

## SENATE—Thursday, June 18, 1992

(Legislative day of Tuesday, June 16, 1992)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

## PRAYER

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

Let us pray:

*Blessed is the nation whose God is the Lord \* \* \*—Psalm 33:12.*

"God bless America, land that I love.  
Stand beside her and guide her,  
Through the night with a light from  
above."

Mighty God, it seems impossible that we have heard a Russian leader conclude a speech with the words, "God bless America!" Help us, dear God, to take seriously this blessing from one who endured much of his lifetime in Godless communism. Help us to make the connection, so plain on the pages of the Bible, and history, between God and liberty—godlessness and tyranny. Renew in us the faith of our fathers—faith in God—not a mythical or parochial deity of human creation, but the God who created all things, the Lord Jehovah of the Torah, God of Abraham, Isaac, and Israel, of Moses and the prophets—the I am God of Jesus and the apostles. Restore to us, gracious, patient Father in Heaven, the faith that guarantees liberty, blesses the land, and nurtures a great, free people.

In the name of the Lord who made Heaven and Earth. 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, June 18, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

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

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Maine [Mr. MITCHELL].

## THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date.

The ACTING PRESIDENT pro tempore. The Senator is correct.

## SCHEDULE

Mr. MITCHELL. Mr. President, under the order approved yesterday, there will be a period for morning business beginning shortly and continuing until 1 p.m. today, at which time the Senate will resume consideration of S. 2733, the bill to improve the regulation of Government-sponsored enterprises.

Several Senators have inquired about the schedule, over the next several days. I have also received a number of the press inquiries apparently based upon my past reports of my discussions with Senator DOLE. I would like at this time to inform Members of the Senate of my intention in that regard.

I suggested to Senator DOLE yesterday that we attempt to reach agreement on a procedure under which we can complete action on S. 2733 today, and then take up and hopefully also complete action today on the supplemental appropriations bill which the House will be voting on early this afternoon.

It is a very important measure which has been the subject of lengthy and intense negotiation. Agreement has now been reached which I am advised is supported by the President and by the congressional leadership, and which I say I strongly support. I hope that we can move promptly and pass that bill because it is the first measure of assistance to the Los Angeles and other urban areas which we all agree is needed.

I then further propose that we take up and act on the unemployment insurance legislation which the House has acted on, which the Senate Finance Committee reported favorably, and which is now pending on the calendar.

Since the benefits will expire shortly, it is imperative that we complete action on that measure prior to the Fourth of July recess. That measure is itself part of a broader negotiation

with the administration which is now underway, and on which I hope we will reach agreement that will enable the President to sign the measure. As of this time that agreement has not been reached and it is my expectation, my hope, that we can pass the bill, then go to conference because the House and Senate bills differ—and that will still be the subject of negotiation—and that the final product that comes out of conference will be something that will be acceptable to all.

This is an effort to move it along the legislative process so that we can be in a position to act finally on it prior to the Fourth of July recess.

It is my belief that we can complete action on these measures by next Tuesday afternoon. That is the target that I set out. What I intend, and what I have advised Senator DOLE, is that when we complete action on those three measures, it is my intention to proceed to the Russian aid bill. So that my hope is that we could be on the Russian aid bill by next Tuesday afternoon.

I have no way of knowing how long consideration of that measure will take because I do not know what amendments will be offered by which Senators. But I think it is important that we take that measure up. The Secretary of State has on several occasions, most recently a telephone conversation this morning, urged me to do so. I have indicated to him, as I have with Senator DOLE, that once we complete action on the pending bill, the bill to improve regulation of Government-sponsored enterprises, which I am advised the administration supports, about which I believe there are no major controversies, and the supplemental bill which I think we all want, and the unemployment insurance bill, we should proceed directly to the Russian aid bill.

So I am hoping that we are going to be able to work out a schedule in agreement that will enable us to proceed as I have just outlined. I am now awaiting a response from Senator DOLE who is attempting to clear the proposal on the Republican side.

## RESERVATION OF LEADER TIME

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

I yield the floor.

Mr. REID addressed the Chair.

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

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Nevada.

Mr. REID. Would the Chair advise the Senator from Nevada the time under morning business that this Senator is allowed?

#### 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 1 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from New Jersey [Mr. BRADLEY] is recognized to speak for up to 35 minutes; the Senator from Tennessee [Mr. GORE] is recognized to speak for up to 5 minutes; the Senator from New Mexico [Mr. DOMENICI] will be recognized to speak for up to 5 minutes; the Senator from Washington [Mr. GORTON] will be recognized to speak for up to 10 minutes; the Senator from Louisiana [Mr. BREAU] will be recognized to speak for up to 10 minutes; and last but not least, the Senator from Nevada [Mr. REID] will be recognized to speak for up to 15 minutes.

Mr. REID. Thank you, Mr. President. (The remarks of Mr. REID pertaining to the introduction of S. 2865 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Washington [Mr. GORTON] is recognized to speak for up to 10 minutes.

#### WALSH'S HOSTAGE

Mr. GORTON. Mr. President, Tuesday's indictment of Caspar Weinberger bears a more distant relationship to constructive government investigations than it does to show trials in the former Soviet Union or Nazi Germany. Like these Orwellian proceedings, it constitutes the pursuit of political goals through the misuse of the criminal code. The special prosecutor's goal is not primarily to convict Mr. Weinberger, but to search for evidence of President Reagan's supposed involvement in a conspiracy with respect to the arms-for-hostages deal. It is particularly ironic that the United States indicted an architect of our victory in the cold war on the day before President Yeltsin gave such eloquent tribute to the success of Mr. Weinberger's leadership in that cold war.

The truth is a long ignored casualty of the special prosecutor's quest for fame. In that search, of course, he is unconcerned with fair treatment for Mr. Weinberger. That individual is a hostage to Mr. Walsh's political goals.

Mr. Weinberger has had a long and distinguished career of public service

without a hint of scandal. In fact, extensive Congressional hearings on Iran-Contra continually showed Mr. Weinberger to be a disgusted opponent of the entire arms-for-hostage adventure.

We can be certain Mr. Walsh's true goal, after finding Mr. Weinberger's notebooks, was to force Mr. Weinberger to testify that there was a conspiracy involving President Reagan.

Having failed, Mr. Walsh developed a five-count indictment designed, in the process of attacking Mr. Weinberger, to allow the prosecution to present what it claims to be the existence of a Presidential coverup.

This process is an absolute perversion of justice. Because he was deemed useful by Mr. Walsh, Caspar Weinberger was given two outrageous options: To enter into a plea bargain and confess to crimes to which he firmly asserted his innocence and thereafter to manufacture testimony to betray his President, or face the huge legal bills a trial will surely impose. He has made the honorable choice.

