effort, and much of the rest of the international governmental response to the humanitarian crisis, is "bogged down by Western red tape and Soviet corruption," the New York Times reported in its news columns on Tuesday.

But Russian Winter Campaign got its food distributed without such problems. Former foreign minister Eduard Shevardnadze helped organize Interior Ministry and KGB troops to guard the emergency supplies and to make sure they were delivered to the intended recipients, Feshbach noted.

Feshbach is no stranger to controversy. His battles with more conventional bureaucrats when he was in the Department of Commerce, working as chief of the Soviet branch in the Foreign Demographic Analysis Division, earned him a reputation in parts of the foreign policy establishment as being a touchy, difficult person.

While the Central Intelligence Agency, the Pentagon and others were predicting, in the early '80s, continued and menacing growth for the Soviet economy, Feshbach was discovering and calling attention to an alarming drop in Soviet life expectancy. His assessments of the spreading rot in Soviet society were dismissed by hawks and doves alike (though for differing reasons) as too gloomy.

We know now that they were understated. And Feshbach, currently professor of demography at Georgetown, worries that once again the West is underestimating the gravity of the danger the ex-Soviet population faces, and ultimately poses to the rest of the world.

"The spread of malnutrition will lead to disease, in a country that has no aspirin, let alone more sophisticated medicines," Feshbach told a seminar at Georgetown's Institute for the Study of Diplomacy last week. "The spread of disease will lead to

lower production and much less efficiency . . . in a country that has 50 Chernobyl-type atomic reactors in operation." Many of those are already leaking radioactivity, Feshbach believes.

These are urgent matters. But it remains business as usual for much of the bureaucracy. Although two Japanese officials came from Tokyo recently to talk to Feshbach about his new research, no one from the U.S. Agency for International Development has traveled the few blocks to his office to discuss his trip.

The impulse of getting the foreign ministers and other officials from 54 countries together was a well-intentioned effort by Secretary of State Jim Baker to focus attention on the problem. President Bush's announcement of a new commitment of \$600 million in technical and emergency aid at the conference's opening yesterday was also a helpful gesture.

But in its closing statements, the Washington aid conference needs to show that these talks were not scheduled as a substitute for action, as the Europeans and Japanese suspected when Baker muscled them into coming here.

This is the risk in conducting high-profile diplomacy on such an urgent problem. Unless the conference ends up adopting an immediate and credible action program of emergency aid, its effect will be to call attention to how little the world, led by the United States, is prepared to do even at this late date, even when the evidence of the need is so clear.

S. 2070—THE JUDICIAL SPACE AND FACILITIES MANAGEMENT ACT OF 1991

Mr. SPECTER. Mr. President, I am pleased to add my name as a cosponsor of S. 2070, the Judicial Space and Facilities Management Act of 1991.

While a bill on this subject was introduced in the 101st Congress by the distinguished senior Senator from New York, it did not come to my attention. When the 102d Congress convened, I was contacted by my good friend, Judge Edward R. Becker of the U.S. Court of Appeals for the Third Circuit, one of our most distinguished Federal judges, who urged me to consider cosponsoring legislation to enable the Federal judiciary to manage its own facilities. I agreed to study the issue and, after reviewing Senator MOYNIHAN's bill of last Congress and information provided by the Administrative Office of U.S. Courts, I decided to cosponsor legislation on the subject upon its reintroduction. Senator MOYNIHAN has again introduced such legislation, cosponsored by the distinguished chairman of the Committee on Environment and Public Works, Senator BURDICK. I am pleased to join them as a cosponsor of S. 2070.

This legislation represents an important first step in allowing the judiciary to manage its own facilities and giving it the wherewithal to do so. I have always found it awkward, under our tripartite government, to have the independent Federal judiciary depend on the executive branch for its space and

its facilities management. The judiciary should not be a ward of the executive in the management of its facilities if it is to be truly independent. The courts should not be competing with executive branch agencies for space while an executive agency, the General Services Administration, makes the space determinations and allotments. In addition, the current system allows the Office of Management and Budget to approve and disapprove of judicial construction needs in deciding the size of GSA's budget. Such executive power over the judiciary is improper, especially when other executive branch agencies have some statutory real property authority independent of GSA's.

Such legislation will also improve the judiciary's efficiency and save money. As I noted, the judiciary currently works through the executive branch, which must balance competing space needs of many agencies. While GSA has made great efforts to meet the judiciary's needs, the demands on GSA from executive agencies and OMB are severe.

In such an environment, facilities planning becomes difficult for the judiciary, because it cannot know how GSA and OMB will balance its space requests. The judiciary needs greater control over its facilities so that it can plan for and meet its own space needs in a timely manner. In operating more efficiently, the judiciary would be able to save the Government money.

While there are aspects of the bill that could be improved upon, I am satisfied with this measure as an important first step in ensuring the independence of the Federal judiciary as contemplated in article III of the Constitution and in making the management of the judiciary more efficient. Therefore, I am pleased to join in cosponsoring this measure. I wish to compliment Senator MOYNIHAN for his interest in and dedication to this issue, and I urge all my colleagues to support this measure.

A FRIEND'S BIRTHDAY

Mr. BYRD. Mr. President, I am privileged today to call our colleagues' attention to the special significance of this day for one of the Senate's most valuable and respected assets, our Chaplain, Dr. Richard C. Halverson.

Today is Dr. Halverson's 76th birthday. I know that I speak for all of our colleagues and for the whole Senate staff and family in extending to Dr. Halverson the sincerest of birthday greetings and in wishing him many more birthdays to come.

In the years of Dr. Halverson's tenure as Senate Chaplain, he has created a distinct niche for the gifts and graces that he brought with him from the conventional pastorate. Many on this side of Capitol Hill have been the direct

beneficiaries of his long experience in the pastorate, of his unique spiritual care, and of the irrepressible spirit and selflessness that mark his daily walk and discipleship.

More important for many, Dr. Halverson has been a spiritual physician and a caring friend in hours of real need—in hours when death, tragedy, and heartbreak have shaken the foundations of otherwise confident lives and the way ahead appeared shadowed and grief-bound. In so many of those moments, Dr. Halverson has been a ray of grace and an instrument of hope and healing.

Mr. President, Dr. Halverson was serving one of the most active and potent congregations in the Washington area before he accepted the invitation to serve as our Chaplain. Indeed, his national reputation is such that he could have his choice of pulpits and parishes were he to leave Senate service. That Dr. Halverson has chosen to remain in our midst and to minister to us is our blessing, and one which I do not take for granted.

Therefore, I thank Dr. Halverson for the loyalty, spirit, and commitment that have marked his years of service among us, and I again wish him the most joyous of birthdays on this, Dr. Halverson's special day.

ACCESS TO JUSTICE ACT—MESSAGE FROM THE PRESIDENT—PM 105

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

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Access to Justice Act of 1992". The purpose of this proposal is to reduce the tremendous growth in civil litigation that has burdened the American court system and imposed high costs on our citizens, small businesses, industries, professionals, and government at all levels.

A thorough study of the current civil justice system has been conducted by a special working group, chaired by the Solicitor General, Kenneth W. Starr. The working group's recommendations, which were unanimously accepted by my Council on Competitiveness, are reflected in the bill. The legislation seeks to reduce wasteful and counterproductive litigation practices by encouraging voluntary dispute resolution, the improved use of litigation resources, and, where appropriate, modified, market-based fee arrangements. Additional reforms would permit the judicial system to operate more effectively.

The Access to Justice Act would accomplish reforms in significant areas of litigation:

- a prerequisite for Federal jurisdiction over certain types of lawsuits (the amount in controversy requirement) would be redefined to exclude vague, subjective claims;
- prevailing parties could be entitled to award of attorney's fees in certain lawsuits brought in Federal court;
- the Equal Access to Justice Act would be amended to clarify and limit litigation over the amount of attorney's fees;
- innovative "multi-door courthouses" would be established to encourage utilization of alternative dispute resolution mechanisms;
- award of reasonable attorney's fees in disputes involving the United States would be permitted in appropriate instances;
- prior notice would be required, subject to reasonable limits, as a prerequisite to bringing suit in any United States District Court;
- flexible assignment of district court judges would be authorized;
- immunity of State judicial officers would be clarified and protected;
- the Civil Rights of Institutionalized Persons Act would be amended to encourage resolution of claims administratively; and
- improvements in case management in Federal courts would be effected.

I believe this proposed legislation would greatly reduce the burden of excessive, needless litigation while protecting and enhancing every American's ability to vindicate legal rights through our legal system. I recommend prompt and favorable consideration of the enclosed bill.

GEORGE BUSH.

THE WHITE HOUSE, February 4, 1992.

MESSAGES FROM THE HOUSE

At 3:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1415. An act to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4095. An act to increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

At 4:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2927) to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes.

The message also announced that the House disagrees to the amendments of

the Senate to the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendments, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, Mr. ECKART, Mr. SLATTERY, Mr. SIKORSKI, Mr. LENT, Mr. RITTER, and Mr. SCHAEFER.

As additional conferees from the Committee on Armed Services, for consideration of section 113 of the Senate amendments, and modifications committed to conference: Mr. RAY, Mr. HOCHBRUECKNER, and Mr. SAXTON.

As additional conferees from the Committee on the Judiciary, for consideration of section 2(a) of the House bill, and section 103(a) of the Senate amendments, and modifications committed to conference: Mr. BROOKS, Mr. FRANK of Massachusetts, and Mr. GEKAS.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of section 304(a) of the Senate amendments, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 102, 109, and 115-119 of the Senate amendments, and modifications committed to conference: Mr. ROE, Mr. NOWAK, and Mr. HAMMERSCHMIDT.

As additional conferees from the Committee on Public Works and Transportation, for consideration of title IV of the Senate amendments, and modifications committed to conference: Mr. ROE, Mr. SAVAGE, Ms. NORTON, Mr. NOWAK, Mr. BORSKI, Mr. HAMMERSCHMIDT, Mr. SHUSTER, and Mr. INHOFE.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that on today, February 4, 1992, he had examined and signed the following enrolled bill, which had previously been signed by the Speaker of the House:

H.R. 1989. An act to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

Mr. GRASSLEY (for himself, Mr. MCCONNELL, Mr. GARN, Mr. DOLE, Mr. WALLOP, Mr. MURKOWSKI, and Mr. NICKLES):

S. 2180. A bill to provide greater access to civil justice by reducing costs and delay and for other purposes; to the Committee on the Judiciary.

Mr. BUMPERS (for himself, Mr. COCHRAN, Mr. ADAMS, Mr. AKAKA, Mr. SANFORD, Mr. SIMON, Mr. MITCHELL, Mr. WELLSTONE, Mr. GORE, and Mr. COHEN):

S. 2181. A bill to improve the capacity of rural communities to respond to homelessness, to establish effective program delivery models for prevention and remediation of homelessness in rural areas, to collect data on the extent and characteristics of homelessness in rural areas, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DECONCINI:

S. 2182. A bill to amend the Child Nutrition Act of 1966 to make the special supplemental food program for women, infants, and children (WIC) and entitlement program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SHELBY:

S. 2183. A bill to prohibit the Secretary of Veterans Affairs from carrying out the Rural Health Care Initiative; to the Committee on Veterans Affairs.

Mr. DECONCINI (for himself and Mr. MCCAIN):

S. 2184. A bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes; considered and passed.

Mr. KENNEDY (for himself, Mr. SIMON, and Mr. DECONCINI):

S. 2185. A bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met; read the first time.

Mr. ADAMS:

S. 2186. A bill for the relief of Rolando and Amelia Degracia; to the Committee on the Judiciary.

S. 2187. A bill for the relief of Celestina Maes; to the Committee on the Judiciary.

Mr. GRAHAM (for himself, Mr. MACK, Mr. DECONCINI, Mr. STEVENS, and Mr. INOUE):

S.J. Res. 250. Joint resolution to designate February 1992 as "National Grapefruit Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

Mr. ROTH:

S. Con. Res. 90. Concurrent resolution relative to the role of the North Atlantic Treaty Organization; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. MCCONNELL, and Mr. GARN):

S. 2180. A bill to provide greater access to civil justice by reducing costs and delay and for other purposes; to the Committee on the Judiciary.

ACCESS TO JUSTICE ACT OF 1992

Mr. GRASSLEY. Mr. President, today I am pleased to introduce the Access to Justice Act of 1992, a bill designed to make some significant reforms in our legal system.

At the outset, Mr. President, let me say what this bill is not. It is not a bill to shut the courthouse doors on people. It is not a bill to eliminate lawyers or prevent them from practicing their profession. And it is not a bill to impose settlements on parties suing each other.

But it is a bill to rationalize and streamline our legal system. The bill is a product of the President's Council on Competitiveness, chaired by Vice President QUAYLE. Last summer, the Council issued a comprehensive agenda for civil justice reform in America, covering everything from changes in State law on punitive damages to changes in the Federal rules governing discovery. All of the proposals were directed at making our legal system more fair and reducing the burden on our economy caused by excessive and needless litigation.

This bill is only one piece of the agenda for civil justice reform. The President has already issued an Executive order incorporating a number of the provision, such as encouraging alternative dispute resolution in the Federal agencies. The President's Executive order put the Federal bureaucracy in the lead of the civil justice reform. Not it is time for Congress to put its mark on making our legal system more efficient.

Over the last 30 years we have had an explosion of litigation. But more litigation doesn't mean more justice or fairness for the American people. Our legal system is out of touch with the needs of the American people. It's time we recognize it and that we do something about it.

This bill is one step in that direction. First, the most controversial part of the bill—introducing the concept of the loser paying for the lawsuit in certain very limited situations.

We operate under what the bar refers to as the American rule—where each party is supposed to pay his own costs of the lawsuit. Most other Western democracies use what is known as the English rule—where the loser pays. The reality is, however, that we shift attorneys' fees in a whole variety of cases, like civil rights and employment discrimination. If the defendant loses, he has to pay damages and the plaintiff's lawyers' fees.

So the bill seeks to provide for the loser to pay in certain cases—in diversity cases, in contract dispute cases with the Federal Government, and in cases initiated by the Federal Government. The judge can limit the fees and can decide that the loser should not pay if the judge thinks it would be unjust. This provision is really quite

modest, but will cause an earthquake within the Trial Bar Association.

But why should the loser not pay? The economic costs of litigation are estimated to be \$300 billion annually. That is a drain on scarce economic resources, resources that could be better spent on investment in the economy, actually creating jobs. An individual or a business should think twice about suing, and if shifting fees will make everybody think twice, then it is a change whose time has come. Remember, it is not really the English rule—it is really the everywhere but America rule.

Another key part of the bill is the alternative dispute resolution provision. We must do more to create incentives for people to choose alternative dispute resolutions [ADR] to keep cases that are highly costly and adversarial out of that costly adversarial environment.

We know it works in many kinds of disputes and we need to do more of it. So, this bill would create a pilot program for voluntary ADR [alternative dispute resolutions.] That means it is not mandatory, no one will be deprived of his day in court. Each circuit would establish one district as a multidoor courthouse. The judge would hold a conference at the beginning of every lawsuit to see if alternative dispute resolution can be used. One or both of the parties can choose to be bound by the ADR. And here is the incentive—where only one party chooses to be bound and the parties go to trial, if the party declining to be bound by ADR does not get at least 10 percent more from the litigation than he would have gotten from ADR, he has to pay his opponent's costs.

The bill includes a number of other important provisions, from indexing the amount in controversy in diversity cases, to creating uniformity in Equal Access to Justice Act awards. The bill would also allow for more flexibility in moving judges around between districts, and improve case management.

It would restore judicial immunity for State court judges, something many of us have been trying to do for several years now. And it would require prison inmates to exhaust administrative remedies before suing in Federal court over the conditions of their incarceration. Prisoner litigation now makes up about 10 percent of the Federal docket.

In sum, Mr. President, it makes some important strides, but it is by no means an overhaul of our legal systems, as the critics will no doubt charge.

Mr. President, I have had the opportunity to examine our Federal court system, as a member of the Federal Courts Study Committee in 1989 and 1990. The report of our Courts Study Committee identified a coming crisis in the Federal courts. The courts are overburdened, and simply creating

more Federal judges just does not solve the problems of our judicial system. We need to fix our litigation system, and this bill begins that process.

There will be much debate over this bill and the other aspects of the agenda for civil justice reform. And I look forward to participating in that debate. In fact, we have begun that debate in the Judiciary Committee over the last couple of years. The debate will be important, and it has to include all Americans, and it has to take place in the sunshine. There is an old saying, "war is too important to leave to the generals."

Likewise, we cannot afford to leave this debate to those who feel they have the only vested interests in this—the lawyers and their trade associations. There is too much riding on it—justice and a sound economy for all Americans, now and in the future.

In closing, I commend Vice President QUAYLE for his leadership on this important subject. I am hopeful we can have hearings on the bill in the Judiciary Committee at an early date.

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. 2180

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 "Access to Justice Act of 1992".

SEC. 2. FEDERAL DIVERSITY JURISDICTION; SUM IN CONTROVERSY

Section 1332 of title 28, United States Code, is amended by redesignating subsection (d) as subsection (g) and inserting after subsection (c) the following new subsections:

"(d) In determining whether a matter in controversy exceeds the sum or value of \$50,000, the amount of damages for pain and suffering or mental anguish, punitive or exemplary damages, and attorneys' fees or costs shall not be included.

"(e) On February 1 of each year, the monetary amounts referred to in subsections (a), (b), and (d) shall each be adjusted to the nearest thousand dollars to reflect the change in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, under its current official reference base as designated by the Bureau of Labor Statistics of the United States Department of Labor. The adjusted amounts shall be calculated by multiplying the relevant monetary amount by the annual average CPI-U for the most recent calendar year, and then dividing that sum by the annual average CPI-U for [1992]."

SEC. 3. DIVERSITY OF CITIZENSHIP JURISDICTION; AWARD OF ATTORNEYS' FEES TO PREVAILING PARTY.

Section 1332 of title 28, United States Code, is amended by inserting after subsection (e) the following new subsection:

"(f)(1) The prevailing party in an action under this section shall be entitled to attorneys' fees only to the extent that such party prevails on any position or claim advanced during the action. Attorneys' fees under this paragraph shall be paid by the nonprevailing

party but shall not exceed the amount of the attorneys' fees of the nonprevailing party with regard to such position or claim. If the nonprevailing party receives services under a contingent fee agreement, the amount of attorneys' fees under this paragraph shall not exceed the reasonable value of those services.

"(2) In order to receive attorneys' fees under paragraph (1), counsel of record in actions under this section shall maintain accurate, complete records of hours worked on the matter regardless of the fee arrangement with his or her client.

"(3) As used in this subsection, the term 'prevailing party' means a party to an action who obtains a favorable final judgment (other than by settlement), exclusive of interest, on all or a portion of the claims asserted during the action.

"(4) The court may, in its discretion, limit the fees recovered under paragraph (1) to the extent that the court finds special circumstances that make payment of such fees unjust.

"(5) This subsection shall not apply to any action removed from a State court pursuant to section 1441 of this title, or to any action in which the United States, any State, or any agency, officer, or employee of the United States or any State is a party.

SEC. 4. AMENDMENT TO EQUAL ACCESS TO JUSTICE ACT.

"(a) BASIS FOR ADJUSTING FEES.—Section 2412(d)(2)(A)(ii) of title 28, United States Code, is amended by striking "or a special factor, such as the limited availability of qualified attorneys for the proceedings involved," and inserting "as reflected by the change in the Consumer Price Index for All Urban Consumers (CPI-U), United States City Average, All Items, under its current official reference base as designated by the Bureau of Labor Statistics of the United States Department of Labor."

(b) CALCULATION OF ADJUSTMENTS.—Section 2412(d) of title 28, United States Code, is amended by adding at the end of the following new paragraph:

"(6)(A) If a court determines that the cost of living adjustment permitted by paragraph (2)(A)(ii) should be made in a particular case, the court shall calculate the adjustment in accordance with this paragraph. [When compensable services in an action are rendered in more than one calendar year, a calculation of attorney fees shall be made for each year in which compensable services are rendered.]