We have little reason to doubt that Mr. Walsh has used this threat of another prolonged, astronomically expensive trial to pressure a plea even though he doubts that he can gain a conviction. Once again, when the suspect chooses not to plead, Mr. Walsh does not mind using an extended proceedings to exact a penalty through legal bills rather than a conviction.

For example, after charges were dropped against Joe Fernandez, a mid-level CIA officer who spent some \$2 million on his defense, Mr. Walsh remarked, "I have no regrets because he always had the opportunity to cooperate with us. \* \* \* He made the choice to be the antagonist." Mr. Walsh apparently never considered that Mr. Fernandez successfully asserted his innocence, and that he could not help but be an antagonist. Furthermore, what court decided that Mr. Fernandez should pay the \$2 million? None. That was Mr. Walsh's decision. He also suggests that Mr. Fernandez was justly penalized for not complying with the prosecution's demands; Mr. Walsh apparently had no regrets for failing to convict because his goal of extracting huge legal fees of Mr. Fernandez had been successful. Of course, the taxpayers funded the case which Mr. Walsh has no regrets about losing.

Mr. Walsh's bullying tactics aside, should we continue this 5-year, at least \$30 million investigation of the Iran-Contra affair at all? Does its pursuit benefit the American people? We have long since come to understand essentially what happened during the arms transfer, and precious little of what's left seems to have even political value.

In his marvelous speech yesterday to the joint session of Congress, President Yeltsin said:

There was no replay of history. The Communist party citadel next to the Kremlin,

the "Communist Bastille" was not destroyed. There was not a hint of violence against Communists in the country. People simply brushed off the venomous dust of the past and went about their business.

Ironically, the Russians' gesture appears too magnanimous even to hope for here.

Mr. Walsh has achieved little but at great cost. He sent Thomas Clines to jail on tax charges, but had his two biggest cases—Oliver North and John Poindexter—overturned in appellate courts. He has also gotten plea bargains from those who couldn't afford to go to court. Certainly, some of the motivation behind the Caspar Weinberger indictment is that Mr. Walsh must justify his job, but nothing now can disguise his failure.

Mr. President, I do not make this case on behalf of Mr. Weinberger out of friendship. We have no social relationship whatsoever. In fact, we had many policy differences while he was Secretary of Defense. He is, however, a fine man, a great patriot, and an individual who has contributed far more to this Nation than has Judge Walsh. I am convinced that Mr. Weinberger has become a victim of an investigation driven by political malice. This political witch hunt must end. If it requires a Presidential pardon to end it, President Bush should have the courage to grant one now, before the Special Prosecutor claims more innocent victims.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Wall Street Journal entitled "Walsh's Hostage."

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

#### WALSH'S HOSTAGE

(I would not give false testimony nor would I enter a false plea. Because of this refusal, which to me is a matter of conscience, I have now been charged with multiple felonies.—Former Defense Secretary Caspar Weinberger, on his indictment Tuesday by Special Prosecutor Lawrence Walsh.)

In this broad land, is there a soul who doubts that Mr. Weinberger was indicted for the crime of not helping Lawrence Walsh make a case against Ronald Reagan? There may be some who believe that there is a case to be made, of course, but you have to suspend disbelief to think Mr. Walsh would care if the former Cabinet official made up some fibs to save his own neck. This indeed threatens to become the new prosecutorial ethic in political cases. As a unanimous Second Circuit Court of Appeals remarked in overturning the conviction—based on the testimony of a felon—of Ed Meese pal Robert Wallach, "We fear that given the importance of Guariglia's testimony to the case, the prosecutors may have consciously avoided recognizing the obvious—that is, that Guariglia was not telling the truth."

The Weinberger indictment, admittedly, may have other purposes, not least preserving Mr. Walsh's job. He has now kept himself employed for 5½ years, at a cost of more than \$30 million, generously provided by the same Congress that ran the House Bank. For this, he won one court victory, getting someone named Thomas Clines sent to jail on tax

charges. He was overturned by appellate courts in the North and Poindexter cases. (Craig Gillen, Mr. Walsh's current deputy, arrived too late for these cases, and apparently wants a reversal of his own.) He managed to coerce some plea bargains out of officials who couldn't afford to defend themselves. He continues to pursue Clair George, a retired CIA official who has already incurred legal fees of half a million dollars.

In the Weinberger case, we suspect Mr. Walsh has finally gone too far. Mr. Weinberger, after all, was an opponent of the arms-for-hostages deal. He also has compiled a long record of public service without hint of scandal. We now see the architect of Western victory in the Cold War indicted the day that the president of Russia arrives in the U.S. to celebrate and seek help. Mr. Weinberger has personal and financial backing from, no doubt among others, his employer, Malcolm S. Forbes Jr. Most crucial of all, he has a tenacious, iron-willed character, unlikely to be pushed around.

Not even Mr. Walsh alleges that Mr. Weinberger had anything to do with orchestrating the arms sales. The charges are that Mr. Weinberger lied to Congress and obstructed Mr. Walsh's investigation, based on entries in diaries kept by Mr. Weinberger. Most criminals do not keep diaries of their conspiracies. As we have already reported, indeed, it was Mr. Weinberger himself who called Mr. Walsh's attention to his diaries. He donated them to the Library of Congress in 1987, and a tidy archivist keep them in an Iran-Contra section in the library's orderly "finding-aid" guide. Mr. Weinberger helpfully wrote a letter asking the library to show the diaries to the special prosecutor. Some obstruction.

Now of course, Mr. Walsh may be able to point to this or that statement or this or that memory as being in conflict with this or that record dredged up from all the things a Secretary of Defense has to deal with in his daily life. Legal pedantry aside, what is actually going on is the use of the criminal law, via the independent counsel device, to criminalize policy differences between the executive and legislative branches.

This will end if Congress is ever held to the same standard. It has of course exempted itself from the independent counsel law, but the Walsh cases have repeatedly come down to the charge that Congress was misled. The obvious way to establish this is to start deposing Congressmen about the state of their knowledge about aid to the Contras, arms sales to Iran, etc. We assume that the Weinberger defense would start with Representative Lee Hamilton, chairman of the House Intelligence Committee in the mid '80s; we would like to know what he knew when.

The criminalization of politics cannot be good for the Republic. How many future Caspar Weinbergers are going to enter public life? Perhaps even worse is the politicization of the criminal law, eroding prosecutorial standards in a way that has started to permeate many areas of public life. The Bush administration has the legal power to remove Mr. Walsh and end this ongoing miscarriage of justice. It refuses to take the political heat for doing so. We wonder what a Perot administration would do.

The PRESIDING OFFICER (Mr. KERREY). Under the previous order, the Senator from New Mexico [Mr. DOMENICCI] is recognized to speak for up to 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. DOMENICCI. Mr. President, I ask unanimous consent that Tina

Kaarsburg, of my staff, be granted floor privileges.

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

Mr. DOMENICCI. I thank the Chair.

(The remarks of Mr. DOMENICCI pertaining to the introduction of S. 2866 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee [Mr. GORE] is recognized for up to 5 minutes.

Mr. GORE. Thank you very much, Mr. President.

(The remarks of Mr. GORE pertaining to the introduction of S. 2866 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I ask unanimous consent, following the distinguished Senator from New Jersey's time as he previously reserved under the previous order, that I be permitted to speak as in morning business for a period not to exceed 15 minutes.

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

Mr. BRYAN. I thank the Chair and I thank the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

RUSSIA AND AMERICA: THE NEXT PHASE

Mr. BRADLEY. Mr. President, I am a child of the cold war. I remember as a 12-year-old drawing the design of my own bomb shelter with specific places for my cot, my books, my favorite foods, and my basketball. In 1962, I can remember going to bed during the Cuban missile crisis not knowing whether I would be alive in the morning. For 45 years, the prospect of nuclear war haunted our collective imagination. Now all that is over. The threat has disappeared.

President Boris Yeltsin's speech yesterday signals a new era of friendly, cooperative Russo-American relations. His appeal for American help, his candor about Soviet coverups, his commitment never to return to the Communist past, and his pledge to phase out all multiwarhead SS-18 ICBM's—all indicate how much has changed. The new reality is that Russia and the other republics are not the Soviet Union. They are new countries, distinct from each other and from their common predecessor. We must stop talking about them as if they carry the taint of the old Union.

The old system was controlled by a few who had power but no legitimacy. Now forces that are democratic, market-oriented, national, and spiritual seek an institutional arrangement

through which they can build a better tomorrow. Congress and the American people should help make this positive change irreversible. A new beginning is at hand.

The question is, What kind of beginning? What will the next 45 years of United States-Russian relations look like? What are the opportunities for each of us? For the world? What must each of us do to seize this moment?

Let us begin with a clear understanding of what the last 70 years have done to Russia and the other Republics.

The economy is in shambles. The natural environment is a catastrophe. Ethnic conflicts are on the rise, revealing that class enthusiasm never displaced ethnic consciousness, even after 70 years of Communist repression.

The political system is in crisis. In a society never reached by the enlightenment and burdened by centuries of autocracy, the habits of democracy do not come naturally. The authoritarian impulse is real, and so is the danger of further fragmentation. Within Russia, there are autonomous Republics which assert political independence and claim sovereignty. If they succeed, the map of Russia will look like Swiss cheese. It will take a generation to purge the system of the old thinking, the old habits, and the old politicians.

All of these problems—economic, environmental, ethnic, and political—confront the present leadership just as they try to figure how to reduce their military expenditures, pull back their forces, and rewrite their military doctrine to reflect the security needs of a nation focused on internal development. As Russia makes these decisions, the attitude and action of the United States are critical.

The Russian-United States relationship can shape the geopolitics of the 21st century for the better. Russia sits between Asia and Europe—a vast continental nation—a bridge bringing East and West together and a hedge against adverse changes in Europe or Asia. A good relation with Russia could minimize a bad relation with Europe or Japan or China. A good relation with Russia enhances America's flexibility in international politics. A good relation with a democratic Russia offers the possibility of partnership between their vast market and our technology, a partnership that will help to improve living standards in both countries.

What about Russia?

Although Russia worries about renewed German intervention, its main concerns lie in the East and to the South. Russia's longest border is with China, an emerging colossus with a booming economy, a modernizing military, and an unpredictable politics. China openly and straightforwardly rejects the present border as the product of unequal treaties between the Chinese and Russian empires. The Russian population is only one-eighth the size

of China's. Most Russians live in Europe, making the Siberian border with China a frail, sparsely populated barrier against Chinese challenge or migration.

To the south, forming another land bridge between East and West, lie the peoples of Islam, full of religious fervor and yearning for greatness. The former Soviet Republics of Central Asia have birth rates more than double Russia's. Iran and Turkey will vie for influence with these governments, while the people remain susceptible to the fanaticism of militant Islam, and the spread of missile and nuclear technology makes this prospect even more ominous.

Russia has no reliable allies to protect its interests in these areas of potential tension. The Commonwealth of Independent States is an unproven alliance, and China has a veto at the United Nations. While Russians might look to Europe for assurance and accept it when offered, they will increasingly look to the United States for guidance and support, which, in my opinion, we should give.

America's interests have not changed. We will benefit if Russia becomes a democracy with a market-based economy that raises living standards, with a much smaller defense establishment, and with an acceptance of free flowing capital, trade, and ideas. The U.S. objective should be to reduce the tension as quickly as possible and to normalize our relations. We need to bring Russia and the newly independent states into the international system as countries that share widely agreed objectives for their people and see roles they can play to promote stability and understanding in the world.

In order to further these interests, we have to think much, much more of the long term. When Thomas Jefferson bought Louisiana making America a continental nation, he was thinking of the long term. When Wilson advocated the League of Nations, he was thinking of the long term. When Harry Truman fired MacArthur in Korea for disobeying civilian orders, he was thinking of the long term. When Eisenhower said no to direct United States involvement in Vietnam, he was thinking of the long term. Each of these Presidents saw beyond the moment and conceived their actions in the context of our national destiny. With Russia the time for red alert is over. We need to see the United States-Russia relation beyond tomorrow's headline and without regard for the next election. Let me repeat. We need to see the United States-Russia relation without regard for tomorrow's headline or the next election. But our national leadership has failed to lead—to tell us what values are, what we stand for, where we are headed with Russia, how we will get there, and why it is important to every American.

United States policy toward Russia ultimately has to improve the lives of

human beings in both countries. The last 45 years' rivalry and our triumph make Russia interested in us just as the Japanese and Germans were after 1945. But things will never remain unchanged. If we fail to act, if we reject their hand of friendship, the tide could turn against our interests.

The fact is that the oppression of totalitarianism has tested Russians more deeply than the race of materialism has tested Americans. We can share our values of individual liberty and democracy, but our genuine solidarity with them could rest on finding a deeper meaning to life than consumerism and on understanding how the suffering of others relates to each of us. Above all, we should keep our focus on people as much as on economic projections; on the human spirit as much as military hardware.

This is not a time for ambiguity. The United States must be explicit about our political and military intentions. With the defeat of communism, there remains no ideological conflict between the United States and Russia. The system that sought worldwide revolution and was supposed to "bury" us, in Khrushchev's words, has instead destroyed itself. We have no territorial design on Russia, and we no longer consider Russia a military threat.

Yeltsin told a group of United States Senators in 1991 that he was going to cut defense drastically because 40 percent of the people in Russia live in poverty. Earlier this year, the Russians cut defense spending by 50 percent, and their withdrawals from Eastern Germany continue on schedule. President Yeltsin's statements yesterday only underline the new direction and calls for a bolder U.S. response. Russia needs to see deeper cuts in our defense expenditures and larger redeployments of our forces, not continued submarine operations off their northern coast and reluctance to cut long-range bombers and missiles.