"(B) When compensable services in an action are rendered in the present calendar year, the hourly rate shall be calculated by multiplying \$75 times the CPI-U for the month in which the last compensable services were rendered, and then dividing that sum by the CPI-U for October, [1981].

"(C) When compensable services are rendered in more than one calendar year, the adjustments for services rendered in the present calendar year shall be calculated using the formula set forth in subparagraph (B). The hourly rate for services rendered in each previous calendar year shall be calculated by multiplying \$75 times the annual average CPI-U for the year in which the services were rendered, and then dividing that sum by the CPI-U for October, [1981]."

SEC. 5. PRIOR NOTICE AS A PREREQUISITE TO BRINGING SUIT IN THE [UNITED STATES DISTRICT COURT].

"(a) IN GENERAL.—Chapter 23 of title 28, United States Code, is amended by adding at the end the following:

"§ 483. Prior notice to suit

"(a) TRANSMITTAL OF PRIOR NOTICE.—(1) At least 30 days before filing suit in a [civil] ac-

tion brought in a court of the United States or the Claims Court, [a claimant] [the potential plaintiff or plaintiffs] shall transmit written notice to the intended defendant or defendants of the specific claims involved, including the amount of actual damages and expenses incurred and expected to be incurred. The [claimant] shall transmit such notice to the intended defendant or defendants at an address reasonably calculated to provide actual notice to each such party.

"(2) For purposes of this section, the term 'transmit' means to mail by first-class-mail, postage prepaid, or contract for delivery by any company which physically delivers correspondence as a commercial service to the public in its regular course of business.

"(3) The [claimant] shall, at the commencement of the action, file in the court a certificate of service evidencing compliance with this subsection.

"(b) EXTENSION OF STATUTE OF LIMITATIONS.—In the event that the applicable statute of limitations for that action would expire during the period of notice required by subsection (a), the statute of limitations shall expire on the thirtieth day after the date on which written notice is transmitted to the intended defendant or defendants pursuant to subsection (a). The parties may by written agreement extend that 30-day period for an additional period of not to exceed 90 days.

"(c) EXCEPTIONS.—The requirements of this section shall not apply—

"(1) in any action to seize or forfeit assets subject to forfeiture or in any bankruptcy, insolvency, receivership, conservatorship, or liquidation proceeding;

"(2) where the assets that are the subject of the action or that would satisfy the judgment are subject to flight, dissipation, or destruction, or where the defendant is subject to flight;

"(3) where a written notice prior to filing suit is otherwise required by law, or where the claimant has made a prior attempt in writing to settle the claim with the defendant;

"(4) in proceedings to enforce a civil investigation demand or an administrative summons;

"(5) in any action to foreclose a lien; or

"(6) in any action pertaining to a temporary restraining order, preliminary injunctive relief, or the fraudulent conveyance of property, or in any other [type of] action involving exigent circumstances that compel immediate resort to the courts.

"(d) DISMISSAL FOR FAILURE TO COMPLY.—In the event that the [district court] finds that the requirements of subsection (a) of this section have not been met by the [claimant], and such defect is asserted by the defendant within 60 days after service of the summons or complaint upon such defendant, the claim shall be dismissed without prejudice and the costs of such action, including attorneys' fees, shall be imposed upon the [claimant]. Whenever an action is dismissed under this subsection, the [claimant] may refile such claim within 60 days after dismissal regardless of any statutory limitations period if—

"(1) during the 60 days after dismissal, notice is transmitted under subsection (a); and

"(2) the original action was timely filed in accordance with subsection (b)."

"(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 23 of title 28, United States Code, is amended by adding at the end the following:

"483. Prior notice of suit."

SEC. 6. AWARD OF ATTORNEYS' FEES IN DISPUTES INVOLVING THE UNITED STATES.

(a) IN GENERAL.—Chapter 161 of title 28, United States Code, is amended by inserting after section 2412 the following new section:

"§ 2412a. Award of attorneys' fees in disputes involving the United States

"(a) AGREEMENTS FOR ATTORNEYS' FEES.—Except as otherwise specifically provided by statute, the United States is authorized to enter into an agreement which provides that attorneys fees may be awarded against the United States or any other party to the action or proceedings—

"(1) in any civil action commenced by the United States;

"(2) in civil proceedings involving disputes pursuant to the Contract Disputes Act of 1978, including proceedings before boards of contract appeals pursuant to sections 7 and 8 of that Act; or

"(3) in a case in which the United States and another party has agreed to the use of outcome-determinative mediation as defined in section 484(b)(5) of this title, the mediation has resulted in a determination, and the United States or the other party has given notice [pursuant to] section 484(b)(8) of this title, pertaining to outcome-determinative mediation, that either party accepts the determination.

In a case described in paragraph (3), subparagraphs (A) through (C) of section 484(b)(8) shall apply to the award of attorneys' fees.

"(b) REQUIREMENTS FOR AWARDED FEES.—The following shall apply to the award of any attorneys' fees pursuant to subsection (a)(1) or (2):

"(1) Attorneys' fees may be awarded only to a prevailing party in the action or proceedings, to paragraphs (2) and (3). The prevailing party shall be entitled to attorneys' fees from the nonprevailing party with respect to and only to the extent that such party prevails on any claim advanced during the action or proceedings, except that the amount of attorneys' fees shall not exceed the attorneys' fees of the nonprevailing party with respect to such claim.

"(2) In determining the amount of attorneys' fees for a private party, the court or board of contract appeals (as the case may be) shall take into account the degree of success obtained by that party relative to its original claim or claims, the prevailing market rates in the geographic area for the kind and quality of the legal services furnished, and any other factors relevant to whether an award of attorneys' fees would be reasonable and, if so, what a reasonable amount of attorneys' fees would be.

"(3) In determining the amount of attorneys' fees of the United States, the court or board of contract appeals (as the case may be) shall determine the number of hours spent by the attorneys employed by the United States on the action or proceedings, multiplied by the salaries and benefits paid to those attorneys, and an amount for overhead, computed at an hourly rate.

"(c) AWARD OF ATTORNEYS' FEES EXCLUSIVE.—A party who files an application for an award of attorneys' fees and expenses against the United States under any other provision of law may not pursue an award of attorneys' fees under this section. A party who files an application for an award of attorneys' fees under this section may not pursue an award of attorneys' fees and expenses under any other provision of law. A party who agrees to mediation under section 484 of this title may seek an award of attorneys' fees only under this section and section 484.

"(d) PROCEDURES FOR AWARDING FEES.—A party seeking an award of attorneys' fees under this section shall file an application for fees with the court or board of contract appeals (as the case may be) within 30 days after final judgment in the action or proceedings involved. The application shall show that the party is eligible to receive an award under this section and the amount sought, including an itemized statement from any attorney appearing on behalf of the party which sets forth the actual time expended and the rate at which fees are computed. Within 30 days [after service of the fee application upon the party] against whom the fees are sought to be awarded, that party may file a response setting forth its reasons why an award of fees would not be reasonable or why the amount of fees should be reduced. In a case in which an award of attorneys' fees is sought against any party, the attorney for that party shall submit a statement of the total amount of attorneys' fees incurred in the action or proceedings in order that the court or board may determine that the fees sought in the application do not exceed the amount of fees incurred by that party.

"(e) REQUIRED APPROPRIATIONS.—Agreements may be entered into under this section to the extent provided in appropriations Acts. Awards of attorneys' fees received by a Federal agency on behalf of the United States under this section shall be credited to an account of that agency, as provided in an appropriations Act. To the extent provided in advance in appropriation Acts, such amounts shall be available only to pay awards of attorneys' fees under this section against that agency on behalf of the United States. Each such agency is authorized to pay any shortfall caused if amounts credited to such account are insufficient to pay amounts awarded under this section against such agency on behalf of the United States from funds currently available in such account.

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

"(1) the term 'United States' includes any agency of the United States and any officer or employee of the United States acting in his or her official capacity;

"(2) the term 'final judgment' means a judgment that is final and not appealable; and

"(3) the term 'prevailing party' means a party to an action who obtains a favorable final judgment other than by settlement, exclusion of interest, on all or a portion of the claims asserted during the litigation."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 161 of title 28, United States Code, is amended by inserting after the item relating to section 2412 the following:

"2412a. Award of attorneys' fees disputes involving the United States."

SEC. 7. AVOIDANCE OF LITIGATION THROUGH MULTI-DOOR COURTHOUSES.

(a) IN GENERAL.—Chapter 23 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 484. Multi-Door Courthouses

"(a) DESIGNATION OF COURTS.—The chief judge of each judicial circuit of the United States (other than the United States Court of Appeals for the District of Columbia Circuit) shall designate 1 district court within the jurisdiction of the circuit to be a pilot Multi-Door Courthouse. The United States Court of Appeals for the Federal Circuit shall designate the United States Claims

Court to be a pilot Multi-Door Courthouse for that circuit. Such designation, and the program established by this section, shall terminate at the expiration of a 3-year period following such designation.

"(b) ESTABLISHMENT OF ALTERNATIVE DISPUTE RESOLUTION PLANS.—(1) Every court which has been designated as a Multi-Door Courthouse under subsection (a) shall, not later than 6 months after the effective date of this section, establish an alternative dispute resolution plan.

"(2) The alternative dispute resolution plan shall include, but not be limited to—

"(A) procedures for limited discovery;

"(B) confidentiality of proceedings as to possible subsequent pretrial and trial actions; and

"(C) the selection, use, and payment of nonjudicial personnel who may be selected to conduct alternative dispute resolution proceedings as neutrals, mediators, or arbitrators.

"(3) The plan shall also establish standards for determining which cases are appropriate for alternative dispute resolution, considering such factors as whether factual issues predominate over legal issues, whether the case involves complex or novel legal issues requiring judicial action, and any other factors the court considers relevant.

"(4) Each plan shall provide that each judge or magistrate judge assigned to a case in a Multi-Door Courthouse established under subsection (a) shall conduct a conference with counsel within 120 days after the complaint is filed to review nonbinding, voluntary alternative dispute resolution procedures that may be used in lieu of litigation to resolve the claims in controversy.

"(5) As used in this section—

"(A) the term 'outcome-determinative mediation' means a procedure in which either a single mediator or a panel of three mediators selected by or under the direction of a Federal district court provides the parties with a dollar amount determination that would be awarded if the case is tried; and

"(B) the term 'neutral' means an individual who functions specifically to aid the parties to a claim in controversy in resolving the controversy.

"(6) Each plan shall authorize the parties, if they agree, to use nonbinding alternative dispute resolution procedures in lieu of litigation to resolve the claims in controversy. These nonbinding alternative dispute resolution procedures shall include, but are not limited to, early evaluation by a neutral, mediation (including outcome-determinative mediation), minitrials, summary jury trials, and arbitration.

"(7) Each plan shall provide that—

"(A) the parties may agree as to the use of any alternative dispute resolution procedure listed in the alternative dispute resolution plan to effectuate prompt resolution of the claims involved; and

"(B) the parties may choose to use the neutrals made available by the court or may, if all parties and the court agree, utilize the services of other neutrals not designated in accordance with the court's alternative dispute resolution plan.

"(8) Each plan shall also provide that if the parties choose outcome-determinative mediation and a determination is reached pursuant to such mediation—

"(A) any party may give notice that it intends to accept that determination, while any other party may reject the determination and continue with the litigation;

"(B) a plaintiff, including the United States or any agency, officer, or employee

thereof, who rejects the determination and fails to obtain a final judgment that is at least 10 percent greater than the determination shall pay the defendant's costs, as set forth in section 1920 of this title, and attorneys' fees, as set forth in section 2412a of this title, that are incurred after the rejection of the determination; and

"(C) a defendant, including the United States or any agency, officer, or employee thereof, who rejects the determination and fails to obtain a final judgment that is at least 10 percent less than the determination shall pay the plaintiff's costs, as set forth in section 1920 of this title, and attorneys' fees, as set forth in section 2412a of this title, that are incurred after rejection of the determination.

If all parties reject the determination, no costs or attorneys' fees shall be assessed against any party.

"(9) In carrying out their plans, the district courts are authorized to use the volunteer services of nonjudicial personnel to conduct alternative dispute resolution proceedings as neutrals, mediators, and arbitrators. The courts are also authorized to establish and pay, subject to limits established by the Judicial Conference of the United States, the amount of compensation, if any, that each neutral, mediator, and arbitrator shall receive for services rendered in each case."

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 23 of title 28, United States Code, is amended by adding at the end the following:

"484. Multi-Door Courthouses."

SEC. 8. FLEXIBLE ASSIGNMENT OF DISTRICT COURT JUDGES.

(a) STANDARD FOR TEMPORARY ASSIGNMENTS.—Section 292(d) of title 28, United States Code, is amended by striking "upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises" and inserting "whenever the business of that court so requires."

(b) DUTIES OF DIRECTOR OF ADMINISTRATIVE OFFICE.—Section 604(a) of title 28, United States Code, is amended—

(1) in paragraph (23) by striking "and" after the semicolon;

(2) by redesignating paragraph (24) as paragraph (25); and

(3) by inserting the following new paragraph after paragraph (23):

"(24) secure information as to the courts' need for temporary judicial resources to ease overcrowded dockets (including information on delays being encountered in the maintenance of civil suits) and prepare and transmit annually to the Chief Justice, the chief judges of the circuits, the Congress, and the Attorney General, statistical data, reports and recommendations summarizing the results of this inquiry; and"

SEC. 9. IMMUNITY OF STATE JUDICIAL OFFICERS.

(a) ATTORNEYS' FEES IN PROCEEDINGS IN VINDICATION OF CIVIL RIGHTS.—Section 722 of the Revised Statutes of the United States (42 U.S.C. 1988), is amended by inserting before the period at the end of the second sentence the following: ", except that, notwithstanding any other provision of law, a State judicial officer shall not be held liable for any costs, including attorneys' fees, in any proceeding brought against such judicial officer for an act or omission of such officer while acting in an official capacity."

(b) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—Section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) is

amended by inserting before the period at the end of the first sentence the following: " , except that in any action brought against a judicial officer for an act or omission of such officer while acting in an official capacity, injunctive relief shall not be granted unless a declaratory decree in the action was violated by such officer or declaratory relief was unavailable".

SEC. 10. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1977e) is amended—

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

"(a) In any action brought to section 1979 of the Revised Statutes of the United States, by any adult convicted of a crime confined in any jail, prison, or other correctional facility, the court shall continue such case for a period not to exceed 180 days in order to require exhaustion of such plain, speedy, and effective administrative remedies as are available."; and

(2) in subsection (b)—

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

(B) by inserting immediately after "(b)" the following:

"(1) Upon the request of a State or local corrections agency, the Attorney General of the United States shall provide the agency with technical advice and assistance in establishing plain, speedy, and effective administrative remedies for inmate grievances."

(b) PROCEEDINGS IN FORMA PAUPERIS.—Section 1915(d) of title 28, United States Code, is amended to read as follows:

"(d) The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

SEC. 11. IMPROVEMENTS IN CASE MANAGEMENT.

Section 623(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) study and determine ways in which case and docket management techniques (including alternative dispute resolution techniques) may be applied to improve the cost-effectiveness of litigation and to eliminate unjustified expense and delay, and include in the annual report required by paragraph (3) details of the results of the studies and determinations made pursuant to this paragraph."

SEC. 12. ASSIGNMENT OF JUDGES; PANELS; HEARING; QUORUM.

(a) IN GENERAL.—Section 46(c) of title 28, United States Code, is amended to read as follows:

"(c) Cases and controversies shall be heard and determined by a court or panel of not more than three judges (except that the United States Court of Appeals for the Federal Circuit may sit in panels of more than three judges if its rules so provide), unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in regular active serv-

ice. A court in banc shall consist of all circuit judges in regular active service, except that any senior judge of the circuit shall be eligible to participate, at his or her election, and upon designation and assignment pursuant to section 294(c) of this title and the rules of the circuit, as a member of an in banc court reviewing a decision of a panel of which such judge was a member."

(b) ADMINISTRATIVE UNITS.—Section 6 of Public Law 95-486 (92 Stat. 1633) is amended to read as follows:

"SEC. 6. Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts."

SEC. 13. SEVERABILITY.

If any provision of this Act or the amendments made by this Act or the application of any provision or amendment to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of such provision and amendment to any other person or circumstance shall not be affected by that invalidation.

SEC. 14. EFFECTIVE DATE.

Except as expressly provided otherwise, this Act and the amendments made by this Act shall become effective 90 days after the date of the enactment of this Act. This Act shall not apply to any action or proceeding commenced before such effective date, except that the amendments made by section 10 shall apply to civil actions pending in any court on the date of the enactment of this Act.

Mr. MCCONNELL. Mr. President, I am pleased to join Senator GRASSLEY in introducing the Access to Justice Act of 1992.

As a former chairman of the Subcommittee on Courts in 1985 and 1986, I began to be interested in this issue and have introduced comprehensive tort reform legislation in every session since then, the most recent being last year with S. 1979, the Lawsuit Reform Act.

Mr. President, we have heard a lot of talk recently about our competition with the Japanese, and there has been suggestions by the Japanese that somehow we are not productive. I dispute those notions outright. But I do think there is one area in which we are clearly unproductive and that is the degree to which we engage in civil litigation.

As the Vice President has pointed out, we have 70 percent of the world's lawyers. We have 20 times per capita the number of lawyers as they do in the United Kingdom. In fact, Mr. President, there is, I think, what could best be called a lawyer's tax as a result of all our litigation—on all of our products and services. And it is high time we began to get a handle on it.

The administration's bill, the Access to Justice Act, is a first step in the right direction. The lawyer's tax is an insidious thing, Mr. President, and it is also regressive. Ninety-five percent of the cost of a childhood vaccine is the lawyer's tax; a third of the cost of a stepladder. The lawyer's tax costs us \$80 billion annually in direct litigation costs. It is estimated that the total cost to the United States is \$300 bil-

lion, including costs incurred in efforts to avoid liability.

So, Mr. President, this is a very, very serious problem. It is one of the few pieces of legislation we could pass that would not cost the Government anything. This is a way of getting at excessive litigation in our country.

So I commend Senator GRASSLEY. I am pleased to be a principal cosponsor along with him. I hope that the Senate will finally, after all of these years, take some steps to enact effective tort reform.

Mr. President, I ask unanimous consent that a summary of S. 1979, the Lawsuit Reform Act be printed at this time in the RECORD.

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

SUMMARY OF S. 1979, THE LAWSUIT REFORM ACT

JOINT AND SEVERAL

Abolishes the joint and several liability doctrine. No party shall be held liable for the actions of others. Each party must pay only their proportional share of total damages, based on their share of responsibility for causing the injury.

LOSER PAYS

Requires losing party of any civil action covered by this bill to pay the attorney's fees and costs of the prevailing party. No one would be required to pay the prevailing party more than what the loser had paid or agreed to pay their own attorney. Would not apply if the loser had offered to submit the case to alternative dispute resolution, or if the loser would be considered indigent under the guidelines of the Legal Services Corporation.

DRUG AND ALCOHOL DEFENSE

If a person was under the influence of alcohol or an illegal drug at the time of the injury, and the intoxicated condition was at least 50 percent responsible for the injury, the bill will not allow the person to sue someone else for damages for this injury.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

All defense and plaintiff attorneys are required to inform clients of alternatives to civil litigation, and certify to the court upon filing any action that such information was provided. If both parties voluntarily agree to submit to alternative dispute resolution, the decision of the alternative forum shall be binding, and there shall be no right of appeal.

SUBROGATION AND WORKERS' COMPENSATION

Provides that awards for damages in product liability suits will be offset by payments from workers' compensation programs, and allows for a right of subrogation.

LOCAL GOVERNMENTS (42 U.S.C. 1983)

In any action for damages against a local government under 42 U.S.C. 1983, the local government shall not be liable for the actions of its employees, unless attributable to an official policy or custom of that local government. A local government and its employees shall not be liable for any actions taken in good faith, and punitive damages shall not be awarded against a local government in any such statutory suit. Nothing in this provision shall prevent a person from obtaining full redress through a conventional civil tort lawsuit.