We must reject those who argue that we cannot cut defense much because we have to retain the ability for a quick return to the arms race if things change in Russia. These are people who yearn for the old ideological certainties that 1991 washed away. To them a clear enemy is better than a peace that requires fresh thinking. If we listen to them, our defense spending will not only waste billions of taxpayer dollars, but it could send the wrong message to Russia.

Beyond intentions, we have to assure Russia that we recognize its current borders, including its control of autonomous republics, that we will not foster anti-Russian feeling in the name of ethnic self-determination, and that we will not support sovereign independence for separatist movements in Siberia or the Far East. In addition, we should encourage Ukraine and the Baltics not to militarize their borders

with Russia; Ukraine, Belarus, and Kazakhstan to give up all their nuclear weapons quickly; and all former republics to minimize the size and number of their military forces. This should include leading the international community to support their legitimate security interests as nonnuclear states. Russia should know that there is no threat from the West—no prospect of a two-front war for its military strategists to worry about or prepare for.

The disputes between Russia and its former republics will be bitter. They will be territorial, political, and especially economic. But we must see that they not become explosive. We should offer our good offices to mediate disputes. We are trusted by both sides. Our credibility and detachment give us a unique opportunity to defuse tensions and to bring people together focusing on the long term. We did that after World War II by encouraging Jean Monnet and the concept of European unity, and today we can use a similar influence to bring Russia and its neighbors into a harmonious future.

Next, we need to be explicit about the political changes we think Russia must make to be a full member of the international system. Much deeper democratization is necessary to give legitimacy to whatever the Government does and, in particular, to absorb the reaction that will come from the hard choices necessary to transform Russia into a modern market-based economy. To minimize the risk of state oppression reemerging under the guise of reform, Russia needs a constitutional bill of individual rights and a viable legal structure. A new constitution and new elections could also provide a better basis for legislating reforms unburdened by the Communist part.

More steps should be taken to support democratic and market reforms. First, full membership in the IMF and the World Bank gives Russia access to project loans, sectoral loans, balance of payments loans, as well as advice on radical market reforms. Second, the markets of the West should be open to raw materials, goods, and services from the East. Removing barriers will encourage foreign investment. Third, the West must be willing to restructure and to reduce Russia's international debt—at least exchange shorter loans for longer bonds. Fourth, the United States should send teams of advisers to help restructure the monetary, financial, and distribution systems—all three being quintessential elements of market efficiency. Fifth, we should lead an international effort to establish an emergency nuclear safety program—to destroy nuclear weapons and to make nuclear reactors safe. The battle against nuclear proliferation should be a guiding goal of our joint nuclear policy.

Mr. President, aid must be more than financial assistance. Nothing short of a

massive exchange and sharing of ideas, people, and training will accomplish our broader long-term goals of economic prosperity and political security for Russia, for her neighbors, and for ourselves.

President Bush should not miss this opportunity. To date he has failed to provide leadership, preferring instead to react to—rather than shape—events. What the world needs is an American President who recognizes that our leadership is no longer based only on military strength, but on the power of our example as a pluralistic democracy whose growing economy takes everyone to the higher ground—an American President who will encourage all the American people to reach out toward the people of Russia and the newly independent states in an act of generosity and pride in America.

We need to get beyond the politics of the moment, the deficit of the hour, the military count of the day. We need to get beyond the numbers that rarely shape events. Our long-term investment must be in people and in the values of democracy and individual liberty.

At the end of World War II, the Germans and the French, who had fought each other three times in 70 years, sought a way to prevent future conflict by knitting a web of human relationships between their two peoples. Every year for the last 40 years, between 40,000 and 60,000 German and French young people have lived in the other's country. This massive exchange program led to a deeper understanding and a bond of common experience. At the end of World War II, the United States also began exchange programs with Germany and Japan. At one point, it was said over half the Bundestag had been to the United States in an exchange program. Once people had experienced America by living here, they never forgot it. Americans in their everyday life were the best ever teachers of American values. This is why now, at the end of another war in which we have triumphed, the whole American people should be called to service again.

I propose, along with the distinguished occupant of the chair, Mr. KERREY, the Senator from Nebraska, that we mount a massive Freedom Exchange Program beginning in January 1993 and building over five years to 70,000 people per year: 50,000 high school kids from Russia and other Republics, 10,000 college students, and 1,000 graduate students. In addition, we should invite 10,000 small businessmen to live and to learn basic business in communities across America.

More Chinese study in America every year than Russians have studied here since World War II. Last year, 1991, while there were 177,000 college students from Taiwan, China, Japan, India, and Singapore studying in Unit-

ed States colleges, there were only 1,200 Russians.

Last year, there were only 814 Russians in United States high schools. A young Russian who is 16 today was 9 when Gorbachev took over and perestroika began to bring change. In 5 years, she or he will be 21. Now is the time to let them experience America, learning what life is like in a market democracy with a heart. They will see the openness, generosity, pride, and democratic reality of America. Their experience would bring our peoples together in countless ways, creating bonds that would last a lifetime.

In 1989, I visited a group of high school students in Alma-Ata in Kazakhstan. They had just returned from America on a high school exchange with Central High School in Phoenix, AZ. I asked them what they remembered most vividly. One girl raised her hand and said, "the farewell." I looked around and many of the other kids had tears in their eyes. "What do you mean," I asked. "Well," the girl continued, "when we were at the airport, the girl I stayed with came up to me, put a key in my hand, and said, 'Here, this is the key to our home. If you're ever in Phoenix again and we're not home, use it and make yourself comfortable. You know where the icebox is.'" It's that kind of bond and experience multiplied by thousands that the freedom exchange will create. Combined with the skills and awareness that the young people and small businessmen will acquire, the freedom exchange will promote the long-term interest of America.

America's effort to leave the cold war behind and to join Russia in building a better world for the 21st century must be matched, though, by Russian action. In fact, the most difficult job ahead lies with Russians and Ukrainians and Balts. They are the ones who have to live through the transition and build the new society. It is their leaders who must lead and their people who must follow. It will not be easy, but the path is clear.

Russia must redefine its military strategy, moving to a totally defensive posture. It must reduce spending on weapons and redeploy forces. Removing troops is the first test of such commitments, especially those troops that Russia has not even begun to remove in the Baltics, Ukraine, and Moldova. There should be a clear, short timetable for withdrawal from these newly independent states as well as from all of Eastern Europe. Russia should recognize the independence of the newly independent states, exchange ambassadors, and forswear any future territorial designs.

Russia and the former Republics need to proceed at the same time with the massive job of restructuring the economy. The runaway deficit of 25 percent of GNP must be reduced and elimi-

nated, and hyperinflation must be avoided. Subsidies to inefficient enterprises must be cut, bureaucracies shrunk, property privatized, a banking system and financial infrastructure built, effective tax laws passed, clear rules and laws enacted governing development, foreign investment, and repatriation of profits, and finally a clear policy on labor.