Applicability: This bill applies to all civil actions in Federal or State courts for neg-

ligence, professional malpractice, breach of implied warranty, and product liability; but not to actions for intentional torts, commercial loss, or damage to goods.

By Mr. BUMPERS (for himself, Mr. COCHRAN, Mr. ADAMS, Mr. AKAKA, Mr. SANFORD, Mr. SIMON, Mr. MITCHELL, Mr. WELLSTONE, Mr. GORE, and Mr. COHEN):

S. 2181. A bill to improve the capacity of rural communities to respond to homelessness, to establish effective program delivery models for prevention and remediation of homelessness in rural areas, to collect data on the extent and characteristics of homelessness in rural areas, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

RURAL HOMELESSNESS ASSISTANCE ACT

Mr. BUMPERS. Mr. President, I rise today to introduce the Rural Homelessness Assistance Act. It is legislation designed to aid those Americans who find themselves homeless in the most rural parts of America. I am pleased to be joined by Senators COCHRAN, ADAMS, AKAKA, SANFORD, SIMON, MITCHELL, WELLSTONE, GORE, and COHEN.

Most people think of homelessness as a peculiarly urban problem. Yet recent studies provide clear evidence that homelessness has spread to even the most remote corners of America's heartland. Increasing poverty, plant closings, and rising housing costs have combined to push many rural families over the edge into homelessness. In 1990, over 13,000 men, women, and children suffered the horror of homelessness in my State of Arkansas; and at least 25 percent of them resided in rural parts of the State. Reports from other rural States are equally alarming. In Tennessee, roughly 20 percent of the estimated 10,000 homeless people live in rural areas. In the southern 24 counties in Illinois in 1991, there was a 150-percent increase in requests for emergency shelter. There are an estimated 100,000 homeless people in Illinois with approximately 20 percent living in rural areas. Of 35,000 homeless in Mississippi, an estimated 10,000 of them are in rural parts of the State. In other States, the problem is just as severe, and service providers who care for homeless people are in desperate need of assistance.

Perhaps the most common manifestation of homelessness in rural areas is doubling up. This is where homeless people are taken in by friends and family—often in dangerously overcrowded houses. In the absence of sophisticated shelter and service delivery systems common in larger cities, homeless people in rural communities—including entire families—have been forced to take up residence in abandoned buses, chicken coops, and other health threatening, makeshift dwellings, isolated from the services they need to help them back on their feet.

I have spoken with several county officials in Arkansas, and they all say they are struggling to reach the people who most need help. They all agree that the near total lack of services in rural communities, and the scattershot nature of the services that do exist, make it virtually impossible for the most needy of our rural citizens to get the help they so desperately need. Too often that means that a temporary setback leads to permanent loss of a family home. And once homeless, the road back to self-sufficiency is that much harder.

Thus far, Federal efforts responding to homelessness have focused on big cities. Very little is being done to address the rising needs of homeless people in rural areas. For example, the latest census count of the homeless completely ignored homeless people in rural areas, and instead focused exclusively on homeless people in urban areas.

My bill is offered as a first step toward developing effective approaches to combatting the unique problems that contribute to homelessness in rural America and aiding communities in creating long-term solutions to the problem. My bill has been endorsed by several national groups, including the National Coalition for the Homeless, the National Association of Community Health Centers, and the Rural Housing Coalition.

Title I of this bill establishes a demonstration program designed to improve the capacity of small rural communities to address the comprehensive shelter, health and social service needs of homeless individuals and families. It will enable these communities to fill in the gaps in existing service systems that prevent homeless persons from gaining the employment, housing and social services they need to rebuild their lives. Title I provides for a three-to-one matching grant, and will coordinate existing services.

Title II of the bill will improve homeless families' access to transitional and permanent housing by expanding the availability of vacant single family homes currently held by the Farmers Home Administration. Thousands of families could be re-housed with this initiative by using available resources.

This bill would be the first attempt by Congress to deal specifically with the problem of rural homelessness. It is a problem that deserves the attention of Congress, because rural homelessness is a tragedy that undermines all that is good about this nation. If Government provides the leadership, then maybe private enterprise will follow suit. Maybe this nation will once again see to it that it is the responsibility of the whole community to take care of the poorest among us. If we cannot provide the most basic resources to help people shelter their families, then I fear that we have failed in our most

basic mission of providing hope for those Americans who live in a world of unrelieved despair.

Mr. President, I ask unanimous consent that an article from the Wall Street Journal detailing the tragedy of rural homelessness in the United States be inserted in the RECORD, together with a copy of the bill.

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

S. 2181

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 "Rural Homelessness Assistance Act".

TITLE I—RURAL HOMELESSNESS GRANT PROGRAM

SEC. 101. ESTABLISHMENT.

The Secretary shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

- (1) assisting programs providing direct emergency assistance to homeless individuals and families;
- (2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and
- (3) assisting individuals and families in obtaining access to permanent housing and supportive services.

SEC. 102. USE OF FUNDS.

(a) IN GENERAL.—An eligible organization may use a grant awarded under section 101 to provide in rural areas—

- (1) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;
- (2) security deposits, rent for the first month of residence at a new location, and relocation assistance;
- (3) short-term emergency lodging in motels or shelters, either directly or through vouchers;
- (4) transitional housing;
- (5) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;
- (6) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—
 - (A) outreach services to reach eligible recipients;
 - (B) case management;
 - (C) housing counseling;
 - (D) budgeting;
 - (E) job training and placement;
 - (F) primary health care;
 - (G) mental health services;
 - (H) substance abuse treatment;
 - (I) child care;
 - (J) transportation;
 - (K) emergency food and clothing;
 - (L) family violence services;
 - (M) education services;
 - (N) moving services;
 - (O) entitlement assistance; and
 - (P) referrals to veterans services and legal services; and
- (7) costs associated with making use of Federal inventory property programs to house homeless families, including the pro-

gram established under title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) and the Single Family Property Disposition Program established under section 204(g) of the National Housing Act (12 U.S.C. 1710(g)).

(b) **CAPACITY BUILDING ACTIVITIES.**—Not more than 20 percent of the funds appropriated under section 109(a) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

SEC. 103. AWARD OF GRANTS.

(a) **COMMUNITIES WITH POPULATIONS OF LESS THAN 20,000.**—

(1) **SET ASIDE.**—In awarding grants under section 101 for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under section 109(a) for the fiscal year for awarding grants to eligible organizations serving communities that have populations of less than 20,000.

(2) **PRIORITY WITHIN SET ASIDE.**—In awarding grants in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities with populations of less than 10,000.

(b) **COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.**—In awarding grants under section 101, including grants awarded in accordance with subsection (a), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77; 101 Stat. 482).

(c) **STATE LIMIT.**—In awarding grants under section 101 for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 5 percent of the funds appropriated under section 109(a) for the fiscal year.

SEC. 104. APPLICATION.

In order to be eligible to receive a grant under section 101, an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum the application shall include—

(1) a description of the target population and geographic area to be served;

(2) a description of the services to be provided;

(3) an assurance that the services to be provided are closely related to the identified needs of the target population;

(4) a description of the existing services available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing services or provide services not available in the immediate area; and

(5) an agreement by the organization that the organization will collect certain data on the projects conducted by the organization, including services provided, number and characteristics of persons served, causes of homelessness for persons served, and outcomes of delivered services.

SEC. 105. ELIGIBLE ORGANIZATIONS.

Organizations eligible to receive a grant under section 101 shall include private nonprofit entities, Indian tribes (as defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)), and county and local governments.

SEC. 106. FEDERAL SHARE.

(a) **FEDERAL SHARE.**—The Federal share of the costs of providing assistance under this title shall be 75 percent.

(b) **NON-FEDERAL SHARE.**—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

SEC. 107. EVALUATION.

(a) **EVALUATION.**—The Secretary shall perform an evaluation of the program to—

(1) determine the effectiveness of the program in improving the delivery of services to homeless persons in the area served; and

(2) determine the types of services needed to address homelessness in rural areas.

(b) **REPORT.**—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program described in subsection (a), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

SEC. 108. TECHNICAL ASSISTANCE.

The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this title, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this title \$30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the subsequent fiscal years.

(b) **AVAILABILITY.**—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

SEC. 110. DEFINITIONS.

As used in this title:

(1) **HOMELESS.**—The term "homeless" has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

(2) **PROGRAM.**—The term "program" means the rural homelessness grant program established under this title.

(3) **RURAL AREA; RURAL COMMUNITY.**—The term "rural area" or "rural community" means an area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

TITLE II—RURAL HOUSING AMENDMENTS

SEC. 201. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following:

"SEC. 542. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

"(a) **IN GENERAL.**—The Secretary shall, on a priority basis, lease or sell program and

nonprogram inventory properties held by the Secretary under this title—

"(1) to provide transitional housing; and
 "(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

"(b) **OTHER PRIORITIES NOT AFFECTED.**—The priority uses of inventory property under this section shall not have a higher priority than—

"(1) the disposition of such property by sale to eligible families; or

"(2) the disposition of such property by transfer for use as rental housing by eligible families.

"(c) **TRANSITIONAL HOUSING.**—

"(1) **LEASES AUTHORIZED.**—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

"(2) **RENTAL TO ELIGIBLE FAMILIES.**—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under this title to purchase the housing from the Secretary.

"(d) **LEASE PROCEDURES.**—

"(1) **IDENTIFICATION OF PROPERTY.**—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B),

"(B) negotiate a lease agreement with the organization or agency, and

"(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) **LEASE TERMS.**—A lease of inventory property under this section shall—

"(A) be for a period of not more than 10 years;

"(B) provide for the payment of \$1 for the 10-year lease; and

"(C) provide the nonprofit organization or public agency—

(i) the right to use the property for transitional housing; and

(ii) the option to arrange for the sale of the property to an eligible purchaser.

"(e) **PURCHASE PROCEDURES.**—

"(1) **IDENTIFICATION OF PROPERTY.**—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B),

"(B) negotiate a purchase agreement with the organization or agency, and

"(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) **PURCHASE TERMS.**—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair value of the property minus 10 percent.

"(f) DEFINITION.—As used in this section, the term 'Secretary' means the Secretary of Agriculture."

NO HAVEN: HOMELESSNESS SPREADS TO THE COUNTRYSIDE, STRAINING RESOURCES

(By Scott Kilman and Robert Johnson)

HUNTSVILLE, MO.—The homeless, long a big-city phenomenon, are emerging as a rural crisis, too. Ask Lowell Rott. After his small, debt-ridden farm here was auctioned off on the courthouse steps in 1986, he slept for a time in his 1973 Dodge pickup. Now he's a squatter in an abandoned two-room house with no running water.

There isn't much demand for 50-year-old farmers like him. A high-school dropout, he works as a handyman for \$10 a day and shower privileges. The faded old suit he wears for job interviews in town hasn't made him any more attractive. His face is streaked with cinders from a wood stove that generates so little heat he wears a parka to bed. He stubbornly keeps a hand in farming by raising castoff horses on the land of sympathetic neighbors. "The horses are homeless and so am I," he says. "We belong together."

A surprising—and growing—number of rural homeless like Mr. Rott are seeking shelter wherever they can find it: In caves near Glenwood Springs, Colo., under bridges in Des Moines, Iowa, and in junk cars close to Coventry, Vt. A scramble is on to build shelters in small towns from Boonville, Mo., to Wilmington, Ohio.

"THE HIDDEN HOMELESS"

Many small towns can't cope. They lack soup kitchens, subsidized housing, federal grant dollars and sometimes the bureaucratic savvy to snag such funds. Some rural communities have been slow to recognize a homelessness problem that shakes their idyllic self-image.

Some of the homeless are leaving big cities in search of safer streets and cheaper rent. But many of them are local people, thrown out of work by the farm depression of the '80s, displaced by the national recession of 1991 or crowded out of shelter by a declining stock of housing.

They have escaped the national attention attracted by the urban problem because they're scattered over remote areas. In addition, many are still in a transition stage of homelessness—they're still being sheltered by friends or sympathetic onlookers—so they're not yet out on the street and thus less visible. University of Colorado public-policy researcher Roger Carver calls the rural homeless "the nation's hidden homeless: out of sight, out of mind."

No one knows how many homeless people there are in rural areas nationwide—and any survey of homeless people is bound to be a very rough estimate. But an Ohio State University study put that state's rural homeless at 20,000, triple the estimated total in 1984. Officials in New Hampshire say the homeless in the countryside there have quadrupled to 8,000 in the last decade. Iowa figures it has about 2,500 people in shelters.

All this is awakening communities like Glenwood Springs, Colo., to the problems of the late 20th century. A decade ago, the rare down-and-out person could count on someone in the town of 7,000 to offer a spare bed and a meal, says Mary Wierenga, a veteran police officer there. "Now there are just too many," she says. The town's concern has sometimes turned to cynicism. When a homeless man sleeping on a sidewalk recently rolled under the wheels of a moving car, suffering several broken bones, some residents nicknamed him "Speed-bump."

The good will of many small towns is severely strained, and they are wrestling with their consciences. Outside Washington, Iowa, an abandoned county-supported poorhouse in the corn fields is being converted with a federal grant into a homeless shelter for 60 people, and the waiting list already stands at 12 families. But many dread it will become a mecca to the poor for miles around. "I have a spiritual side, but I'm worried about ruining a good town," says Raphael Gonshorowski, a councilman in Washington, where the desperate appearance of some homeless people has residents locking their cars for the first time.

The problem has been building for a while. Many rural communities saw the earning power of their poorest workers shrink in the 1980s as some manufacturers cut wages and jobs shifted to the low-paying service sector. Measured in 1989 dollars, the pay of a worker in the bottom 10% of wage earners in Iowa dropped 16% to \$241 a week in 1988 from \$286 a week in 1979, according to Thomas F. Pogue, a University of Iowa economics professor.

Unemployment in Washington has fallen by half from five years ago. But many of the new jobs are part-time at a Wal-Mart store, or in a neighboring county at a meat-packing plant, where turnover is high. Homeless people in Washington County (pop. 19,439) number about 150; there weren't enough to count five years ago. Since then, the ranks of those dipping into the county's tiny relief fund have tripled. "A lot of people are working for \$4-an-hour nowadays," says Marian McCreery, who heads the state's welfare office there. "That isn't enough." (The minimum wage is \$3.80.)

Seemingly, the population decline in rural America in the 1980s would have left cheap places for the homeless to go. But, in many rural towns, there is an acute shortage of affordable and inhabitable housing. Construction has evaporated because values collapsed amid the farm failures and plant closings of the past decade. Meanwhile, homes are getting older, in Iowa between 1980 and 1987, more housing units were knocked down than new ones built, resulting in a loss big enough to erase a city the size of Ames, Iowa. Rents haven't gone up enough to spur construction, but they have gone up enough to put some people on the street.

Lisa Bohlen, a single mother of two in Washington, found that a 40% rise in rents over the past three years overwhelmed her wages as a temporary store clerk and kitchen helper. Now she and the children are staying with a friend—she sleeps in the dining room, they sleep in a bedroom—but she worries that the welcome is wearing thin. "I never knew of anyone being homeless around here," she says. "Now, I am."

A CAVE LIKE A TOMB

Rents in rural America are much lower than in cities, of course, but rent is only part of the problem. After Stephen Capell lost his job as a welder in Los Angeles two years ago, his house was repossessed and he headed for Glenwood Springs, Colo. But to get an apartment there—even one at \$300 a month—requires roughly \$600 for a deposit and one month's rent. So Mr. Capell, who is 43 years old, lives in a cave in the Rocky Mountains outside of Glenwood Springs. A flickering of lantern illuminates the 20-foot-high ceiling of his cave, which he says reminds him of a tomb. "I believe I'm capable of more than this, worth more than this," he says.

He is one of at least six people living in the cluster of caves, which are warmed by hot springs. Muddy wool blankets are draped

over the openings, and smoke from cooking fires hangs in the air. A growling 125-pound Rottweiler guards one of the caves, which is inhabited by an unemployed construction worker who says he is too embarrassed to give his name. Nearby, a woman is hanging clothes washed in a creek on a line strung between two sticks. Families with children sometimes sleep in the caves, but the climb up is too hazardous for most.

Some people have migrated here partly to escape big-city violence. "I got rolled in Phoenix and Denver," says Tim Travelstead. "People are nicer out here. In the big city, I'm just a skid-row bum." But what little research exists indicates that the homeless are often subject to crime in rural areas, too.

A TEEN-AGER'S WISH

Larry Sumpter worries about life for his family in the Salvation Army shelter in Columbia, MO. The only such facility for families in Boone County. It handles 70% more people than it did four years ago. The shelter operates in the red because it has had to quadruple the number of beds to 42.

Mr. Sumpter, his wife and three children—one just two months old—have been in the shelter for a month. He ran out of cash after losing a job delivering farm produce. Another prospective employer rejected him when he gave his address at the Salvation Army. "It was the first time anybody ever called me a 'transient,' and it doesn't seem right. I don't turn down work of any kind, and I have good references," he says. Mr. Sumpter, 38, stands in line to land temporary jobs at a day-labor service and made \$3.85 ringing a bell for Salvation Army donations. His wife, Tammy, is a motel maid.

They fret over their 15-year-old daughter's dislike of school, where classmates have taunted her about being broke. After her parents leave for work, teen-ager Glenda babysits and struggles to maintain her dignity in the face of uninvited sexual advances from some men in the shelter. "Just to go to sleep at night without strangers all around would be so nice," she says.

Donald Ruthenberg, president of nearby Columbia College, says he is quietly allowing homeless families brief stays in the small school's empty dormitory rooms. "I suppose it could be a problem if certain people knew, what with security worries these days," he says. "But what am I supposed to do when I see parents and little children walking around town at dusk with nowhere to go?"

BUILDING A SHELTER

Ronald V. Good is asking the same question in Washington, Iowa. He is a transplanted Reformed Presbyterian pastor and part-time jailer from suburban Pittsburgh who got community support for the new homeless shelter by pulling heart strings, and pushing old-fashioned principles. He cast the renovation of the poorhouse as "transitional housing" and promised to be tough on bums. He bolstered his credibility by walloping two bullies on the town square for ridiculing his bald head.

Inspecting work on the shelter, which is slated to open in May, Mr. Good pats the beds and lumber he persuaded local firms to donate. He peers through a dirty window at the plot of land he envisions families using to raise goats and vegetables. "There should be at least one advantage to being homeless in the countryside," he says.

But many small towns can't afford a shelter and are afraid of drawing more poor to their doorstep. Others are torn by rural values such as self-reliance and independence. "There's a 'Lone Ranger' mentality out

here—a belief that everyone should make it on their own," says Tere Wilson, a former priest at St. Mark's Episcopal Church in Durango, Colo. He resigned from that church largely, because congregation members such as Dorothy Gore objected to his putting 20 homeless people in a church hallway. "The church isn't the place for the homeless," says Ms. Gore, a retiree who takes daily walks through the surrounding historic neighborhood. "We just couldn't have the homeless there: the smells, the mess of their grease from their cooking in the kitchen."

In Cambridge, Ohio, Mayor C. Charles Shaw says he vetoed a \$48,000 federal grant to build a shelter partly because he feared it would become a "beacon" for transients. So a private group there quietly runs a shelter of its own. But Evelyn King, the city's housing program manager, worries that her volunteer group there jeopardizes her job. "People here don't want to see the homeless," she says. "But we're starting to have plenty of them in junk cars, abandoned buildings and dealing with Mother Nature."

Street people are almost beyond the imagination of many residents in Manchester, Iowa. Nestled among lush farms, the town is just up the road from the site of the movie "Field of Dreams." Local leaders dismiss a 1989 survey showing 745 people in the county were doubling up with friends or family, helping give the county the highest homeless rate in the state.