This agenda will bring different responses for different people. On the street corner in Kazan, I asked a young man who was a champion karate athlete what he thought of the reforms so far. He said, "They're OK. Prices are higher, but if you take the initiative, you can make more." And he said, smiling, "Athletes always seize opportunity." His optimism is countered by the anger of women on the streets in Moscow calling Yeltsin a criminal and the reforms a foreign conspiracy. As a friend in the Government confided to me, "I can't walk on the streets anymore. The people are too angry."

Politics in Russia will have to zig and zag forward, making reforms but pulling back from time to time to defuse political reaction that endangers all the reforms. But, the direction must never change. The key is to keep the social momentum moving toward market reform democracy.

For 45 years, we were locked in a global strategic competition with the Soviet Union that concentrated on ideology and arms, but pervaded everything from music to sports—remember how you felt when the United States hockey team won the gold in the 1980 Olympics. Since the competition ended abruptly and without war, many people have become disoriented. Although the ideological triumph, peaceful as it was, is a monumental achievement, people still wonder what it all meant to them and why the victory feels slightly hollow. We need a deeper understanding of our circumstance.

As we normalize our relations with Russia, escaping the distorting lens of the cold war, we will find affinities and similarities we never thought possible. We share common problems: budget deficits, racial, ethnic strife, defense industries that need to be converted to civilian use. We also recognize that neither of us alone can solve many of our problems—such as the environment, terrorism, drugs, economic migration, disarmament. All require international cooperation. Each of us must give up some sovereignty in order to have a voice in an international effort that could succeed. That idea of giving up something to gain something has a deep appeal, and it is the essential insight of not only a new United States-Russian relation but of the new age.

Giving up the desire for more of everything is the key to having more of something in our future. We will consume away our planet if we can't

find the discipline to say enough. Individualism will degenerate into greed without agreement on its limits. On an international scale, that means the gap between rich and poor nations will increase even as all of us live on borrowed environmental time.

The Soviet Union respected few limits in its disregard and destruction of our common environmental heritage. Rivers have turned to sewers of chemicals. The air in hundreds of cities is heavy with pollution. Coal mines, asbestos mines, and oil fields pollute lethally but with impunity. Along the northern coast where radioactive wastes were dropped in the 1960s, life expectancy has dropped to 32 years. We should see all our futures in Russia's "ecocide."

The Russian movie, "Raspad," offers a prophetic warning. In it a little boy, in the wake of the Chernobyl nuclear disaster, gets left behind in a housing project that is quickly contaminated. With his hair already falling out and his kitten dying, he writes with chalk in large letters on the playground, "Mother, I'm here waiting for you to return home." Mother won't return, the boy will die, and the tragedy will deepen.

Let that warning give us all pause not only about the environment, but about relations between people—parents to children, Russians to Americans, citizens to citizens. Let us reflect on the absence of meaning in millions of consumer lives in the West. Let us reflect on a world whose slogan is "Nothing lasts; nothing endures"—not products, politicians, jobs, homes. Each of us unthinkingly does what Russia did on a national scale—not worry about future generations, not care about the conditions necessary for individual fulfillment, not worry about our obligations to each other, not worry about anything but our own material circumstance today. Such a world is not sustainable.

Let us build a new relationship with Russia and the newly independent states—one based on two peoples coming together in a common commitment to make the tough choices for the long-term health of each country and the world; two peoples aware that having stared each other to the brink of nuclear holocaust, we now have a special responsibility to find in each other and within ourselves the capacity to reorder, to begin anew, to reconceive our possibilities as two nations, two peoples, one voice.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 15 minutes.

Mr. BRYAN. Mr. President, I commend my friend and our distinguished colleague on a most thoughtful presentation, most profound and most prophetic. I think all of us can benefit his thoughtful insight.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 2685 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business, which is due to expire under the previous order at 1 p.m., be extended until 2:15 p.m.

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

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I intend to take 10 or 15 minutes, but I ask unanimous consent that I be allocated that time following the Senator from Kentucky, whom I yield to at this time.

Mr. FORD. Mr. President, let me thank my good friend from Arizona for allowing me this time, and I promise him I will not be very long.

#### S. 250, THE NATIONAL VOTER REGISTRATION ACT OF 1991

Mr. FORD. Mr. President, this week the House of Representatives passed the National Voter Registration Act of 1991. Republicans in the House announced that senior White House advisers would recommend that the President veto this bill. The President should reject that ill-advised recommendation out of hand and sign this legislation.

We have witnessed evidence of discontent throughout the country. Anyone who has talked with his constituents recognizes evidence of widespread discontent and disenchantment. While there is no single cause, one factor that is of great significance is the alienation of so many of our citizens from their Government. One way to attack that discontent and alienation is to open the legitimate processes of Government to all our citizens, to remove the barriers to participation, to encourage full involvement in the selection of our representatives in Government.

Mr. President, this bill will remove many barriers to access to the ballot box on election day. It will encourage full participation and involvement in the most important part of our representative form of government—the election of our leaders at all levels of government.

This bill will simplify the voter registration application process and require the use of procedures that will reach out to over 90 percent of those who are eligible to register. In Kentucky, I am informed by our Secretary of State that there are 800,000 Kentuckians who are not registered but who are

eligible to register to vote. Most of them would be affected by this bill. I would like to see a system enacted that reaches these individuals and encourages them to become involved. The bill establishes the principle that it is the responsibility of election officials to facilitate the registration of all eligible people.

I found it rather ironic that one of the arguments against the bill is that it will cost too much to register these additional individuals eligible to register and to vote. That argument is a double standard because it implies that it is the State and local government's responsibility to pay only for those already registered, but it is the Federal Government's responsibility to pay for those who would be added. Mr. President, I want to make a couple of points on the costs that opponents have exaggerated. This bill will not require the computerization of the voting rolls. Implementation could even reduce the cost per individual registrant. If more people are registered and vote, it will cost more money. But it is a small price for democracy.

A veto of this legislation will send a clear and unequivocal signal to our people that their representatives and leaders do not trust them, that we have no confidence in their judgment. Mr. President, that is not the signal to send under these circumstances and at this time. This is the time for those of us who have been elected and have the responsibility to govern to let the people know that we do trust them, that we rely and depend on their judgment. We want them to participate and become fully involved in their government.

As I listened to the arguments in both the House and Senate debates on this legislation, I was impressed with the fact that they were the same that have been made against just about every measure advanced to extend the right to vote in this country. They were used against laws to extend the vote to women and to remove the barriers to the registration of minorities. They were even used against legislation to remove physical barriers to make the polling places accessible to the elderly and disabled. Those who made those arguments then were wrong and they are wrong now.

Mr. President, this is the time for statesmanship, not partisanship. I urge the President to do what is right for democracy and sign the bill.

I thank my friend from Arizona and yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I would like to comment on the subject matter which the Senator from Kentucky just discussed. He is so absolutely right that this is not a political issue; it should not be a political issue

when we are talking about the ability of the American public to register to vote. There is no greater right that we have than the right to vote. Part of that right is having an orderly process so that you can register.

The legislation that the Senator from Kentucky has sponsored, and I am glad to have been an original cosponsor with him, is going in the right direction.

Many States have already adopted a law similar to this and it is really imperative that this bill become a Federal law. As we see the consistent small percentage turning out to vote in national elections, we have to look at ways to improve this system. What is going wrong in this country, and there are a lot of problems, is that there is a lack of political leadership.

But one thing that can help and which would be a positive action is to make access to voting easy—to make it part of your every day life so when you get your driver's license or you go to obtain some service from the Government you can register at that time. You would not have to wait and try to recall did I vote in the primary, did I answer the card that came from the party, or from the registrar or other contacts, did I do it by the right date, or what have you.

There is a simple way to permit people to register and a way that makes common sense in the best American tradition I can think of and that is through the process laid out in this legislation. And I hope, as the Senator from Kentucky has pointed out, that the President does not play politics again with this bill. I hope that the President understands what is important about the Democratic process, that people do vote.

If they vote Republican well and good. If they vote Democrat or they vote Independent for Mr. Perot, well and good, but the important point is let them vote.

The argument that this means poorer people will have easier access to voting—that can be argued either way—so what? It can also be argued that those who own cars will benefit because they have to get a driver's license. Usually however, the vast majority of these people have jobs and are in the middle income or upper income brackets and they probably has a tendency to vote Republican. So what? What is important is that they have an opportunity to vote.

That is why this bill is so important. I implore the President to lay aside politics. I think the American public is tired of the fact that the President plays politics with these issues and is not willing to do what is good for the country.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2867 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

#### EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 3:30 p.m.

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

#### TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at \$3,945,015,787,097.63, as of the close of business on Tuesday, June 16, 1992.

On a per capita basis, every man, woman, and child owes \$15,358.68—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to \$1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to \$4,511.40 per year.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### REPORT ON SCHEDULE

Mr. MITCHELL. Mr. President, several Senators have asked me to report on the status of the Senate's schedule for the remainder of this week and early next week.

This morning I advised the Senate in an earlier statement here on the floor that I had proposed to Senator DOLE

yesterday a schedule which contemplated the Senate taking up and completing action on the pending bill, S. 2733, a bill to improve the regulation of Government-sponsored enterprises, then to take up and complete action on the supplemental appropriations bill, and then to take up and complete action on the unemployment insurance extension bill.

A part of my proposal is that we complete action on those by next Tuesday afternoon, at which time it is my intention to proceed to the Russian aid bill.

I had hoped that we would be able to reach agreement on that today, because these are all important measures. I am particularly concerned about getting to the supplemental appropriations bill and the unemployment insurance bill.

We have been negotiating for some weeks on the supplemental appropriations bill, responding to the situation in Los Angeles and in other urban areas. And the unemployment insurance bill is of critical importance as benefits expire for millions of Americans in the near future.

I also recognize the importance of the Russian aid bill and the emphasis which the President, along, of course, with the Secretary of State, has placed on prompt action on that measure.

I was asked earlier to delay proceeding to the pending bill as Senator DOLE and his colleagues are attempting to clear on their side the agreement which I have proposed, and I have done so now twice, extending it first from 1 to 2:15 p.m., and now just a moment ago from 2:15 to 3:30 p.m. Also it is my hope that an agreement can be reached and we can proceed to these matters.

I hope there is not going to be any delay that would make it impossible to proceed on these measures as soon as possible. They are all of importance to the American people.

So, I appreciate the effort being made by Senator DOLE and his colleagues. I have extended the time again because I believe in good faith they are making a serious effort to clear this agreement and that will enable us to proceed in this fashion.

I hope to have another statement for Members of the Senate prior to 3:30 p.m., setting forth the schedule at this time.

Mr. President, I yield the floor and 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. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

GOVERNMENT-SPONSORED  
ENTERPRISES

Mr. SIMON. Mr. President, since we are talking about Government-sponsored enterprises, I just wanted to make a comment about a Government-sponsored enterprise that has been attempting to block some progress that we are trying to make; and I am pleased to say the Senator from Connecticut has joined in trying to make, and that the conference committee on higher education has been able to make.

Senator DURENBERGER and I have introduced one direct loan program, Senator BRADLEY another, and Senator KENNEDY another, that will make college more accessible to young people and will save the Federal Government a substantial amount of money, according to the GAO.

Opposing it have been the banks. They are interested in their own situation, and I understand that. I respect that the banks do a great deal for our society. This is a higher education assistance act, not a banking assistance act.

But also opposing it has been what we call Sallie Mae, the Student Loan Marketing Association that we created in order to help students. All of a sudden Sallie Mae, instead of helping students, has been trying to stop what we have been trying to do, and the White House is even threatening to veto this conference report, I am told, in part because of the pleadings of Sallie Mae.

Why is Sallie Mae so interested in this? It is very interesting. Take a look at the salaries, Mr. President. What kind of salaries do these officers of Sallie Mae receive that we created? Well, Lawrence Hough, the president and CEO, gets a basic compensation of \$1,100,000, plus stock options, which brings him up to \$1,348,769. The President of the United States gets \$200,000 a year. So he gets 6½ times as much as the President of the United States.

The No. 2 person, Albert Lord, makes \$881,473 a year plus stock options of \$187,500, for a total of \$1,068,973. The No. 2 person gets 5 times what the President of the United States makes.

The No. 3 person, Mitchell Johnson, makes \$480,982, plus stock options of \$60,000, for \$540,000, 2½ times what the President of the United States makes.

Dennis Kernahan, the No. 4 person there, \$391,385, plus \$60,000 in stock options, for a total of \$451,000, or a little better than twice what the President of the United States makes.

And the No. 5 person, Michael A. Wyatt, \$356,000, plus \$30,000 in stock options, \$386,000, or almost twice what the President of the United States makes.

No wonder they are fighting changes in the student assistance program. This is a student assistance program, a higher education assistance program, and not a Sallie Mae assistance program.

One of their board of directors lives in the State of Illinois, a very fine, capable person, who handles Government relations for Northwestern University. He got the president of Northwestern University to send a letter out to the Illinois schools saying this was going to harm higher education. As a matter of fact, Northwestern is one of the beneficiaries of this, as were the other schools. What do you get when you are on the board of directors? You get \$36,500 plus a stock purchase plan, plus a pension plan. Not bad for being on the board of directors.