"The homeless are people on the street. We don't have that problem," says Jim Wiewel, president of the First State Bank of Manchester. "We want people to see us as a viable community. A high homeless rate doesn't help." Some officials in the county didn't cooperate with a 1990 statewide homeless survey, the official results of which haven't been released yet.

In Columbia, Mo., officials shun the idea of a city-supported shelter. "It's hard for me to see our homeless the same as those in a big city," says Lila Dewell, manager of city community services. "We were ranked the fifth most livable place in the country by Money magazine. We're a wonderful place."

Mr. WELLSTONE. Mr. President, I rise today as an original cosponsor of the Rural Homelessness Assistance Act. We are all aware of the difficult problems posed by the growth of homelessness in American cities in recent years. We have all seen people sleeping on grates, in subways, and in bus shelters, and we have all heard stories of the difficulties faced by individuals and families without permanent homes. There is, however, another homeless population in America, one that is largely invisible because it is not in the cities. I am speaking of the rural homeless, a population with characteristics and needs that are distinct from those of our cities. With this bill, we can begin to address the specific, and difficult, problems of this population.

There can be no doubt that the problem of rural homelessness in this country needs to be addressed. It is estimated that 14 percent of the homeless nationwide are from rural areas. More importantly, it is in nonmetropolitan areas that homelessness is growing most rapidly. In Minnesota the number of persons served in shelters in non-urban areas has increased by 150 per-

cent since 1985. And, as most advocates for the homeless point out, the number of people in shelters is only the tip of the iceberg with respect to this problem, since people in rural areas are more likely to be doubled up with extended families, or to have taken shelter in abandoned houses where they lack essential services such as water, electricity, or heat. It does not take much imagination to understand the difficulties faced by individuals and families who live isolated from the services provided in urban areas when they face life without permanent housing.

The rural homeless are also distinct from those of the cities because they tend to include more families, fewer people with substance abuse problems, and fewer who are suffering from mental illnesses. On the other hand, family conflicts, as well as economic conditions, seem to be major factors in the rise in rural homelessness. This population is different from the urban homeless—this is why we need specific legislation to address their problems.

That is the goal of this act and that is why I have decided to become an original cosponsor. We need to recognize that when people in rural areas are faced with the loss of their homes there is often nobody for them to turn to, no organization that can provide them with the help they need to stay in their homes, or to find new shelter. Our first goal with this bill is the creation of denser networks of service providers in rural areas. This means providing resources for communities and nonprofit organizations that will help people not become homeless in the first place, by helping find ways for families to make difficult mortgage or rent payments, or to pay their gas and electricity bills. It will fund organizations that give people a place to turn in order to learn how to deal with domestic problems that might otherwise lead to the loss of their shelter.

When people do become homeless, this bill facilitates the efforts of organizations that work to create more emergency housing in rural areas. It encourages the establishment of groups to provide supportive services to the homeless as well as help in their search for permanent housing and self-sufficiency. The Rural Homelessness Act will work to encourage community-based organizations to fill in the service gaps in rural areas, creating a more comprehensive service system, such as the ones we have already established in our cities. It provides them with the resources they need to move toward these goals.

At the same time, this act does not simply take an approach to the problem of homelessness developed for the cities and apply it to rural areas. Recognizing that rural America has specific needs, and that different rural communities have needs that are dis-

tinct from each other, it is structured to leave communities the ability to design their programs to suit the needs of the homeless population in their particular area. Furthermore, it creates a means to evaluate the effectiveness of the programs that are established under this act.

Rural communities in America have not been given the resources to adequately help their homeless people. This bill is intended to assist communities and community organizations help homeless people maintain a sense of dignity. It has been endorsed by many of my colleagues, as well as by some of the major organizations of advocates for the homeless. This is a much needed and well thought out piece of legislation. I would like to thank Senator BUMPERS for introducing this bill and I urge my colleagues to join me in support of it.

By Mr. DECONCINI:

S. 2182. A bill to amend the Child Nutrition Act of 1966 to make the special Supplemental Food Program for Women, Infants, and Children [WIC] an entitlement program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PERMANENT FUNDING OF SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Mr. DECONCINI. Mr. President, for the last several years my friend from Rhode Island, Senator CHAFEE, and I have led the efforts in the Senate to increase appropriations for the Special Supplemental Food Program for Women, Infants, and Children [WIC].

As my colleagues will recall, our effort last year sought to increase WIC funding by \$250 million over the prior year's current services level in order to maintain the schedule for full funding of WIC by 1995. Despite a record number of cosponsors for our annual WIC appropriations initiative, the enacted appropriations level for the fiscal year 1992 for WIC was a full \$100 million short of the target. It is very hard to imagine that 88 Senators can agree on anything; it is even harder to imagine that such a consensus could be formed and fail to achieve its goal.

Mr. President, I do not find fault in any way with the conferees on the fiscal year 1992 Agriculture appropriations bill. Their task was nearly impossible given an insufficient subcommittee allocation to meet all the demands placed upon them, especially in light of continued problems related to crop disaster insurance.

I sincerely applaud the efforts of Agriculture Subcommittee chairman, Senator BURDICK and ranking member, Senator COCHRAN, last year—both have consistently done whatever they could on behalf of WIC and last year's effort was no exception.

Mr. President, the reason our efforts failed to keep pace with the WIC full funding schedule by 1995 are many, the

most important of which is that the number of new poor at nutritional risk is growing faster than our ability to serve them. Hence, I am calling for WIC to be permanently funded as an entitlement to assure that our Nation's most needy children have a fighting chance to live, learn in school, and reach their full potential.

Mr. President, I realize those are words that set people on edge, an entitlement. But what is more important than to be entitled to enough food and nutrition so that you can grow up healthy. If that is not paramount in any nation's priority, I do not know what is.

WIC provides critical nutrition and health benefits to over 4.5 million low-income pregnant women and young children at risk of diet-related health problems, but almost as many other needy women and children are unserved. Tragically, America ranks 19th in the world in infant mortality.

Every year 40,000 infants die in the United States and another 11,000 babies are born with long-term disabilities that result from their weakened condition. Unless we act—and act soon—to provide full funding for WIC, we will lose more American infants in the next 13 years than we have lost soldiers in all the wars fought by this country in this century.

WIC is a Government program that works and I have been a leading advocate for this program since its inception because it is the right thing to do. WIC not only prevents infant mortality and low birth weight, study after study has also shown that WIC is the most cost-effective method to do so. WIC reduces Medicaid costs: Each dollar invested in WIC's prenatal components saved between \$1.77 and \$3.13 in Medicaid costs. In addition, studies show that future special education costs are reduced through WIC's early nutrition intervention.

Nevertheless, there is room for improvement. WIC has not come close to fulfilling its potential. Current funding levels support about 60 percent of the eligible women, infants, and children nationwide. Arizona currently receives funding that enables the WIC Program to assist approximately 60 percent of those eligible throughout the State, but serves only 40 percent of those eligible in the urban areas. Nationwide, WIC isn't doing any better—less than 60 percent of all women, and just over 40 percent of children eligible for the program are being served. The bipartisan National Commission on Children's report says that the Federal Government isn't investing enough in WIC and recommends WIC be expanded to serve all financially needy pregnant and nursing women, and infants and children at nutritional risk. To do so will require increased annual funding of approximately \$1.15 billion, or 44 percent more than the \$2.6 billion appropriated for fiscal year 1992.

Mr. President, I wish we could proceed along the current phased-in full funding schedule.

However, the reality is that we are never going to serve the 8.7 million currently eligible by 1995 if we proceed on the current track. We have to get beyond the way money is currently budgeted. WIC funding tripled during the 1980's—faster than any other nondefense, domestic program—but rising poverty rates have all but wiped out the earnest efforts which many of my colleagues and I have made. In 1990 alone, the number of children in poverty in America rose over 840,000 to 13.5 million children, a substantial number of whom are nutritionally at risk. That is why WIC needs permanent funding.

Many child nutrition advocates have not agreed with me about setting up an entitlement for WIC. They fear that other Government programs, including other child health and nutrition programs, will unduly suffer from rapid expansion of WIC. If that were true, I would not embark upon this effort.

The reality is that WIC can be transformed into an entitlement with barely more than the short-term and long-term savings it will produce. We need only to reform the Federal budget process to allow WIC to be able to recoup the savings it creates for Medicare as well as other Federal health care and education programs.

Mr. President, some other funds would be needed to fund WIC until the savings are realized, but these early outlays are insignificant in relation to the long-term savings. Even if the money was deducted out of the defense budget, it still would amount to only a fraction of their expenditures.

The cost of infant mortality is borne by all of American society. The lifetime costs of caring for just one low birth weight infant can total \$400,000. The cost of prenatal care—care that might prevent the low birth weight condition in the first place—can be as little as \$400. As a nation we have a choice. We can pay now or we can pay much more later.

Mr. President, until this legislation is enacted, I will continue to fight as hard as I can for the highest level of appropriation possible for the WIC program. I have not given up all hope that we can achieve full funding by 1995. The odds are not good, but I remain committed to do whatever I can do to achieve phased in full funding by 1995.

Mr. President, the bottom line is WIC is a Federal initiative that works and we should work to make it a reality for the millions of women and children whose health will continue to suffer without it.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) IN GENERAL.—Section 17(c)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(1)) is amended—

(1) in the first sentence, by striking "may" and inserting "shall"; and

(2) by inserting after the first sentence the following new sentence: "Subject to the other provisions of this section, an eligible individual shall be entitled to receive the full amount of benefits authorized under this section."

(b) APPROPRIATION.—Section 17(g)(1) of such Act is amended by striking the first sentence and inserting the following new sentences: "For purposes of providing benefits to all eligible individuals in the program and otherwise carrying out this section, there are authorized to be appropriated, and there are appropriated, to carry out this section such sums as may be necessary for fiscal year 1992 and each succeeding fiscal year. The Secretary shall make available the sums described in the previous sentence to carry out this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1992.

By Mr. SHELBY:

S. 2183. A bill to prohibit the Secretary of Veterans Affairs from carrying out the Rural Health Care Initiative; to the Committee on Veterans' Affairs.

PROHIBITION ON IMPLEMENTATION OF RURAL HEALTH CARE INITIATIVE

Mr. SHELBY. Mr. President, in the past two centuries the standard for good public policy has vacillated between two often contradictory ends: the reasonableness or rationality of a policy and the morality or rightness of that policy. I rise today to introduce legislation that will end a policy that is neither reasonable nor right, neither rational nor justified. The Department of Veterans Affairs Rural Health Initiative meets neither test of good public policy. As such, the legislation that I am introducing today would eliminate the Secretary of Veterans Affairs authority to treat nonveterans, other than qualified dependents, in health care facilities administered by the DVA under the current sharing program with HHS.

While this program has been praised in some quarters as an innovative policy that addresses the deficiencies of rural health care, I contend that the program, if fully implemented, would equate to the attempt to empty an ocean with a spoon. No one is more painfully aware than I of the current crisis in rural health care. In the past decade, my home State of Alabama has seen numerous closings of rural hospitals and a steady decline in the delivery of rural health care. I am a staunch proponent of quality, affordable health care for all Americans, rural or urban. Yet, such health care should not be provided at the expense of our Nation's

veterans. Despite the DVA's claim to the contrary, the rural health initiative will cost our veterans a further share of their ever decreasing and declining benefits.

I stated at the outset that this program fails the test of good policy on two points: Its reasonableness and its justness. As to its reasonableness, for this policy to be successful it must fulfill one primary intention. The initiative must not interfere with the DVA's ability to deliver health care to all qualified veterans and qualified dependents. Veterans must not be turned away from facilities as a result of the added pressure of treating HHS cases nor should the quality of their care decline.

Mr. President, there can be no doubt that should this program move from the pilot stage to large scale implementation, in the coming decade such a program will overburden an already understaffed and underfunded veterans hospital system. Numerous studies show that during the next two decades the number of veterans over the age of 75 will increase by nearly 200 percent. In addition, the DVA's own commissioned study stated that at present funding levels the veterans health care system cannot possibly meet its future obligations. A clear picture emerges of an overburdened and underfunded system. Everyday my constituents write me with account after account of the often poor health care in VA hospitals. What leads the Secretary to believe that any additional pressure on these hospitals at present funding levels will do anything other than worsen an already deplorable situation for our Nation's veterans? Presumably this program would affect only those hospitals that are under capacity. The director of the veterans hospital in Tuskegee, AL, one of two pilot hospitals in this program, notes that in terms of unused capacity his hospital has very few vacant beds.

To worsen matters still, the treatment of nonveterans in these facilities may provide treatment to nonveterans that is not available to veterans. We all know of the often complicating and confusing nature of veterans health programs. Often a veteran may qualify for the treatment of one condition while being denied treatment for another. How does it look for a facility constructed and chartered to serve the needs of veterans to provide services to individuals on a third party payment plan while denying the same procedure to a veteran in the same facility? The Secretary promises that veterans will see no reduction in services. Demographic trends and funding levels suggest that reduction will take place regardless of whether or not the rural health initiative becomes a full scale program. The initiative will only serve to further reduce the quality of programs already in dire need of help.

While I am sure that the Secretary is most sincere in his efforts and intends no harm to our veterans, many well intentioned efforts have had most adverse results. VA facilities have been asked to do more with less for many years. Generally, they have done less with less, and such reductions or added responsibilities have only been to the detriment of our veterans.

The question of right or wrong with regard to this policy is clearly and easily answered. Only a year ago we praised the bravery of our Nation's veterans and appreciated in the most direct manner their sacrifices for our Nation's security and welfare. Yet simultaneously we continued to pass veterans budgets that did not measure up to our stated appreciation. Everyday our veterans suffer great indignities in these under supported facilities. Now we ask them to suffer one more indignity and to believe one more promise that they will not suffer in the name of innovation and administration. Veterans hospitals are the exclusive domain of veterans and their qualified dependents. I cannot support any program that in any way reduces further the dignity of our Nation's veterans or further erodes the commitments to certain exclusive services to them for their sacrifice to our Nation. This policy is neither reasonable nor is it right. I ask my colleagues to join me in support of this measure.

By Mr. KENNEDY:

S. 2185. A bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met; read the first time.

SUSPENSION OF FORCED REPATRIATION OF
HAITIANS

Mr. KENNEDY. Mr. President, I am introducing today, along with my colleague on the Immigration and Refugee Subcommittee, Senator SIMON and Senator DECONCINI, emergency legislation to temporarily suspend—for 2 weeks—the forced repatriation of Haitians from Guantanamo Bay, and to require the President to certify at that time that the repatriation program is safe and meets a number of conditions.

At a minimum, we should suspend the currently planned forced repatriation program until the United Nations, the Organization of American States, or the International Federation of the Red Cross can determine conditions in Haiti are safe to do so.

Mr. President, although the Supreme Court has given the administration the legal authority to forcibly repatriate Haitians, it would be wrong for this country to do so until conditions are clearly safe for their return.

Reports of continuing violence and threats of violence in Haiti in recent weeks require us to give temporary protection to all Haitians unwilling to return at this time. In the present de-

plorable state of the record, it would make a mockery of America's highest ideals to compel any Haitians to return to their country against their will.

The United Nations High Commissioner for Refugees has sought assurances from the administration that Haitians will not be returned until it is safe. We should urge the United Nations or the OAS to immediately send a delegation to Haiti to determine if conditions are safe, before we begin a forced repatriation program.

Until that assessment is made, no Haitian should be sent back to a potentially dangerous and violent future.

Mr. President, the bill we are introducing today will suspend forced repatriation for the next 2 weeks, until the President can certify to Congress that conditions are safe; that adequate international monitors are in place in Haiti, with freedom of movement and access to all parts of the country; and that a viable screening process will remain in place in Guantanamo to protect legitimate refugees.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following the texts of recent editorials supporting the suspension of forced repatriation.

I ask that these editorials be printed at this point in the RECORD.

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

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION.

No Haitian national described in section 3 may be repatriated against his or her will to Haiti from the United States military installation at Guantanamo Bay, Cuba, or from the United States, until after—

- (1) February 21, 1992, or
- (2) the date on which the President makes the certificate described in section 2, whichever is later.

SEC. 2. CERTIFICATION REQUIREMENTS.

Whenever the President determines the following, he shall so certify to the Judiciary Committees of the Congress:

- (1) That the number of staff personnel of the Organization of American States, the International Federation of the Red Cross, the United Nations, or any other appropriate international agency has been augmented in Haiti sufficiently to monitor repatriated Haitian nationals throughout Haiti and to report accurately on conditions relating to their safety.
- (2) That such international monitors have free and unimpeded access to repatriated Haitian nationals, regardless of their location in Haiti.

(2) That—

- (A) violence in Haiti, both random and targeted, has been reduced since the September 30, 1991, coup d'etat sufficiently to assure that future repatriated Haitian nationals will not face persecution or politically motivated violence; and
- (B) those Haitians already repatriated have not been harmed.

- (4) That the United States has in place an administrative system under the Refugee

Act of 1980 and the Immigration and Nationality Act to assure that Haitian nationals who may continue to flee Haiti, and are in United States custody, would have ample opportunity under a viable screening process to seek admission to the United States as refugees under section 207 of the Immigration and Nationality Act or for the purpose of applying for asylum under section 208 of such Act.

SEC. 3. HAITIAN NATIONALS COVERED.

A Haitian national referred to in section 1 is a Haitian national who fled Haiti on or after September 30, 1991, without a visa for entry into the United States.

[From the Boston Globe, Feb. 4, 1992]

REPATRIATION CRISIS FOR HAITIANS

Within weeks after the coup in Haiti that ousted President Jean-Bertrand Aristide, resolutions were pending in both houses of Congress to address the refugee issue. That was in October. Action is yet to be taken.

The resolutions, introduced by Sen. Connie Mack of Florida and Rep. Charles Rangel of New York, called for the attorney general to suspend deportation proceedings of Haitians until Aristide was restored to power.

In three months since those resolutions were introduced, Aristide's return to power seems a dim possibility, and what was once a refugee problem has now become a full-blown crisis—a crisis made worse, not better, by the court's decision to allow forced repatriation.

The congressional resolutions mandated that the White House abide by the Immigration and Naturalization Act, which allows for temporary protected status for refugees whose home countries are deemed dangerous. Such status has been granted to those fleeing Lebanon, Kuwait and Cuba.

The Bush administration—haunted by anti-immigrant sentiment in this country—insists that no such danger exists, despite well-documented reports by human-rights monitors of rape, murder and mayhem. Apparently, there are members in Congress who fear the same backlash, which might explain its failure to act more swiftly in demanding asylum for Haitians.

Sen. Edward Kennedy is now urging the administration to halt the repatriations and grant temporary protected status, a position he has wavered on in recent weeks. He has also encouraged the United Nations high commissioner to go to Haiti to determine whether the country is indeed unsafe. Legislation to halt the repatriations, proposed by Rep. Romano Mazzoli of Kentucky last November, is scheduled to be discussed today by the House Judiciary subcommittee on international law, immigration and refugees.

These actions come to late, however, for hundreds of Haitians who have already been returned. Their fate will now be in the hands of brutal police and military forces who will, no doubt, be encouraged by the repatriations. Perhaps Congress still has time to intervene in behalf of those who remain at Guantanamo Bay. Let us hope they will use that time and influence more expeditiously.

[From the Boston Herald, Feb. 4, 1992]

LADY LIBERTY'S WORDS

There is unseemly haste to repatriate 10,000 Haitian refugees currently in the custody of the federal government. It's almost as if we hope that by forcibly returning them to the troubled island we can pretend the problem no longer exists.

On Saturday, the U.S. Coast Guard sent back the first 250 refugees from our naval

base at Guantanamo, Cuba, after the Supreme Court lifted an injunction barring their return.

The government maintains the Haitians aren't legitimate refugees, that they merely seek to escape bone-crushing poverty, as opposed to political persecution.

If what has been going on in Haiti since September, when the nation's first democratically-elected government was overthrown by a military coup, isn't repression, it will do until the real thing comes along.

Since the overthrow of the government of Jean-Bertrand Aristide, the military has launched a search and destroy mission against political opposition, real and potential.

Human rights monitors stationed there speak of mass arrests and the disappearance of detainees. If most of the island's populace live in fear of their lives, it is not without good cause.

But why must political persecution be the sole criterion for granting refugee status? Death by hunger, disease and malnutrition are just as certain (and frequently more painful) than a bullet in the back of the head. Most of our immigrant ancestors were "economic refugees."

The Justice Department says there are 20,000 Haitians massing on the shores of their homeland, preparing to depart for America, and quick repatriation is needed to discourage the exodus. The claim is dubious. But if true, doesn't that say something about dismal conditions in Haiti?

America has the capacity to absorb these refugees, or five times their numbers, handily. The keelhauling of Haitian refugees, without even a semblance of due process, belies our claim to be a haven for the oppressed.

Have we as a nation forgotten those words at the base of the Statue of Liberty?

"Give me your tired, your poor.
Your huddled masses yearning to breathe free."

Have we forgotten, or are we merely determined to make a mockery of them?

[From the New York Times, Feb. 4, 1992]

HUMANITY FOR HAITIANS

Under ordinary circumstances, the United States cannot admit every Haitian who arrives on these shores seeking a better life. But today's circumstances are not ordinary. The U.S. cannot decently force terrified asylum-seekers to return to the hell their homeland has become.

Since the Supreme Court lifted a restraining order on Friday, the Bush Administration has seemed intent on shipping Haitian would-be refugees home. Congress needs to retrieve America's reputation for compassion by quickly approving emergency legislation.

Haiti has long been the Western Hemisphere's poorest nation. Its people have been willing to risk danger, detection and deportation for the opportunity to work in the U.S. Haitian immigrants have made a positive contribution to American society. But allowing in all who want to come would be unfair to the thousands of people from other impoverished, more distant countries who patiently wait their turn for legal admission.

Since a violent coup late last year, Haiti has become the hemisphere's most dangerous nation as well as its poorest. Armed thugs terrorize poor neighborhoods, trying to crush support for Haiti's exiled President, Jean-Bertrand Aristide. More than 1,500 people have perished, Amnesty International re-

ports. The Bush Administration, hoping to dislodge the military regime, supports a trade embargo that adds to the privations of Haitian life.

But even as the Administration tries to force political change in Haiti, it has sought court permission to ship back all fleeing Haitians who do not meet the narrow legal requirements for asylum. Those requirements involve a demonstrable fear of direct personal victimization, but not, say, a reasonable fear of being caught up in the deadly violence being unleashed by the military regime.

The Administration's own reasonable fear is that once word reaches Haiti that people are not being turned back, an unmanageably massive flight will begin. And it worries about alienating Florida voters with an inundation of Haitians in an election year. Those are real risks. But with safeguards like temporary sanctuary, both humanity and prudence can be served.

Further court tests lie ahead, but the Coast Guard is now free to repatriate most of the 12,000 Haitians held at Guantanamo, Cuba. Even though the situation in Haiti is particularly turbulent, the Administration seems determined to move quickly. That leaves it up to Congress to show the compassion America has displayed in the past for Cubans, Vietnamese and others in a similar predicament.

A bill introduced yesterday by Representative Romano Mazzoli would grant Haitians now in U.S. custody a "temporary protected status." It would hold up involuntary repatriations until the President could certify that a democratically elected government was again securely in power in Haiti. If Congress moves quickly, the bill could be on the President's desk in days.

An early return to democratic government may seem unlikely under Haiti's present circumstances. But it is the formal objective of U.S. diplomacy. If that is no longer a realistic goal, America's entire policy toward Haiti needs to be rethought, and strengthened.

Haiti's nascent democracy has been hijacked by thugs, some of them apparently involved in drug dealing. Good policy and good politics argue against the Bush Administration acquiescing in their rule. Common humanity argues against America forcing people back into their bloody hands.

[From the Washington Post, Feb. 4, 1992]

HAITI'S REFUGEES

Forcible repatriation of refugees—sending people back to a country where they face not only great hardship but the risk of physical harm—is an ugly business. The United States has now returned to Haiti the first several hundred of some 10,000 whom the Coast Guard has plucked out of the sea on their way, they had hoped, to Florida. For a country with the resources of the United States and its deep commitment to human rights, this is a sorry response to the Haitian tragedy.

No Haitians ought to be forced to return until some degree of peace and order prevails in their land. But the Bush administration backs uneasily away from that standard. As things are now going, it may be a very long time before Haiti sees much peace and order.

In retrospect, it's clear that the United States and the Organization of American States made a fundamental political miscalculation last October. The army had pushed the democratically elected president, Jean-Bertrand Aristide, into exile. The hemisphere's governments immediately

joined hands to impose a tight embargo. The idea was that the economic pain inflicted by the embargo would force the army to give up power and allow the president to return. But that overlooked the nature of the Haitian army.

It is much less an army in the modern sense than a loose confederation of armed bands not reliably under the control of its officers. Many of these armed bands are engaged in preying on the civilian population, running drugs and smuggling. Since the embargo enhances the smuggling trade, the soldiers have little interest in ending it. Diplomats of the OAS had worked out an intricate arrangement under which President Aristide would return and govern with another politician, Rene Theodore, as his prime minister. Ten days ago armed police, who in Haiti are subservient to the army, broke into one of Mr. Theodore's meetings, beat people at random and, to emphasize their purpose, murdered one of his bodyguards with a machine gun.

The embargo continues to cause great suffering, but not among the gunmen. Since it isn't serving its purpose, this embargo needs to be relaxed. The Bush administration has been debating the exemption of at least the assembly industry—the factories that imported components mainly from the United States and re-exported the products. There were more than 35,000 jobs in those factories before the embargo. To persist in the present total embargo is to increase the distress, purposelessly, in a country now ruled by cruelty and violence. To force refugees to return there under these conditions is worse. It is a violation of American values.

By Mr. ADAMS:

S. 2186. A bill for the relief of Rolando and Amelia Degracia; to the Committee on the Judiciary.

S. 2187. A bill for the relief of Celestina Maes; to the Committee on the Judiciary.

RELIEF OF CERTAIN INDIVIDUALS

• Mr. ADAMS. Mr. President, I rise today to introduce two private immigration relief bills. Private immigration relief legislation is, by definition, the last recourse immigrants have to appeal Immigration and Naturalization Service decisions. Legislation should be initiated only after careful thought and for truly meritorious cases.

The cases of Rolando and Amelia Degracia and Celestina Maes fit this bill.

Rolando and Amelia Degracia are citizens of the Philippines. Rolando was born in the Philippines on November 18, 1947. Amelia was born in the Philippines on October 11, 1949.

In March 1983, Mr. Degracia entered the United States to attend military training at Fort Eustis, VA, on behalf of the Philippine Government. Ms. Degracia came to the United States and enrolled in a course of pediatrics at Mount Sinai Hospital in New York.

Rolando and Amelia's son, Rommel, was born prematurely on August 4, 1983 in Williamsburg, VA, and is U.S. citizen. Because of his premature birth, Rommel required extensive surgery which involved removal of a portion of his intestines. As a result of this oper-

ation, Rommel has a short, poorly functioning intestinal tract which renders him incapable of total oral nutrition. He requires daily infusions of a special formula through a central line catheter into his heart to survive.

Because the medical solutions and supplies necessary for Rommel's survival are not available to the Philippines, he must continue to obtain medical care in the United States.

Amelia informed my staff that she has visited the Philippines on two occasions with disastrous results. During their first visit, Amelia and Rommel were forced to return to the United States after 9 days because the pump controlling the rate of infusion of his formula malfunctioned. Amelia obtained an improved pump and returned to the Philippines. However, once again, the pump malfunctioned forcing Amelia and Rommel to return to the United States. Clearly, as these examples point out, Rommel must have access to U.S. medical technology in order to survive.

Since Rommel Degracia is a U.S. citizen and depends on American medical supplies and technology for survival, Amelia and Rolando Degracia have requested private immigration bills.

Celestina Maes is a citizen of the Philippines and a widow of a United States citizen. Celestina and Julian Maes were married in the Philippines on November 22, 1982. Prior to Julian's death in 1987 in the United States, the couple had three children who are U.S. citizens. Although Celestina never immigrated to the United States, she indicates Julian intended that his children grow up in the United States.

Although the INS in Seattle has granted her voluntary departure status, Celestina's attorney indicates, "There is, however, no statutory or administrative basis for her remaining permanently in the United States." Celestina must depend on the good will of the INS to remain in the United States with her children. Celestina and her children are worried that, at some point, her voluntary departure status will be revoked and she will be required to return to the Philippines and leave her children in the United States with friends.

Celestina Maes has requested a private immigration bill so that she may become a permanent resident and remain in the United States with her U.S. citizen children.

I am satisfied that all possible avenues for immigration have been investigated in these cases and that the only option available is to introduce private relief immigration bills. •

By Mr. GRAHAM (for himself, Mr. MACK, Mr. DECONCINI, Mr. STEVENS, and Mr. INOUE):

S.J. Res. 250. Joint resolution to designate February 1992 as "National Grapefruit Month"; to the Committee on the Judiciary.

NATIONAL GRAPEFRUIT MONTH

Mr. GRAHAM. Mr. President, I am joined today by several of my colleagues in introducing a joint resolution designating February 1992 as National Grapefruit Month. Congress has good reason to honor America's grapefruit industry.

The United States was the first Nation to develop its grapefruit industry into a commercially viable operation. The economic impact of the grapefruit crop will approximately be \$2.5 billion this year. More than 40,000 individuals will be employed by the industry. And grapefruit exports are helping our balance of trade with many countries—today we are the world's leading producer and exporter of grapefruit. Grapefruit from my home State of Florida, for example, is exported heavily to the Pacific rim area where it is prized for its superior quality and flavor.

For more than 75 years Florida has been producing grapefruit, in fact this year our State will grow more than 50 percent of the world's grapefruit. That translates into more than 4 billion pounds from over 11 million grapefruit trees on 125,000 acres of Florida land.

Mr. President, grapefruit is easy to eat, tastes great, supplies 100 percent of the U.S. recommended daily allowance for vitamin C, and is a good source of vitamin A, potassium, folic acid, and dietary fiber. Given the importance of the grapefruit crop to the U.S. economy, I ask my colleagues to join me in saluting our Nation's citrus industry and the world's finest grapefruit.

Mr. MACK. Mr. President, I rise today to introduce a joint resolution declaring February 1992, as "National Grapefruit Month."

The United States was the first Nation in history to make its grapefruit industry commercially viable. Today, America ranks as the world's leading producer and exporter of grapefruit; this contributes significant revenues to the U.S. economy. Americans everywhere can find fresh grapefruit in their neighborhood markets from September through June, and grapefruit juice is available year-round.

It is important to know that grapefruit supplies 100 percent of the U.S. recommended daily allowance for vitamin C. Moreover, it is an excellent source of vitamin A, potassium, foliate, and dietary fiber. The National Research Council recommends that Americans consume five or more servings of fruits and vegetables, especially citrus, every day. Thanks to increased production, grapefruit can play an even greater role in a healthy American diet. Grapefruit is not only highly nutritious, it is delicious too.

Thus, it is with pride that Senator GRAHAM and I introduce this joint resolution today, in the hopes that it will encourage Americans around the coun-

try to make grapefruit a regular feature on their families' table.

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. CRANSTON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 574

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 574, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes.

S. 1002

At the request of Mr. SHELBY, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1423

At the request of Mr. DODD, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Texas [Mr. BENTSEN], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicare program, and for other purposes.

S. 1842

At the request of Mr. DASCHLE, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1842, a bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 1902

At the request of Mr. ADAMS, the names of the Senator from Colorado [Mr. BROWN], the Senator from California [Mr. CRANSTON], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1902, a bill to

amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1912

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1912, a bill to amend the Public Health Service Act and the Social Security Act to increase the availability of primary and preventive health care, and for other purposes.

S. 2065

At the request of Mr. DIXON, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 2065, a bill to federalize the crime of child molestation for repeat offenders.

S. 2106

At the request of Mr. CRANSTON, the names of the Senator from Nevada [Mr. REID] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2169

At the request of Mr. LAUTENBERG, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2169, a bill making supplemental appropriations for programs in the fiscal year that ends September 30, 1992, that will provide near-term improvements in the Nation's transportation infrastructure and long-term benefits to those systems and to the productivity of the U.S. economy.

SENATE JOINT RESOLUTION 209

At the request of Mr. LAUTENBERG, the names of the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. D'AMATO], the Senator from Hawaii [Mr. AKAKA], the Senator from Montana [Mr. BURNS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Connecticut [Mr. DODD], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. SEYMOUR], the Senator from Hawaii [Mr. INOUE], the Senator from North Dakota [Mr. BURDICK], the Senator from Colorado [Mr. BROWN], the Senator from Washington [Mr. ADAMS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating the month of March 1992 as "National Computing Education Month."

SENATE JOINT RESOLUTION 214

At the request of Mr. RIEGLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 214, a

joint resolution to designate May 16, 1992, as "National Awareness Week for Life-Saving Techniques."

SENATE JOINT RESOLUTION 240

At the request of Mr. SPECTER, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Alabama [Mr. SHELBY], the Senator from Idaho [Mr. CRAIG], the Senator from Arizona [Mr. MCCAIN], the Senator from Colorado [Mr. BROWN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 240, a joint resolution designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 243

At the request of Mr. KASTEN, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 243, a joint resolution to designate the period commencing March 8, 1992 and ending on March 14, 1992, as "Deaf Awareness Week."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 71

At the request of Mr. MACK, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 71, a concurrent resolution condemning the unconditional seizure of power by elements of the Haitian military and consequent violence, and calling on the Attorney General to suspend temporarily the forced return of Haitian nationals in the United States during the crisis in Haiti.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from New Hampshire [Mr. SMITH] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

AMENDMENT NO. 1525

At the request of Mr. GORTON, the name of the Senator from Washington

[Mr. ADAMS] was added as a cosponsor of amendment No. 1525 intended to be proposed to S. 2166, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes.

SENATE CONCURRENT RESOLUTION 90—RELATIVE TO THE ROLE OF THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. ROTH submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 90

Whereas the North Atlantic Treaty Organization has, for more than forty years, successfully deterred aggression against the West by the armed forces of the Warsaw Pact and the Soviet Union;

Whereas the Warsaw Pact no longer exists; Whereas the Soviet Union has devolved into a commonwealth of sovereign, independent republics;

Whereas the members of the North Atlantic Treaty Organization share many common interests in deterring aggression, conflict and economic dislocation both within and beyond Europe's geographic boundaries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of the Congress that the international security situation has undergone radical change and that the North Atlantic Treaty Organization should adapt to this new environment. Therefore, the President of the United States is requested to open discussions with the heads of state of NATO's various member states, with a view to adapting the alliance to current realities.

Mr. ROTH. Mr. President, I arise today to address an issue which I believe to be of the highest importance as this Nation assesses its security needs in the new world order. I am speaking of this country's 42-year commitment of human and financial resources to the North Atlantic Treaty Organization.

I believe, Mr. President, that the Senate owes it to the Nation to address this issue in depth and at length because, while I am reluctant to admit it, NATO's inertia, its general failure to address itself to a radically changed global security environment has rendered the rationale for an ongoing U.S. commitment to NATO more and more open to question.

I make this statement with a heavy heart, Mr. President, because I have long been a fervent supporter of NATO and, indeed, I still believe that NATO could and should play a vital role in the stabilization of the new world order. However, I am obliged to note that because of the reluctance of several of our European allies to make any fundamental change in the structure or mission of NATO, and of a general desire at NATO headquarters to shun new challenges, the alliance is increasingly unable to address the challenges posed by a radically new global

security system. Thus NATO is increasingly marginalized in situations which should lie well within its competence: the stabilization of Yugoslavia, the expulsion of Iraqi forces from Kuwait, and the formation of a new, stable security framework in Eastern Europe.

If NATO proves incapable of seizing the initiative on these vital questions, it will be condemned to live in the past at a time when the present poses a wealth of opportunity and challenge.

Mr. President, under these circumstances, it is the clear duty of the U.S. Senate to send a wake-up call to Brussels, to ask why this Nation should continue to commit personnel and treasure to the alliance if that wake-up call elicits no response. We need to ask whether those resources which, traditionally, this Nation has directed to the North Atlantic Treaty Organization might not be spent more wisely either here in the United States, or through other international organizations which are more capable of adapting to the changed security environment, and thereby addressing the real security needs of this Nation.

For 42 years, this Nation has played a leading role in the North Atlantic Treaty Organization as it stood firm against a very real threat posed by huge conventional forces in the east. But let us speak plainly. That threat has disappeared for the foreseeable future. But NATO appears reluctant to recognize this fact. It unveils a supposedly radical shift in military structure from heavy, relatively static forces to lighter, more mobile forces. But in reality this is little more than cosmetic change. The structure and the equipment may have changed, but the concept of the threat remains static. The alliance's new forces might be lighter and more mobile, but they are still deployed in order to repel that same attack from the east that all of us find ever less believable.

Meanwhile, the alliance, has allowed itself to be laced into a straightjacket by meaningless distinctions between in area and out of area considerations, and consequently proves ever less capable of addressing the real security questions of the day, namely, threats to the security of the alliance which emanate from beyond Europe's geographic frontiers and the threat of serious instability in the newly independent nations of Eastern Europe.

The latter failing is, to my mind, particularly disappointing. I have been struck repeatedly by the strong support which NATO enjoys in Eastern Europe. Some of the newly elected governments even wished to seek membership in NATO. They believed, quite rightly in my opinion, that membership in a new alliance with a broadened mandate would dampen potential ethnic and regional disputes, consolidate their membership in the democratic

community and generally deter the violence and instability which was endemic to the region before it fell under the cold hand of communism.

But NATO, rather than seeking the fruits of victory, forsook the initiative and, instead chose to abrogate the expanded new role that it could have played in Eastern Europe, choosing instead to stay with its now outdated mandate. East European applicants to the alliance were fobbed off on the basis that their membership in the alliance would offend the Soviet Union. As the Soviet Union ceased to exist that excuse faded and, instead, they were informed that their concerns would be addressed by a new, unspecified European security organization. The people of Croatia were similarly informed, Mr. President, and I believe it may be indicative of much of Eastern Europe's future if we remember exactly what happened to the people of Croatia.

Just as NATO has failed the new nations of Eastern Europe, it has similarly failed to address the emerging new threats to Western security, namely, the so-called out-of-area questions. For years, the alliance has pretended that security questions can be neatly compartmentalized as falling within or without NATO's sphere of competence. That sphere of competence is simplistically defined in terms of the area within the alliance's geographic frontiers. But, in an era of high-speed, long distance communications and long range ballistic missiles, often armed with nuclear warheads, such compartmentalized, indeed isolationist, modes of thinking are totally outmoded. Our enemies are capable of striking us dead with nuclear or chemical means, regardless of whether they stand inside or outside a specified area. Conflict in Eastern Europe could prompt a tidal wave of unwanted immigrants into Western Europe. Aggression in the Middle East could disrupt vital energy supplies. In short, Europe can no more practice isolationism successfully than can the United States and it is NATO's own attempt to practice "alliance isolationism" which has brought it to its current sorry condition.

Already, many nations of the Middle East are capable of inflicting major damage on Western nations simply by cutting off oil supplies. Meanwhile, nations of the region are developing their own ballistic missile capabilities and, even more disturbing, their ability to mount nuclear warheads on those missiles. NATO's consistent efforts to overlook these developments is dangerously shortsighted.

Some European advocates of a restricted NATO have asserted that the questions I have just covered are better handled by other organizations. The obvious retort to such an assertion is— which other organizations? The United Nations has only recently begun to enjoy success as an enforcer of the will

of the international community and we should bear in mind that its most conspicuous success to date—its investigation of Iraqi nuclear capabilities—was successful only because it was backed up by the military forces of a multilateral coalition. If the United Nations is going to enjoy similar successes in the future, it will have to be backed up by military force in a similar manner.