One of the things we have to keep in mind as we create these entities, they may be created to help students or to help some other function, but at some point they start getting interested in self-perpetuation rather than the mission that we created them for.

I hope we will take a good look at Sallie Mae down the road along with other things here in the U.S. Senate.

Mr. President, I see my colleague from Mississippi standing up. I will be pleased to yield the floor.

Mr. COCHRAN. Mr. President, are we in morning business? Is that the parliamentary situation?

The PRESIDING OFFICER. The Senator is correct.

A VERY TROUBLING AND VERY  
SAD THING

Mr. COCHRAN. Mr. President, I note with sadness and a great deal of concern news that the special prosecutor, Mr. Walsh, and the grand jury that has been convened by him handed down an indictment of Caspar Weinberger after 5½ years of investigation at a cost of more than \$30 million. I am told they finally, in a last gasp, and a last grasp at a straw to legitimize the expenditure of that kind of money, in an investigation that lasted too long, have, on the basis of what we are told are almost illegible personal notes, handed down an indictment of a person who is well known for his integrity, his honesty, his diligence, his conscientious and dedicated public service over a period of many, many years.

It is a very troubling and very sad thing.

I noticed a newspaper in my area of the country, the Commercial Appeal, in Memphis, had an editorial this morning, "Pursuer Walsh Stoops To Drag in Weinberger." Another editorial was brought to my attention that was published in the paper in Richmond on Wednesday, June 17, a Richmond Times-Dispatch editorial, entitled "Fire Walsh."

Well, we might like to. But, I do not think we can under the law. But what the law does is expire, I am told, at the end of this year. Certainly Congress will not reauthorize the kind of authority exercised by this investigator, the kind of untouchable pinnacle of un-

questionable power that is assumed by this special prosecutor under this current law. Congress needs to take a new look, a fresh look, at the unfettered power that a person in this position has.

I do not know whether there are any facts that were presented to the grand jury that would justify this indictment, but all of the circumstances make me wonder whether or not this is really a legitimate exercise of prosecutorial power. I don't think this is what this prosecutor was really asked by our Government to undertake to do, to have a result such as this, at this time, in this long drawn-out investigation. He has missed the point. He is way off target.

Mr. President, I ask unanimous consent that the editorials I referred to in the Richmond Times-Dispatch, and the Commercial Appeal, Memphis, TN, be printed at this point in the RECORD.

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

[From the Richmond Times-Dispatch, June 17, 1992]

FIRE WALSH

... And so, Lawrence Walsh plunges forward into the past with his insistent regurgitation of history. Now he has indicted Caspar Weinberger, who is 74, for (primarily) having a feloniously faulty memory. This is 1992. Brer Walsh has charged Weinberger with stipulating things in 1987 about Iran/Contra in 1985—things, Walsh contends, that Weinberger knew were not true.

The truth may be, likely is, rather different—i.e., that Weinberger's memory was not so precise as it might have been regarding distant knowledge of more distant deeds. In fact, that is the testimony of such luminaries as Warren Rudman and Daniel Inouye—respectively a Republican and a Democrat—who served as the Senate's premier investigators of Iran/Contra.

Not only has Caspar Weinberger taken, and passed, a lie detector test about discrepancies in his congressional Iran/Contra testimony. Senators Rudman and Inouye also have sustained his credibility with a letter in which they (a) acknowledge the imperfection of Weinberger's memory about when he initially learned of the November, 1985, shipment of 18 Hawk anti-aircraft missiles from Israel to Iran, yet (b) say "what was important to us" was Weinberger's adamant opposition to the shipment, "on which [his congressional] testimony was incontrovertible."

These latest indictments from Lawrence Walsh suggest that the matter of greatest importance to him is not so much historical truth, per se, as skewering Ronald Reagan: removing him from the pedestal of fame to the slough of infamy; rendering him a fractured plaster saint.

Walsh should be fired—should have been fired long ago, but of course now he won't be because he owes his allegiance to a Democratic Congress and this is an election year. Nothing could be better for the Democrats than for questions to be raised yet again about involvement in—better, direction of—Iran/Contra by the foremost Republican icon of the age.

Walsh embodies the Peter Principle at the bar. In well more than five years of effort, aided by staff of 44 (including 11 full-time

lawyers) and spending (depending on whose estimate of taxpayer dollars you believe) between \$30 million and \$100 million, he has won not a single major conviction—not one. Yet he has mercilessly hounded countless individuals—exhausting their finances and ruining their reputations.

Now, in an effort to salvage his own reputation, this unconscionable man has taken out after a 74-year-old former Secretary of Defense. His congressional masters will not call him off. And dismay, even public dismay, contains no corrective power. All that is left to the public is laughter, and its ability to gasify pride. But not even that will help Caspar Weinberger.

The only solution for him, and for the nation, is for someone to fire Walsh.

[From the Memphis Commercial Appeal, June 18, 1992]

PURSUER WALSH STOOPS TO DRAG IN WEINBERGER

The indictment of former secretary of Defense Caspar Weinberger Tuesday carries the Iran-contra scandal to a new pitch of perversity.

Special counsel Lawrence Walsh was named over five years ago to prosecute any crimes connected with the Reagan administration's secret sale of arms to Iran and illegal aid to the Nicaraguan contra rebels. Now Walsh is dragging into court a leading Reagan administration critic of those very arms sales.

Weinberger, along with then secretary of State George Shultz, vigorously argued against the secret deals with Iran that President Reagan undertook in 1985 and 1986 in the hope of freeing Americans captive in Lebanon. What is Weinberger's crime, then? The secretary allegedly concealed the existence of personal notes he made in the mid-1980s. Walsh also has convinced a grand jury that there are several discrepancies between Weinberger's notes and statements he made to congressional investigators.

Perhaps there are—who are we to deny it? Apparently Walsh believes that Weinberger misled Congress about when he learned of the arms sales—and that the secretary lied again when he said he had no knowledge of Saudi Arabian financial contributions to the contras. Legally, we gather, these allegations translate into five felony counts.

We hold no brief for lying, common though equivocation is in every branch of public and private communication. But sanity demands a sense of proportion. If Weinberger was so intent on covering up some misdeed, why did he give his notes to the Library of Congress when he retired? And can this nation stop devouring its devoted public servants?

Caspar Weinberger, now 74, was Reagan's secretary of Defense for seven years. He served prior presidents as budget director and secretary of Health, Education and Welfare. While liberals disagreed with his forthright anti-communism, none doubted his patriotism and intelligence.

Fittingly, the indictment of Weinberger comes just 20 years after Watergate, the scandal that spawned the "good-government" reforms creating special prosecutors. A flurry of retrospective analyses are pointing out the mixed consequences of the post-Watergate legislation.

One deplorable consequence is the prosecutorial culture now deep rooted in Washington. It is epitomized by the out-of-control Iran-contra investigation, which is claiming another victim.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

GUN VIOLENCE IN THE UNITED STATES

Mr. DODD. Mr. President, I rise this afternoon to focus attention on what I think has become a major public-health emergency: gun violence in this country.