The North Atlantic Treaty Organization could, in my opinion, play a vital role in this regard, supporting the United Nations with its military forces and thereby deterring aggression on a much broader scale.

Once again, Mr. President, I am obliged to ask my colleagues the uncomfortable question—if NATO cannot address these so-called out-of-area questions, what is the ultimate purpose of U.S. membership in that organization?

Some of my colleagues in Europe have asserted to me that the nations of that region are, indeed, willing to play a more active role, both in underwriting Eastern European security and in out-of-area problems.

However, they also assert that these tasks cannot be addressed by NATO. Rather, they should be addressed by a new, distinctly European security organization.

I have no personal objection to the construction of such an organization, though the recent failure of the E.C. leadership to bring the Yugoslav civil conflict to a swift end may provide an ominous portent of European weaknesses in this area. However, I do have some very serious questions about such an organization.

First, from where will it get its troops? Many European governments currently need their entire defense establishments to fulfill their commitments to NATO. Do they intend to reduce their commitments to NATO in order to establish this new organization? In short, Mr. President, our European allies, albeit unknowingly, may be throwing away a viable, existing security organization—NATO—in favor of an alternative organization which, as yet, does not, and may never, exist.

And a second question must be asked—if Western Europe is, indeed, capable of establishing a viable security structure of its own, what, from the U.S. point of view, is the ongoing purpose of NATO? Western Europe might have required a U.S. military presence during the cold war, when it was necessary to demonstrate the validity of the U.S. strategic nuclear commitment to Europe's defense. However, with the cold war now gone, and with Western Europe proclaiming a desire for its own independent defense identity, what now is the rationale for maintaining a U.S. military presence in Europe, particularly if NATO sticks by its apparent commitment to European isolationism?

Even if Europe still needs the protection of the U.S. "nuclear umbrella," that need still does not presuppose a need for ongoing conventional force deployments. So why should the United States not withdraw its forces from the European theater?

Mr. President, in closing, I need to stress, once again, that I take no joy in this presentation. I have long been a strong supporter of the North Atlantic Treaty Organization. For more than four decades that organization has been the underpinning of the prosperity and stability of the West. I sincerely believe that, if its members allow NATO to rise to the challenge, it can address the new security problems which have arisen in the aftermath of the cold war.

However, if the alliance fails to act in this regard—and to date it has failed to act—then it is our duty as U.S. legislators to point out that this emperor has no clothes, that, tragically, NATO has degenerated into an alliance in name only and, sadly, it is therefore no longer deserving of our support or our membership.

AMENDMENTS SUBMITTED

NATIONAL ENERGY SECURITY ACT

GLENN (AND OTHERS) AMENDMENTS NOS. 1526 THROUGH 1528

(Ordered to lie on the table.)

Mr. GLENN (for himself, Mr. JOHNSTON, Mr. KOKL, and Mr. FOWLER) submitted three amendments intended to be proposed by them to the bill (S. 2166) to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as follows:

AMENDMENT No. 1526

Beginning on page 144, line 19, strike the text of subtitle B of Title VI, and insert the following in lieu thereof.

SEC. 6201. DEFINITIONS.

For purposes of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy codes and applicable professional standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National

Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.

(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Department of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENTS.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.

The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the

Inspector General Act of 1978 (5 U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (PL 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) **PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.**—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) **INSPECTOR GENERAL REVIEW.**—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

(a) **CONFERENCE WORKSHOPS.**—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Services Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) **FOCUS OF WORKSHOPS.**—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technology, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) **ESTABLISHMENT OF WORKSHOP TIME-TABLE.**—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

SEC. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) **PROCUREMENT.**—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) **IDENTIFICATION PROGRAM.**—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(c) **GUIDELINES.**—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) **UNITED STATES POSTAL SERVICE GUIDANCE.**—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) **REPORT TO CONGRESS.**—As a part of the report to be submitted pursuant to Section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products,

and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Government, taking into account the quantity of energy efficient products which could be utilized throughout the Government. That would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Fund under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administration may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs."

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.

(1) Each executive department described under section 101 of title 5, United States

Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the U.S. Senate and the Committee on Energy and Natural Resources of the U.S. Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under (c)(1)(B) shall not include those employees listed in the report in 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under (c)(2)(A) shall not include those employees listed in the report in 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(1) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under (d)(1)(B) shall not include those employees listed in the report in 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under (2)(A) shall not include those employees listed in the report in 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under (e)(1)(B) shall not include those employees listed in the report 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under (e)(2)(A) shall not include those employees listed in the report in 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(1) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(e) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than \$2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report to highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.

Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615 is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and in-

serting in lieu thereof "in consultation with the Task Force,";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

- "(A) Housing;
- "(B) Storage;
- "(C) Office;
- "(D) Services;
- "(E) Schools;
- "(F) Research and Development;
- "(G) Industrial;
- "(H) Prisons; and
- "(I) Hospitals.";

(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759."

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.

(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as

to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.

Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provided in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.

(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.

Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the ac-

tivities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.

Not later than one year after the date of the enactment of this Act, and on each January 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(d).

SEC. 6216. AMENDMENTS TO PART 3, TITLE V OF NECPA.

Part 3 of Title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), as amended, is further amended as follows:

(a) In section 543.—(1) Strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following: "The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1992, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544, and";

(b) In section 544—

(1) strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each," in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to Section 304 of the Energy Conservation and Production Act (Public Law 94-385).";

(c) In section 545 add after the word "measures" the following: "as needed to meet the requirements of section 543.";

(d) In section 548—

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be submitted to the Secretary pursuant to section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authority to be appropriated to carry out this section no more than \$2,000,000 for fiscal year 1993, \$3,000,000 for fiscal year 1994, and \$4,000,000 for fiscal year 1995."

"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

"(a) IN GENERAL.—Not later than one year after the date of enactment of the National Energy Security Act of 1992, the Secretary shall establish guidelines for the transfer of up to \$1,000,000 per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) PROJECT SELECTION.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal Government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(c) REPORTS.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than \$50,000,000."

(f) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"Sec. 549. Demonstration of new technology.
"Sec. 550. Federal energy efficiency projects funding.
"Sec. 551. Definitions."*ERR08*

SEC. 6217. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.

The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

SEC. 6218. STUDY OF FEDERAL PURCHASING POWER.

(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 6219. ENERGY MANAGEMENT GOALS FOR THE UNITED STATES POSTAL SERVICE.

(a) ENERGY PERFORMANCE GOAL FOR POSTAL FACILITIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Services a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

(2) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under sec 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS.—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

AMENDMENT NO. 1527

Amend page 9, line 23, by deleting the word "and", and on line 25 by inserting a new subsection (16) before the period as follows: "(16) encourage the Federal government to play a lead role in the widespread commercialization of alternative fuel vehicles."

Amend page 18, section 4101 by adding the following new definitions (1) and (4) and renumbering the existing definitions accordingly:

"(1) 'Administrator' means the Administrator of the General Services Administration;

"(4) 'comparable conventionally fueled vehicle' means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary."

Amend page 21, line 15, by inserting the following new subsection (b) and redesignating subsequent subsections accordingly:

"(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

"(1) the procurement plans of State and local governments and other public and private institutions;

"(2) the current and future availability of refueling and repair facilities;

"(3) the reduction in emissions of the Federal motor vehicle fleet;

"(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

"(5) the needs of Federal, State, and local agencies; and

"(6) the contribution to the reduction in the consumption of oil in the transportation sector.

Amend page 46, line 21, by inserting the following new subsection (g) and redesignating subsequent subsections accordingly:

"(g) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles from original equipment manufacturers."

Amend page 26, line 17, by deleting "4102, 4103," and inserting in lieu thereof "4103".

Amend page 29, by redesignating sections 4110 and 4111 as sections 4118 and 4119 respectively and inserting on page 29, after line 19, the following new sections 4110, 4111, 4112, 4113, 4114, 4115, 4116, and 4117:

"SEC. 4110. RESALE OF ALTERNATIVE FUEL VEHICLES.

(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2)).

"(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)).

"(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or

light truck is in the best interests of the Federal alternative fuel vehicle program.

"(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

"SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.

(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the:

"(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

"(2) range and performance capabilities of alternative fuel vehicles;

"(3) State and local government and commercial alternative fuel vehicle programs;

"(4) Federal alternative fuel vehicle purchases and placements;

"(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

"(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

"(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

"(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local efforts to promote and use alternative fuel vehicles. To the maximum extent practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and maintenance programs with those at the State and local level.

"SEC. 4112. AGENCY INCENTIVES PROGRAM.

(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

"(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of:

"(1) Federal employee carpooling of not less than four Federal employees for each trip; and

"(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

"SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.

(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

"(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than \$2,000 each to three General Services Administration employees who best demonstrate a commitment:

"(1) to the success of the Federal alternative fuels vehicle program through—

"(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

"(B) proper alternative fuel vehicle care and maintenance;

"(C) coordination with Federal, State, and local efforts;

"(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

"(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

"(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

"(d) AWARD TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than \$1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

"(2) Employees who receive an award under section (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

"(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual \$2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

"(1) making regular requests for alternative fuel vehicles for agency use;

"(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

"(3) promoting alternative fuel vehicle use by agency personnel; and

"(4) demonstrating care and attention to alternative fuel vehicles.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$25,000 in fiscal year 1992, \$35,000 in fiscal year 1993, and \$45,000 in fiscal year 1994 to carry out the purposes of this section.

"SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.

The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

"SEC. 4115. INFORMATION COLLECTION.

The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

"(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

"(2) the fuel economy, safety, and emissions of such vehicles; and

"(3) a comparison of the operation and maintenance costs of such vehicles to the op-

eration and maintenance costs of other passenger vehicles and light duty trucks.

"SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

- "(1) the number and type of alternative fuel vehicles procured;
- "(2) the location of alternative fuel vehicles by standard Federal region;
- "(3) the total number of alternative fuel vehicles used by each Federal agency;
- "(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;
- "(5) future alternative fuel vehicle procurement and placement strategy;
- "(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;
- "(7) coordination among Federal, State and local governments for alternative fuel vehicle procurement and placement;
- "(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;
- "(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and
- "(10) award recipients under this subtitle.

"SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

- "(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);
- "(2) the number and type of alternative fuel vehicles procured in the preceding year;
- "(3) the location of alternative fuel vehicles by region;
- "(4) arrangements with commercial entities for purposes of refueling and maintenance;
- "(5) future alternative fuel procurement and placement strategy;
- "(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;
- "(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;
- "(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and
- "(9) an assessment of the program's relative success and policy recommendations for strengthening the program."

TECHNICAL AND CONFORMING AMENDMENT.—On page 2, delete items 4110 and 4111, and add the following items in lieu thereof:

- "Sec. 4110. Resale of Alternative Fuel Vehicles.
- "Sec. 4111. Federal Agency Promotion, Education, and Coordination.
- "Sec. 4112. Agency Incentives Program.
- "Sec. 4113. Recognition and Incentive Awards Program.
- "Sec. 4114. Measurement of Alternative Fuel Use.

"Sec. 4115. Information Collection.

"Sec. 4116. General Services Administration Report.

"Sec. 4117. United States Postal Services Report.

"Sec. 4118. Enforcement.

"Sec. 4119. Implementation."

AMENDMENT NO. 1528

On page 87, line 22, amend section 5201 of subtitle B of title V by inserting at the end thereof the following new subsection (d):

"(d) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended:

"(A) in paragraph (1) by inserting "three-year" before "management plan"; and

"(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submission of the President's annual budget submission to the Congress."

GLENN AMENDMENT NO. 1529

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill S. 2166, supra, as follows:

On page 22, line 2, add after the period "If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles."

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a business meeting on Wednesday, February 5, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building to adopt the committee rules and agenda to be followed immediately by an oversight hearing on the implementation of the Indian Gaming Regulatory Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 4, at 11:30 a.m. to hold a nomination hearing on Scott Spangler to be Associate Administrator of the Agency for International Development.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, February 4, at 10:15 a.m., for a hearing on the subject of: Terrorist defectors—are we ready?

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, February 4, 1992, at 10 a.m. to hold a hearing on review of the national drug control strategy, 1992.

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

ADDITIONAL STATEMENTS

PENNSAUKEN TOWNSHIP'S 100TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise today to congratulate historic Pennsauken township in New Jersey on its 100th anniversary in February.

Originally, this town was settled by a Native American tribe called the Lenni-Lenapes. The Lenapes used the shores of Pennsauken to trade tobacco, so the area became known as Pindasanakun, which meant Tobacco Pouch. Throughout the years, residents made various attempts at the correct spelling of the name. In 1892 the New Jersey State Legislature determined the spelling of the new township to be Pennsauken.

In the 17th century, Quakers came and populated the area. While they were living in England, the Quakers were subjected to religious persecution by the English Government. In order to protect their civil rights, the Quakers purchased land in New Jersey and Pennsylvania and established the first permanent settlement in Pennsauken. The Quakers paid the Native Americans for the land they acquired and it appears that the two groups were able to live in harmony.

Pennsauken continued to play an important role in New Jersey history in the 18th and 19th centuries. During the Revolutionary War, George Washing-

ton ordered the Pennsauken Creek Bridge to be destroyed because it was feared that the British would gain control of it. During World Wars I and II, Pennsauken contributed on the home front by sending soldiers, clothing, food, and by complying with the rationing standards.

From 1929 to 1940, Pennsauken established itself in aviation history. Flying legends such as Amelia Earhart, Orville Wright, and Charles Lindbergh came to Central Airport.

Today, Pennsauken is a suburban town with a strong public spirit. I extend my heartiest congratulations to the residents of Pennsauken for a grand celebration of the town's 100th anniversary.●

PLACENTIA-YORBA LINDA HIGH SCHOOL STUDENTS EXCEL

● Mr. SEYMOUR. Mr. President, I rise today to commend and congratulate the students and educators of the Placentia-Yorba Linda School District in the State of California, for their energetic pursuit to achieve the national education goals the President has set before them.

In these times of extreme budget cuts and limitations, the students and educators from the Placentia-Yorba Linda schools are faced with barriers that threaten learning and development. This year alone, students will have approximately 42 fewer teachers, counselors, and nurses available in their schools. Curriculum will be reduced while the number of students in each class will increase at a rate of 3 per academic year. In addition, each school district must reduce the spending limit per student by 2.7 percent due to inflation and the influx of students enrolled in California's schools.

One would expect with these odds, there would be little hope for the students in my state to continue on to higher education and beyond. But, as they say, to every rule there is an exception. Today, I would like to acknowledge the exceptional students and teachers of the Placentia-Yorba Linda high schools.

The school performance report summary for the California State Department of Education, assesses the performance of California's high school students. The report is based on several characteristics: The percentage of students completing high school courses, the rate of dropouts, and the number of students who will continue on to college, based on the SAT scores.

Mr. President, I am proud to announce that the students in the Placentia-Yorba Linda high schools are better prepared than 92 percent of the total number of students enrolled in California high schools. The subtest scores for their SAT exams increased by 10 points on the verbal section, and 28 points on the mathematics section

between the 1989-90 and 1990-91 school years. In only 1 year, these students have made better progress than any other students in the State.

As our Nation strives to solve the education dilemma with curriculum constraints and budget cuts, it is imperative to see students and teachers overcome the obstacles by working together to achieve our Nation's education goals. My congratulations to them all for their continued hard work and dedication, and for making the Placentia-Yorba Linda School District one of the best in the State of California.●

ANDEAN DRUG WAR: PENTAGON DESERVES PRAISE FOR "JUST SAYING 'NO'"

● Mr. CRANSTON. Mr. President, from the very beginning I have been an opponent of administration efforts to seek a military solution to the misleadingly named Andean drug war.

I have long believed that military assistance efforts are singularly inappropriate tools to combat what are essentially law enforcement and development problems.

Because of my strong opposition to what I view as a foreign policy disaster in the making, I have risen many times to add my voice to those urging the administration to seek a new course in a fight we cannot afford to lose.

I have sought—in hearings, through press statements, and through legislation—to hold the administration to its stated goals of promotion of human rights, support for democracy, and effective strategies to combat narcotics trafficking.

In the United States we have a strict delineation of internal security and national defense functions set down in the principle of *posse comitatus*. Law enforcement is almost entirely a police function, except in the most extraordinary circumstances, and is carried out primarily at the local level.

Yet, the Bush administration has been quick to short circuit such considerations when acting outside our borders, particularly in the antinarcotics arena, and appears to be beside itself with enthusiasm for involving host-country militaries in roles we ourselves wisely prohibit to our own Armed Forces.

Reduction of demand in the United States, trade, development, and administration of justice assistance are the tools that will allow the nations of the Andean region to escape the growing tentacles of the international drug mafia.

A focus on these will also help these new or fragile democratic regimes to escape the threat posed by their own often brutal and corrupt militaries.

Instead, the administration rushes headlong toward increased militarization, a strategy that cannot work and

remains an unthinking reflex of cold war counterinsurgency strategies, with their focus on internal enemies and the regimentation of vast sectors of public life.

Mr. President, there are a couple of developments in recent days I believe are important to draw to the attention of our colleagues.

First is an article in the Los Angeles Times reporting that the Department of Defense has—appropriately—side-stepped an effort by the White House to force it to take on an even greater leadership role in antinarcotics efforts.

The Times article quotes a senior administration official as saying of the Department, "I do not understand why they can't act a little more forward-looking."

Frankly, I think DOD should be applauded for its stand. Those whose field of vision appears to be clouded are those who are pushing for greater military involvement—an effort that will be costly, create as many or more problems than it solves, and, in the last analysis, is doomed to failure.

According to the Times article:

The Pentagon had jumped to the forefront of the drug fight three years ago in a burst of enthusiasm sparked by concern that its traditional mission was evaporating with the decline of the Soviet threat. "Its reluctance now to take on a bigger role was described by senior government sources as a consequence, in part, of the Persian Gulf war, which made some military officers scornful of mere anti-drug operations. But it was also said to reflect also a Pentagon weariness about becoming too closely identified with the failure to make inroads against a potentially intractable problem.

It is in this context that the administration is preparing to release \$10 million in military aid to Peru, thereby committing even further United States prestige and resources to a vicious three-cornered fight between the cocaine-tainted army, drug traffickers, and ultra-leftist guerrillas who are themselves steeped in narcotics activity.

Just last year the Defense Intelligence Agency issued a classified study that reportedly showed that there had been no appreciable decline in cocaine production. The Times article also cites an internal DOD memorandum that concluded, correctly, "that the attainment of United States objectives is impossible" in Peru.

The memorandum also stated that the Bush Andean strategy had "only marginally impacted on narco-traffickers" and cautioned about an even greater involvement by the Pentagon in such issues.

Mr. President, our military are not police, nor should they be given such a mission, even when the goal is as worthy as trying to stem the flow of narcotics into our cities.

Those officers who are worth their salt know that they are not prepared to carry out law enforcement tasks. As a

January 25 article in the New York Times pointed out, "for years the American military expressed a reluctance about engaging in operations that they considered police work. * * *

Those military men who seek such missions are often merely budget-protecting desk jockeys whose motivations are themselves suspect.

By reinforcing the militaries' role in internal security in the new, emerging or troubled democracies of the developing world we are virtually guaranteeing politicized armed forces and corrupt and demoralized police forces.

Mr. President, I ask my colleagues to keep an eye on—if not the bouncing ball—then at least the bottom line.

In its 1990 national drug control strategy, the administration set the 2-year goal of a 15-percent reduction in the "estimated amounts of cocaine, marijuana, heroin, and dangerous drugs entering the United States."

Last year, the administration revised its goal to 20 percent by 1993, using 1988 levels as the baseline. Curiously, in the 1992 strategy, released Monday, the administration has decided not to divulge its new 2-year reduction target, saying only that it will be "below a (to be established) baseline level."

What is going on here? Who's in charge of this war? What faith can we put into a strategy whose goals seem as elastic as an accordion?

It is instructive to look at what was actually accomplished with respect to the previous goals, since the establishment of more ambitious targets might reasonably lead one to infer that the previous ones have been attained.

Over this period, cocaine has been the main target of the militarized war on drugs in the Andes. Yet, according to the DEA, Latin American cocaine production doubled between 1988 and 1990, and was expected to jump another 40 percent in 1991. The traffic continues unabated.

Mr. President, I once again challenge the administration to live up to its stated goals of respecting human rights, fortifying new and emerging democracies and successfully combating the scourge of illegal drugs.

It can be done, but it cannot be done the way George Bush is doing it. Think hard, Mr. Bush, don't just talk tough.

Mr. President, I ask that the two newspaper articles I have cited be reprinted in the RECORD at the conclusion of my remarks.

The articles follow:

[From the Baltimore Sun, Jan. 27, 1992]

PENTAGON REFUSES ROLE IN WAR ON ILLEGAL DRUGS

WASHINGTON.—The Department of Defense has rejected a White House plan for the military to take a new leadership role in the war on illegal drugs, setting back administration efforts to give fresh impetus to a lagging program, according to senior officials.

The refusal leaves stalled a proposal by the White House Office of Drug Control Policy

that would have created a unified military authority to coordinate most U.S. counter-narcotics operations in Central and South America.

With new obstacles threatening progress made after President Bush escalated the drug fight, the Pentagon posture disappointed officials who had hoped that a military-style battle plan would help the administration wage a more effective campaign.

"I do not understand why they can't act a little more forward-looking," one senior administration official complained.

The Pentagon had jumped to the forefront of the drug fight three years ago in a burst of enthusiasm sparked by concern that its traditional warfighting mission was evaporating with the decline of the Soviet threat.

Its reluctance now to take on a bigger role was described by senior government sources as a consequence, in part, of the Persian Gulf war, which made some military officers scornful of mere anti-drug operations. But it was said to reflect also a Pentagon wariness about becoming too closely identified with the failure to make inroads against a potentially intractable problem.

The Pentagon's rejection of the plan deprives the White House of what had been envisioned as the centerpiece of its fourth annual anti-drug strategy, to be unveiled today at a news conference.

In a separate case of wrangling within the administration, another high-profile White House proposal—to make public a most-wanted list of the nation's top drug criminals—also was turned down, in this case by Attorney General William P. Barr.

Mr. Barr, who blocked the plan during a meeting of the White House Domestic Policy Council, was said to have been concerned that such high-profile publicity could undermine law enforcement efforts aimed at cracking the drug rings.

What remains intact of the new anti-drug strategy, to be released by Bob Martinez, director of the Drug Control Policy office, includes an unexceptional call for a 6 percent increase in federal funding on narcotics operations.

Coming in the wake of disappointing news on the drug front, the unveiling of the strategy also is expected to be marked by administration efforts to claim new successes.

At a news conference today, Health and Human Services Secretary Louis W. Sullivan plans to release a new survey of high school seniors showing declines in their use of drugs and alcohol, a glimmer of good news in contrast to studies last year that showed new increases in cocaine and heroin use among hard-core addicts.

As the administration broadens its focus from the stubborn area of drug use, the strategy will propose for the first time plans to discourage use of alcohol among underage minors.

But in its renewed bid to fulfill Mr. Bush's inaugural vow that "this scourge will end," the administration has been confronted in recent months with sobering indications that the job may be more difficult than it appeared.

Despite a near-quadrupling of spending for U.S. anti-drug efforts in Latin America, the Defense Intelligence Agency issued a classified report last year that their had been no appreciable decline in cocaine production. More recently, an internal Pentagon memorandum concluded that the "attainment of U.S. objectives is impossible" in Peru, a primary front in the administration's counter-narcotics strategy.

In warning that the Andean strategy had "only marginally impacted on narco-traffickers," the report warned against deeper Pentagon involvement in the drug war.

In the latest setback, administration officials said that U.S.-backed anti-drug efforts in Peru had been forced to a halt in the last two weeks by concerns about the role of Maoist Shining Path guerrillas in the fatal crash of a U.S. helicopter.

[From The New York Times, Jan. 25, 1992]

IN SHIFT, UNITED STATES WILL AID PERU'S ARMY AGAINST DRUGS AND REBELS

(By Clifford Krauss)

WASHINGTON, January 24.—After months of Congressionally imposed delays, the Bush Administration is preparing to release \$10 million in military aid to Peru as the first stage of a new policy to help the Peruvian military fight drug traffickers and Maoist guerrillas involved in the cocaine trade.

The program marks a change after more than two decades of limited relations between Washington and the Peruvian military, which has long retained close relations to the Soviet Union and which had recently been criticized by Administration officials for its dismal record on human rights.

"Moreover, as recently as two months ago American officials accused elements of the army of taking payoffs from drug traffickers and of blocking Peruvian police efforts to interrupt the cocaine trade.

CONFIDENCE IN MILITARY

United States involvement in Peru has slowly increased in the last five years. The Drug Enforcement Administration and anti-drug officers under State Department contract have worked at the Santa Lucia police base in the Upper Hualaga Valley advising the police on eradicating drugs and maintaining helicopters. In the last two years, members of the United States Army Special Forces have trained Peruvian police units but up until now have not trained military units.

State Department officials now say the Peruvian military is being reformed, can be vital in the war against drugs and will only improve with increased American tutelage.

"The Peruvian Army is making rather impressive gains to the degree they have opened themselves up to the judicial authorities," said a senior State Department official, who added that the aid would begin to flow in the next few weeks. "Together we have the beginnings of a serious counter-narcotics program. They need our help."

The initial aid package will include the sending of about 15 military trainers to instruct a Peruvian marine company and police antinarcotics units, spare parts for helicopters and jet aircraft, and road-building equipment for army civic action. The package is far smaller than the original program the Bush Administration proposed to Congress last year, which included sending dozens of military advisers to train three special army battalions.

ANTIDRUG AID AT \$1.2 BILLION

Still, Congressional critics and human rights groups warn that the program could open the door for a growing American role in Latin America's most vicious guerrilla war. Such fears were reinforced this month when three Americans under contract with the State Department to help maintain Peruvian police equipment were killed in a helicopter downed by Shining Path rebels high in Andes.

With the close of the cold war and the shrinking military budgets, the war on drugs

is one of the few growth areas the Pentagon has left. Its antinarcotics spending has increased to a projected \$1.2 billion this year, from \$440 million in 1989. For years the American military expressed reluctance about engaging in operations that they considered police work, but today the United States Southern Command in Panama fields about 500 soldiers working on intelligence and antinarcotics training programs in Latin America.

Administration officials say their strategy in Peru is to improve the coordination of the Peruvian Army and police, so that law enforcement units can safely operate in the Upper Huallaga Valley where the Shining Path guerrillas operate. Along with the military aid program, the Administration is sending \$60 million in economic assistance to help peasants switch from coca cultivation to other crops.

More than half of the cocaine consumed in the United States originates from coca plants cultivated in Peru, making anticocaine efforts there crucial to the Administration's declared war on drugs.

American officials insist they have no interest in deploying ground troops in Peru to fight the guerrillas, who have been accused of not only serving as middlemen between peasant coca growers and the traffickers but also of trafficking to finance their operations. Nonetheless, in a Jan. 17 letter to four senior members of Congress, Janet G. Mullins, Assistant Secretary of State for Legislative Affairs, said the Administration intended to send nearly \$25 million more in military aid once Lima demonstrated better antidrug and human rights efforts.

Congressional leaders are meeting to decide how to respond to the Administration's intentions. Although lawmakers released their hold on aid late last year when the State Department agreed to release the funds only after Lima fulfilled a number of Congressionally set targets on human rights, they could block future aid proposals from the Administration.

REFORM IS REPORTED

Those targets included a commitment from Lima that all military aid would be channeled through President Alberto K. Fujimori to reinforce civilian rule, that military prisons be open to international inspection and local civilian prosecutors, that military prisoners be listed on a national registry, and that a number of politically charged human rights cases involving military officers be prosecuted.

In her letter to Congress, Ms. Mullins said the aid would be released because Congressional conditions "have been fulfilled." She noted that the International Red Cross had been allowed to tour military and police prisons unhindered on a regular basis since late September and that Lima has developed a registry of detainees.

But international human rights monitors are expressing doubts.

"It is clear that while limited progress has been made in complying with certain conditions, the overall human rights situation has not improved and may in fact be getting worse," said Coletta Youngers, senior associate at the Washington Office on Latin America, a human rights group. Ms. Youngers said Peruvian human rights monitors were reviewing and trying to verify 70 reported cases of disappearances linked to the security forces in the last few months.

In a trip to Peru this month, Ms. Youngers said she had found that Red Cross visits to military installations were prearranged and therefore unspontaneous and that Peruvian

human rights workers said the registry of prisoners was incomplete.●

BUDGET SCOREKEEPING REPORT

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

This report shows that current level spending exceeds the budget resolution by \$3.7 billion in budget authority and by \$3.2 billion in outlays. Current level is \$3 billion above the revenue target in 1992 and \$3.5 billion above the revenue target over the 5 years, 1992-96.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is \$351.5 billion, \$0.3 billion above the maximum deficit amount for 1992 of \$351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 3, 1992.

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

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through January 31, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated January 22, 1992, there has been no action that affects the current level of spending and revenues.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE,
102D CONG., 2D SESS., AS OF JAN. 31, 1992
(In billions of dollars)

	Budget resolution (H. Con. Res. 121)	Current level ¹	Current level +/- resolution
On-budget:			
Budget authority	1,270.6	1,274.3	+3.7
Outlays	1,201.6	1,204.8	+3.2
Revenues:			
1992	850.4	853.4	+3.0
1992-96	4,832.0	4,835.5	+3.5
Maximum deficit amount ..	351.2	351.5	+3
Debt subject to limit	3,982.2	3,704.4	-277.8
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	.....
1992-96	1,331.5	1,331.5	.....
Social Security revenues:			
1992	318.8	318.8	.....
1992-96	1,830.3	1,830.3	.....

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

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS JAN. 31, 1992

	Budget authority	Outlays	Revenues
ENACTED PRIOR TO 102D CONG.			
Revenues			850,405
Permanent appropriations	784,740	723,462	.....
Outlays from prior year appropriations	0	234,906	.....
Offsetting receipts	(186,675)	(186,675)	.....
Total previously enacted	598,065	771,693	850,405
ENACTED 1ST SESS.			
Appropriation legislation:			
Agriculture (Public Law 102-142)	51,219	36,382	.....
Commerce-Justice (Public Law 102-140)	21,425	16,016	.....
Offsetting receipts	(119)	(119)	.....
Defense (Public Law 102-172)	269,911	176,492	.....
District of Columbia (Public Law 102-111)	700	690	.....
Energy and Water (Public Law 102-104)	21,875	12,961	.....
Interior (Public Law 102-154)	12,466	8,098	.....
Labor, HHS, Education (Public Law 102-170)	183,044	146,857	.....
Offsetting receipts	(39,658)	(39,658)	.....
Legislative branch (Public Law 102-90)	2,309	2,063	.....
Military construction (Public Law 102-136)	8,563	2,931	.....
Transportation (Public Law 102-143)	14,302	12,217	.....
Treasury-Postal Service (Public Law 102-141)	19,695	17,027	.....
Offsetting receipts	(6,079)	(6,079)	.....
Veterans, HUD (Public Law 102-139)	80,941	42,469	.....
Emergency supplemental for humanitarian assistance (Public Law 102-55)		(1)	.....
Disaster relief supplemental appropriations, 1991 (Public Law 102-27)		511	.....
Disaster relief supplemental appropriations, 1992 (Public Law 102-229)	113	(154)	.....
Other spending legislation:			
Extending IRS deadline for Desert Storm troops (Public Law 102-2)			(5)
Veterans' education, employment and training amendments (Public Law 102-16)	2	2	.....
Higher education technical amendments (Public Law 102-26)	(56)	(56)	.....
Veterans' Health Care Personnel Act (Public Law 102-40)		(1)	.....
Veterans' housing and memorial affairs (Public Law 102-54)		5	.....
Veterans' Benefits Improvement Act (Public Law 102-86)	3	3	.....
Intelligence authorization Act, fiscal year 1991 (Public Law 102-88)	(1)	(1)	(1)
Veterans' educational assistance amendments (Public Law 102-127)		(1)	.....
Extend most-favored-nation status to Bulgaria (Public Law 102-158)			(2)
Unemployment compensation (Public Law 102-164)	3,825	3,825	2,600
Provide MFN status to Czechoslovakia and Hungary (Public Law 102-182)	505	505	(17)
Intelligence Authorization Act, fiscal year 1992 (Public Law 102-183)	(1)	(1)	.....
Defense Authorization Act (Public Law 102-190)		(7)	.....
Extend MFN status to the Soviet Union (Public Law 102-197)			(22)
James Madison Memorial Act (Public Law 102-221)		(1)	.....
Tax Extension Act (Public Law 102-227)			405
San Carlos Indian Irrigation Project Divestiture Act (Public Law 102-231)	(2)	(2)	.....
RTC Refinancing Act (Public Law 102-233)	25	25	.....
Food, Agriculture, Conservation and Trade Act amendments (Public Law 102-237)	(2)	(2)	.....
Intermodal Surface Transportation Efficiency Act (Public Law 102-240)	18,514	(590)	.....
Coast Guard authorization (Public Law 102-241)	(1)	(1)	.....

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS JAN. 31, 1992—Continued

	Budget authority	Outlays	Revenues
Deposit Insurance Reform and Protection Act (Public Law 102-242)	3	3	.....
Discretionary estimating adjustment	(233)	(5,823)	.....
Total appropriation and other spending legislation	663,291	426,591	2,959
CONTINUING LEGISLATION AUTHORITY			
PUBLIC LAW 102-145			
Foreign Operations (expires Mar. 31, 1992)	14,034	5,496	.....
Offsetting receipts	(41)	(41)	.....
Total continuing resolution authority	13,992	5,454	.....
MANDATORY ADJUSTMENTS			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	(1,041)	1,105	.....
MANDATORY ADJUSTMENTS			
Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	(1,041)	1,105	.....
ENACTED 2D SESS.			
Total current level	1,274,306	1,204,844	853,364
Total budget resolution	1,270,612	1,201,600	850,400
Amount remaining:			
Over budget resolution	3,694	3,244	2,964
Under budget resolution			
1 Less than \$500,000.			

Note.—Numbers may not add due to rounding.*

A TRIBUTE TO GIL CISNEROS AND THE SMALL BUSINESS ADMINISTRATION IN COLORADO

• Mr. WIRTH. Mr. President, it is always a pleasure to recognize the achievements and accomplishments of a fellow Coloradan, and it is particularly pleasing when that person happens to be a Federal official like Mr. Gil Cisneros, the Regional Director of the Small Business Administration [SBA] in Denver, CO.

Gil Cisneros took over the regional office of the SBA in 1987. By many accounts, he inherited an agency that was beset by morale problems, a poor record of community outreach, and an ever increasing tide of complaints about its effectiveness in meeting the needs of small businesses. In a short period of time, Gil has managed to restore the SBA's reputation—and is, in my view, one of the best political appointments this administration has made.

My staff and I have a high regard for the quality of work and improved service offered by the SBA under Gil Cisneros' leadership, and I am pleased to recognize his accomplishments. Last year, he was named by Hispanic Business as one of the 100 most influential Hispanics in America, and his record in Colorado includes very distinguished service in the Denver Community Desegregation Project and the Denver Minority Business Development Center. His background as a successful businessperson, and as a community

leader have helped to make his tenure at the SBA very productive for Colorado—the SBA District Office increased loans to small businesses by one-third in fiscal year 1991.

I do not know Gil Cisneros personally, but my office and I are very much aware of his work and his reputation in the community. In that spirit, and in a bipartisan fashion, I wish to express my admiration for Gil, and for the aggressive and creative approach he has taken at the SBA.

At a time when Federal programs and officials are easy targets for abuse, I am proud to congratulate Gil Cisneros, his staff at the Regional SBA Office, and the Colorado District SBA Office, for a job well done.●

SUPPORT VENEZUELAN DEMOCRACY

• Mr. CRANSTON. Mr. President, I rise today to express my most energetic condemnation of the attempted military coup that took place early this morning in Venezuela.

Venezuela is one of Latin America's oldest democracies. It has been one of the United States most important allies in the quest for the rule of law and social justice in Latin America. Today's action by the military is illegal and immoral. I add my voice to those condemning such a flagrant disregard for the rights of the Venezuelan people as expressed by this morning's unfortunate events.

Military unrest in Venezuela cannot but help to create unease and concern in the many nations in our hemisphere that are in the process of creating or consolidating their own democratic governments. It is ironic that Venezuela, with its 33-year-old tradition of civilian rule, is today faced with a challenge by that most primitive of authoritarian ideologies, militarism.

Mr. President, those who are shocked by events in Caracas have not been paying attention to events in Venezuela. There was a warning of things to come 3 years ago—a point I have made several times over the past months—and it is a point that bears increasing attention as we devise security assistance programs for the post-cold-war period.

Despite Venezuela's relatively long period of civilian rule, and despite the fact that it has several interesting and innovative mechanisms to ensure civilian control over the armed forces, Venezuela's civil-military relationship has an Achilles' heel.

Venezuela, unlike the United States but like many other Latin American countries, does not make a clear distinction between national defense and internal security. Thus their military have a large, though undefined, role in internal security.

Unfortunately, as a recent article in the National Journal points out, not

only does the United States continue to promote this confusion of roles in other countries—under the guise of fighting the drug war—but is increasingly militarizing law enforcement at home.

Mr. President, in early 1989 the announcement of an IMF-supported economic austerity package sparked widespread urban rioting in Venezuela. When the disturbances broke out, the confusion between national defense and internal security manifested itself in a security force rampage. Between 600 and 2,000 people reportedly died as a result.

By means of comparison, one can look at Argentina, a country that, despite its long history of military coups, in the 1980's clearly defined law enforcement as a police function.

Under the government of President Raul Alfonsin, a law was passed that separated military from law enforcement functions, thus giving the police a nearly exclusive role in the maintenance of public safety. It was Alfonsin who wrested Argentina's police forces—once a den of neo-Nazi and criminal activity—from military control, placing at their head law enforcement professionals who were respected by their own forces.

In May 1989, as Alfonsin was struggling under the weight of the economic collapse and his own status as a lame-duck President, bread riots broke out in several major cities, including Buenos Aires. They lasted for several days and appeared to be of the same intensity as those in Venezuela.

The military demanded it be given a role in crushing the riots. Alfonsin refused, and pointed to the fact the armed forces were prohibited from carrying out internal security functions. Restored to professional respect through Alfonsin's reforms, the federal police and the national gendarmerie took control of the streets using modern crowd control techniques. About a dozen people were killed, most victims of angry shopkeepers or other non-law-enforcement-related parties.

The contrast between Argentina, with its turbulent past of military coups, and Venezuela, one of the hemisphere's oldest democracies, could not have been greater. The difference between them was the role they assign to their police forces and their military.

Mr. President, last year Venezuelan political leader Eduardo Fernandez was asked what he thought was the lesson of that country's tragic experience in 1989. His answer: The military are not qualified to act as police, and should never be given that role. Unfortunately, he noted, nothing had been done to redefine the military's role as one of strictly national defense. The results are there for all to see.

Mr. President, the National Journal has noted that not since Federal troops occupied the South has our military

been so involved in civilian law enforcement as it is today in the war on drugs.

The separation of military and law enforcement functions in the United States has been one of the most important underpinnings of our democracy. It is a model we ought to preserve and seek to promote in our dealings with friends and allies abroad. Failure to do so will surely give us more future opportunities to come to the floor to lament future challenges to neighboring democracies, and perhaps to our own. •

TRIBUTE TO JUDGE JOSEPH C. HOWARD

• Mr. SARBANES. Mr. President, it is with great pride that I rise to pay tribute to Judge Joseph C. Howard who has served with distinction on the U.S. District Court for the District of Maryland since 1979. Judge Howard retired from active service on November 15, 1991, and has continued to hear cases as a senior district judge since that time.

For over a decade, Judge Howard has made significant contributions to the U.S. district court and the legal community. His commitment to justice and his extraordinary abilities have made him a leader in the ongoing effort to make our legal system work for all our people. As a Federal judge, he continued to display the outstanding character, integrity, and courage that he had shown as a pioneer in the legal profession for over 20 years in Maryland.

Judge Howard, was born and brought up in Des Moines, IA. He served in the U.S. Army from 1944 to 1947, beginning as a private and finishing his military service as an officer. He received his undergraduate degree from the University of Iowa and his law degree from Drake University in 1955, followed by an M.A. degree from Drake in 1957.

Judge Howard came to Maryland in 1958, and worked initially as a probation officer with the Supreme Bench of Baltimore City. He was admitted to practice in Maryland in October 1959, and from 1960 to 1968 practiced law in the small firm of Howard and Hargrave. From 1964 until early 1968, Judge Howard served as an assistant State's attorney for Baltimore City and was chief of the trial section from 1966 to 1968. In 1968, he also served for a short period of time as assistant city solicitor for Baltimore City. In 1968, Judge Howard ran for the supreme bench of Baltimore City and was elected to a 15-year term. Early in 1979, Judge Howard was nominated by President Carter to the U.S. District Court in Maryland. He was confirmed by the Senate and sworn in on October 23, 1979.

Judge Howard has been both a practitioner and student of the law. He taught and lectured at a number of colleges and law schools and has received many awards and honors for his accom-

plishments. He has served on the board of visitors of the University of Maryland Law School and as a member of the advisory board of the Baltimore Law School. He was honored by being awarded the Drake University Outstanding Alumni Award in 1988.

He has also written a number of articles and studies dealing with the administration of justice and has found time over his busy and productive career to help strengthen the legal profession. As one of seven judges from the United States, he was part of the first delegation of Americans to examine the judicial system in mainland China.

Throughout his professional life as a prosecuting attorney, in private practice, and as a judge at both the local and Federal levels, Judge Howard has been steadfast in his effort to remove discrimination so that our justice system will be open to all. He was the first black judge elected to the superior bench in Baltimore City and the first black judge to serve on the U.S. District Court in Maryland.

Etched in stone above the entrance to the U.S. Supreme Court is the statement "Equal Justice Under Law." Judge Howard's life is dedicated to this fundamental principle.

I congratulate him for his many accomplishments and thank him for his significant contributions to our legal system and society. We are going to miss his full-time service on the U.S. District Court for Maryland, but we take comfort in the knowledge that his services will still be available as a senior judge. We also know he will continue to be a forceful voice and active participant in our community. •

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL POLICY FOUNDATION

Mr. MITCHELL. Mr. President, on behalf of Senator DECONCINI and Senator MCCAIN, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2184, introduced earlier by Senators DECONCINI and MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2184) to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

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

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

Mr. DECONCINI. Mr. President, I rise to speak on a matter of great concern, both to me personally and to this body institutionally. Last session, the Congress enacted and sent to the President a bill to establish a fitting tribute to honor the contributions that our good friend, Mo Udall, has made to this Na-

tion over his long career of public service. S. 1176, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, was sponsored by 23 Senators and passed enthusiastically by both the Senate and the House.

The act sets up, as an independent entity of the executive branch, the Morris K. Udall Scholarship and Education Foundation to be located in Tucson, AZ. The act assigns the Foundation the mission of expanding awareness and understanding of national environmental issues, with an emphasis on training and educational outreach. Also, it has the mission of augmenting the training of Native American and Alaska Native health care professionals.

The Foundation is authorized to award undergraduate scholarships, graduate fellowships, internships, and grants to further these goals. The Foundation is also mandated to develop a program for environmental policy research and environmental conflict resolution at the Udall Center for Studies in Public Policy, which was established at Mo's alma mater, the University of Arizona in 1987.

The act establishes a trust fund to carry out these ambitious programs and authorizes the appropriation of moneys to this trust fund. In separate legislation, the fiscal year 1992 Interior appropriations bill, Congress appropriated \$5 million for the educational work of the Foundation, to be available on September 30, 1992.

The Foundation created by this law will be a living monument to honor Mo Udall and to express this Nation's appreciation for his decades of leadership, courage, and vision. The act will ensure that Mo's important work will continue by establishing in his name programs to expand education and encourage continued use and enjoyment of our Nation's rich natural resources, and the training of Native American and Alaska Native health care and public policy professionals, for which Mo has worked so hard throughout his years of distinguished service.

Unfortunately, a decision was made that the President would not sign S. 1176 into law, when it was presented to him over the Christmas holidays. Instead, in a memorandum of disapproval, the President sought to exercise a pocket veto. As my colleagues know, the pocket veto is the protection that the Framers of the Constitution gave the President to make sure that, whenever Congress sent a bill to the President, the President would have an opportunity to veto the bill by returning the bill to the Congress with his objections. If Congress prevents the President from returning a bill, then the bill may not become law.

Historically, the Senate, as well as the House, have taken effective measures to ensure that the President has

his constitutional opportunity to return a bill to the Senate with a veto during any period when the Senate is adjourned over the holidays or at other times of the year before the final adjournment of a Congress. The Senate has appointed the Secretary of the Senate to accept all messages, including vetoes, from the President at such times, and the House has appointed its Clerk to do the same.

In fact, President Bush utilized this very mechanism during the adjournment between sessions of the last Congress, when he vetoed the Chinese students bill, which Congress had passed to protect students studying in the United States after the massacre at Tiananmen Square, by returning the bill with his objections to the House through the House Clerk. President Reagan, used the same procedure, and returned bills to congressional officers during adjournments, as did Presidents Carter and Ford before them.

Indeed, the Federal courts in the District of Columbia have repeatedly ruled, in legal actions brought by the senior Senator from Massachusetts [Mr. KENNEDY] and by members of the House over the past two decades, that the return of bills to congressional officials is the proper constitutional mechanism to be followed for Presidential vetoes when the Congress is adjourned between sessions or within a session. The courts have made clear that the President may not constitutionally pocket veto a bill in those circumstances. In the most recent of these lawsuits, in 1984, the Senate intervened to express its bipartisan position that the constitutionally required consequence of a President's failure to return a bill, when an officer of the Congress has been appointed to receive it, is that the bill becomes a law.

The Supreme Court has not ruled on this question. The Department of Justice decided not to ask the Court to review the decision of the District of Columbia Circuit, in the case of Kennedy versus Sampson, which invalidated an intrasession pocket veto. Then, the Solicitor General persuaded the Court that the case of Barnes versus Kline, in which the District of Columbia Circuit invalidated an intersession pocket veto, was moot and should not be decided on the merits.

Up until last month, however, judging from the return of the Chinese student bill in 1989, it appeared that President Bush had determined to follow these Federal appellate court decisions and to return bills to Congress during adjournments in order to permit Congress to try to muster the necessary two-thirds majority in both Houses to override. The Congress has found that a difficult burden indeed. In fact, the President has a perfect record on sustaining his vetoes. Regardless of my position on the specific legislation that was vetoed, this is acceptable to this

Senator because that is the way our Constitution provides for a limited sharing with the President of the Congress' legislative power.

Use of the pocket veto in these circumstances, however, is an attempt to reallocate the Constitution's grant of legislative power. It is all check and no balance. It is regrettable that the President did not follow his own sound prior example and that of his predecessors and send this bill back to us so that we could consider his objections in the manner prescribed in the Constitution.

Let me turn briefly to the objections that led the President to try to veto this bill in the first place. It is not, the President assures us, because of any disagreement over the substance of the bill, for the President states that he supports the creation of a foundation to honor Mo. Rather, the President has raised objections to the way in which the Board that will administer the Foundation is set up. In his statement, the President questions whether the law may provide for the congressional leadership and the president of the University of Arizona to appoint members to the Foundation Board, in addition to the President.

This is not the first law that Congress has enacted establishing a foundation with congressional participation to honor the distinguished career of an American leader who served as a Member of Congress. It is, however, the first time that the President has vetoed such a law.

In 1975, the Congress honored former President, and former Senator, Harry S Truman, by establishing the Truman Scholarship Foundation. Then, in 1986, the Congress honored another distinguished Arizonan, Senator Goldwater, by establishing the Barry Goldwater Scholarship and Excellence in Education Foundation. The Truman and Goldwater Foundations, after which the Udall Foundation was substantially patterned, are governed by boards made up of congressional, as well as Presidential, appointees. The distinguished chairman of the Armed Services Committee, Mr. NUNN, as well as my able colleague from Arizona Mr. MCCAIN, currently serve as trustees of the Goldwater Foundation. President Reagan expressed reservations about the appointment mechanism for the Goldwater Board, but he signed the bill into law nonetheless.

Nor are the Truman and Goldwater Foundations the only government educational foundations whose membership is designated, in part, by the Congress. The James Madison Memorial Fellowship Foundation was established by Congress to commemorate the bicentennial of the Constitution by sponsoring programs for graduate study of the Constitution's principles and formation. Under the law, the board of trustees that administers the Madison

Foundation is made up of persons appointed by the President, in part from persons designated by the leadership of Congress. In fact, at this moment, two of our colleagues serve as the chairman and treasurer of the Madison Board.

As my colleagues can see, we had a reasonable basis for drawing up the Board for the Udall Foundation the way we did and for believing that the President would sign the legislation. Given the background, I believe that the President would have been better advised to have signed this bill, while requesting any amendments that he might want to accommodate his appointment concerns. At a minimum, the President should have returned the bill to the Senate so that we could have chosen how to proceed under the Constitution.

Now we have to determine how to proceed from where we are now. Under the Constitution, a bill becomes law automatically if the President neither signs it nor returns it to Congress, unless return was prevented. As the courts have interpreted and applied the Constitution over the past 20 years, S. 1176 accordingly became law in December when the President failed to return it with his objections to the Senate by causing them to be delivered to the Secretary.

If we wished to bring this question before the courts one more time, I am confident that we would receive the same ruling one more time, and S. 1176 would be declared a law. But I do not think that course, which might take several years to complete, is a wise initial course to take in this case. Rather, it is important to get this Foundation off and running. Mo Udall deserves better than for this Foundation, and the educational endeavors in the environment and health care it will support, to be delayed by litigation over the President's purported pocket veto.

Therefore, after staff discussions with the White House, my colleague, Senator MCCAIN, and I are today introducing a bill that I hope will enable us to resolve this matter simply and expeditiously. The bill does two things. First, it repeals S. 1176, which is necessary since under the Constitution S. 1176 is presently a law, even if the President's memorandum does not recognize that fact. Second, it reauthorizes the Udall Foundation and modifies the Board's appointment provisions to meet the President's objections.

It is my hope that once the Senate acts on this bill, the House and the President will each do their part, so that the worthwhile work of the Udall Foundation can commence on schedule.

Mr. President, I yield the floor.

ABUSE OF THE POCKET VETO POWER

Mr. KENNEDY. Mr. President, it is doubly unfortunate that President Bush has asserted a right to pocket veto S. 1176, legislation to establish a scholarship program to honor our col-

league and friend from Arizona, Representative Morris Udall.

Mo Udall was an extraordinary Member of Congress. His wit and grace made him a pleasure to work with, and his commitment to preserving the Nation's natural heritage has made America a better, more beautiful, land. He richly deserves the honor of having this scholarship program established in his name, and I hope that the issues raised by the President can be resolved as quickly as possible, so that the scholarships can begin.

But it is also unfortunate that, in seeking to protect his constitutional prerogatives, President Bush violated the Constitution itself by attempting to pocket veto the legislation during the recent recess. Article I, section 7 of the Constitution makes it clear that the President must return vetoed legislation to the House in which it originated, "unless the Congress by their adjournment prevent its return."

In recent years, when the Senate and House have recessed or adjourned during a session or between sessions, they have designated officers to receive bills returned by the President. This procedure upholds the constitutional separation of powers by permitting the President to veto bills that he finds objectionable while preserving Congress' ability to enact the measures into law by overriding the veto.

In the early 1970's, when President Nixon sought to use a pocket veto during a 5-day recess, I brought suit to challenge the constitutionality of that action. In *Kennedy v. Sampson*, 511 F.2d 430 (1974), the U.S. Court of Appeals for the District of Columbia Circuit upheld my challenge and ruled that the President's pocket veto was unconstitutional. The rationale of the decision makes clear that a pocket veto is valid only at the end of a Congress, and not during adjournments within a session or the adjournment between sessions. In 1976, the Ford administration announced that it would use a normal veto rather than the pocket veto, in accord with the court's ruling.

Although President Reagan and President Bush disagreed with the court's ruling, they have generally followed it, and returned bills vetoed during recesses to the Congress with a statement noting the disagreement over the issue. When President Reagan tried to pocket veto a Salvadoran human rights bill during an intersession recess in 1983, the Senate joined in a lawsuit to challenge that veto, and the D.C. circuit upheld that challenge; but the litigation was eventually dismissed by the Supreme Court on mootness grounds.

Technically, the recent recess was an intrasession recess, since the first session did not adjourn sine die until January 3. Therefore, in accord with the Sampson decision, the President should have returned the bill to Congress with

the usual notation preserving his position on the pocket veto, but he did not do so. Because the President did not return S. 1176 to the Senate, the bill has become law, without the President's signature.

But I agree with Senator DECONCINI that it is sensible to move quickly to permit this fitting honor for Mo Udall to go forward, while preserving Congress' position on the pocket veto issue. For that reason, the legislation being introduced today recognizes that S. 1176 is now a public law, and repeals it and enacts new legislation to address the President's concerns about the manner in which members of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation will be appointed.

When President Bush decides to veto legislation, he should follow the constitutionally mandated procedures for exercising his veto power. He should not abuse the pocket veto power and deprive Congress of the opportunity to override his veto. I hope the administration will restore the practice of recent years, which permits Congress and the administration to maintain their respective positions until a satisfactory resolution of the pocket veto controversy can be achieved.

The PRESIDING OFFICER. If there are no amendments, the bill is deemed read a third time and passed.

So the bill (S. 2184) was passed, as follows:

S. 2184

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 and Native American Public Policy Act of 1992."

SEC. 2. REPEAL OF PREVIOUS LEGISLATION.

The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, 102nd Congress, is hereby repealed.

SEC. 3. 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;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) 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. 4. 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 the 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 National 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. 5. 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 12 trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) 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; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) 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.

(5) 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.

(6) The President of the University of Arizona shall serve as a nonvoting, 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 Trustees first taking offices—

(i) As designated by the President, one Trustee appointed pursuant to Sec. 5(b)(2) and two trustees appointed pursuant to Sec. 5(b)(3) shall each serve 2 years; and

(ii) as designated by the President, one Trustee appointed pursuant to Sec. 5(b)(1) and two Trustees appointed pursuant to Sec. 5(b)(3) shall each serve 4 years; and

(iii) as designated by the President, one Trustee appointed pursuant to Sec. 5(b)(1), one Trustee appointed pursuant to Sec. 5(b)(2), and one Trustee appointed pursuant to Sec. 5(b)(3) shall each serve 6 years; and

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee'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.**—Trustees 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. 6. 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;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 7. 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 and Native American and Alaska Native health care and tribal public policy. 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 and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(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 and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, 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 section 5; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 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) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) 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. 8. 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 Environmental 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 section (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 Securities 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. 9. 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. 10. 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 of Trustees, 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. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the fund \$40,000,000 to carry out the provisions of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

SUSPENDING THE FORCIBLE REPATRIATION OF HAITIAN NATIONALS

Mr. MITCHELL. Mr. President, I understand that Senator KENNEDY introduced S. 2185 earlier today.

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. I now ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2185) to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

Mr. MITCHELL. Mr. President, I now ask for its second reading.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will lie over pursuant to rule XIV.

BILL INDEFINITELY POSTPONED— S. 2173

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Calendar

No. 394, S. 2173, the unemployment compensation benefits bill, be indefinitely postponed.

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

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes, certainly.

The PRESIDING OFFICER. The Republican leader.

ORDER OF PROCEDURE

Mr. DOLE. With reference to the unanimous-consent request we earlier propounded and agreed to, I think we indicated after 1 hour of debate there would be then a vote on the motion to proceed. I know of no objection on this side if we just by unanimous consent now agree that after an hour of debate we go on the bill itself. We have no request for a vote.

Mr. MITCHELL. Mr. President, we have not checked that on our side. If the Senator does not mind, I would prefer to inquire of Democratic Senators before doing that. Perhaps I could do that first thing in the morning and then we could do it then if that is agreeable with the Senator.

Mr. DOLE. Yes. I think some may interpret that, since we did not say what kind of vote, there might be a rollcall vote. We have no request for a rollcall vote. We are willing to agree after that hour by unanimous consent to go on the bill.

Mr. MITCHELL. I understand that and appreciate that. I would appreciate the opportunity to at least inform Democratic Senators of that before agreeing to do so, and will then be prepared to respond first thing tomorrow morning to the Senator.

Mr. President, I have a brief statement I would like to make. I now ask unanimous consent that upon the completion of my remarks the Senate stand in recess as to be ordered.

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

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate competes its business today it stand in recess until 10:30 a.m., on Wednesday, February 5; that following the prayer, the Journal of the proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein, with Senator SIMPSON recognized for up to 5 minutes, Senator SPECTOR for up to 10 minutes, and Senator PRYOR for up to 15 minutes.

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

PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 11 a.m., on Wednesday, February 5, there be 1 hour for debate on the motion to proceed to S. 2166, to be equally divided between Senators JOHNSTON and MURKOWSKI; that following the conclusion or yielding back of time, the Senate proceed to vote on the motion to proceed to S. 2166. I further ask unanimous consent that following any opening statements on S. 2166, Senator JEFFORDS be recognized to offer an amendment regarding alternative fuels.

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

FREEDOM OF CHOICE ACT

Mr. MITCHELL. Mr. President, several members of the press have asked about an article in the Washington Post today regarding my views on the Freedom of Choice Act.

The Post headline and the lead sentence of the article state that I "oppose" the Freedom of Choice Act. That is incorrect. Later in the article it is stated that I have "serious reservations" about the act. That is correct.

I strongly support the purpose of the Freedom of Choice Act, which is to secure the right of each woman to make the choice about abortion that was first set forth in the Supreme Court's 1973 ruling in the case of Roe versus Wade.

If the Supreme Court determines that it will no longer protect that right, Congress should act to provide that protection.

Moreover, I believe the action Congress takes should seek to secure protection for the right of choice in the future as well as immediately. To the degree possible, we should seek to ensure that future Congresses cannot nullify that protection.

The only vehicle currently before the Congress to protect the right of choice is the Freedom of Choice Act. Like all legislation introduced in the Congress, its wording and implications will be carefully reviewed before the Labor and Human Resources Committee votes on whether to send it to the full Senate for debate. I hope the concerns I have about securing the long-term protection of the right of choice can be considered as the committee considers this matter.

I take seriously the responsibility of the Congress to respond if the Supreme Court overturns the right to choose. American women should know that the majority in the Congress is determined to secure their rights to the best of our ability and within the limits of the constitutional authority we have to do so.

I do have concerns about the use of a statute to define and secure a constitutional right. Such an action could create a dangerous precedent.

If a simple majority of this Congress can establish the constitutional right of a woman to choose abortion, a future Congress, with a different majority, could expand the rights of the fetus at the expense of the woman, thereby, in effect nullifying the right of choice.

I also caution that because Senate rules permit an unrestricted right of amendment, a Freedom of Choice Act could be burdened with amendments much more restrictive than the laws

they would supersede in many of the States.

Difference of opinion over the wording of long-range effect of legislation does not mean that there are substantial differences on the substance of the issue or in the goals of the legislation. In this instance, there are none between me and those who support the act. I support the right of choice for women and I believe that right ought to be protected, in an appropriate and constitutional way. I will work with

the sponsors of the act to achieve that common objective.

Mr. President, I yield the floor.

RECESS UNTIL TOMORROW AT 10:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess.

Thereupon, the Senate, at 7:22 p.m., recessed until Wednesday, February 5, 1992, at 10:30 a.m.