Each year, Mr. President, approximately 34,000 Americans are shot to death on the streets of this Nation. That is a staggering number. It means that every 2 years, more Americans are killed by firearms than were killed during the course of the entire Vietnam war.

Mr. President, gun violence continues to exact a dreadful toll, particularly on our Nation's youth. Many children, we are told, are afraid to go to school because their classmates are carrying guns. Approximately, 130,000 students a day bring a firearm to school—one out of every 20 students in this country. Outside of the classroom, many children must make their way home through very dangerous neighborhoods, neighborhoods where children shoot at other children. The situation has become so bad that homicide is now the leading cause of death for African-American males and females between the ages of 15 and 19 years of age.

Last week, there was a particularly disturbing incident in my home State of Connecticut, in the city of New Haven. A 6-year-old boy, Cesar Sandoval, was riding the schoolbus to his home. Suddenly, the bus was caught in a shootout between rival gangs and a stray bullet hit this child. If it had not been for the heroic efforts of surgeons at Yale-New Haven Hospital, Cesar Sandoval would have lost his life.

Mr. President, what has happened to our country? Why are children using guns to settle arguments? Why are children carrying guns to school?

Furthermore, what has happened to our sense of responsibility? How can we, as a nation, allow this violence to continue? How many tragedies, and how many Cesar Sandovals must there be before we scream "enough"?

The citizens of my home State of Connecticut are very concerned, as are citizens across this country, about this violence. Our Governor, Lowell Weicker, announced that this issue will be taken up in a special session of our general assembly next week.

Hopefully, that special session will result in some proposals that will help

bring an end to this violence. But my State and others throughout this country are going to need help from the Federal Government. Because weapons have become easily accessible, actions by localities and States are not enough. I wish they were. But it is going to take a national effort to solve this problem.

The problem of gun violence is, of course, a difficult one and it will not be answered by legislation alone. There is no easy solution to crime. But we can take steps that will help to end the violence.

The crime bill which was reported out of conference almost 7 months ago, contains many provisions that could make a difference. Regrettably, that bill has been languishing because of the political obfuscation in this city. The bill has not been acted upon because some people want to satisfy some narrow political interests.

The crime bill, as we know, would provide \$1 billion in assistance to our States, our police departments. That assistance could be used for community-based drug abuse prevention and neighborhood police programs. In fact, that legislation is supported by local police chiefs and departments. They are also demanding that we do something to make our neighborhoods safer.

If we are going to get at the root of this problem, we have to provide the tools that our local police departments need. The crime bill would be helpful because it would give the police 5 days to do a background check on anybody wishing to buy a gun.

In my home State of Connecticut, we have had a waiting period in effect for years. It is impossible to say how many crimes have been prevented or how many violent acts have been prevented as a result of that act. But the problem is that Connecticut is a small State and people can travel to a neighboring State, where you do not have a similar law, and in a matter of minutes, they can acquire whatever kind of weapon they like. Even though Connecticut has a good law, we need a national law to deal with this issue in a comprehensive way.

Again, Mr. President, I know that a waiting period will not solve the problem of gun violence. There will be Cesar Sandovals even with a waiting period. But maybe a few lives will be saved if we give our police departments a 5-day period to check out the purchaser of a handgun. To make sure that the purchaser does not have a criminal record and is not going to pose a threat to the community. Is that too much to ask? Five days, to give our police departments an opportunity to check out whether or not somebody could be the source of some future violence? I hardly think so, Mr. President.

Furthermore, my constituents who are gun collectors and hunters and tar-

get shooters, also support such legislation. It has not caused any problems for those who wish to pursue legitimate hobbies and recreational activities. They understand the importance of a waiting period—they do not mind the minor inconvenience of a few days. We ought to pass a similar provision so that citizens across our country will be safer.

As I said at the outset, it is a shame that the crime bill has fallen victim to partisan politics like so many other things. We are spending too much time pointing fingers, and not enough time passing quality legislation. I hope the bickering stops.

While the crime bill is a good starting point, I would be remiss if I did not also mention that there are other issues that need to be addressed. We are going to be dealing shortly with a summer jobs bill that would also provide assistance to Los Angeles and Chicago, for example.

I must say on this that I am frustrated by the supplemental bill's use of population instead of poverty to allocate the first \$100 million of summer jobs money. When we considered this bill on the floor last month, the same arrangement was included.

But at that point there was agreement from the managers of the bill, along with Senators KENNEDY and HATCH, to find a better formula for allocating that first \$100 million. And in fact, I know that Senator KENNEDY's staff worked long and hard to craft a formula that incorporated youth unemployment and poverty rates as an alternative.

I regret deeply that the Kennedy formula was not included in the final version of the bill. In my view, it is unfair to allocate summer job money based on size instead of need.

For example, as it is currently written, Virginia Beach and Anchorage would receive hundreds of thousands of dollars even though they have very low poverty rates as cities go. At the same time, the Bridgeports and the New Havens and the Hartfords of the world are left out in the cold by the city set-aside because they are not big enough.

This is extremely unfortunate but, this is the unhappy result when deals are cut under cover of darkness. And so, while I am pleased that we can move forward to provide needed funding for summer jobs, I regret that a more equitable allocation formula was not included for the first \$100 million.

Mr. President, this bill may make a difference this summer, but in the long term, it is just a Band-Aid. In the long term, we will not successfully address this problem until we put people back to work.

People in our urban areas need to have a vested interest in the future, and the best way to accomplish that is to provide opportunity. The best thing you can do for the individual, for the

family, is to provide employment opportunities. No one has more self-esteem, or self worth, or sense of value and productivity than an individual with a good job. The best thing to hold families together is to provide employment.

Mr. President, in neighborhoods where people are working, where they own their homes and have a vested interest in the community, you see a significant decline in the kind of violence that grips too many of our neighborhoods. I would hope we might get to some meaningful ideas around here as to how to increase the employment opportunities, the economic opportunities, for people in this country.

Unfortunately, too many people in this country are out of work. In May, the national unemployment rate hit 7.5 percent, the highest mark in nearly 8 years. In my home State of Connecticut, the unemployment rate is 7.1 percent.

Because so many people are out of work, we need to pass another extension of unemployment benefits. Senator BENTSEN has worked hard to draft such an extension. I hope that we will pass this legislation quickly so that unemployed Americans will get the benefits they so urgently need.

It is clear that the pervasive unemployment in this country has led to much poverty and despair. And we all know that poverty and despair often lead to crime and violence.

It is truly disturbing to see the escalating violence in this country, particularly our violence. I think that we must treat gun violence as if it were a disease. Maybe if we treat it as a disease, it will get the attention it deserves.

Gun violence has taken a terrible toll, both physical and psychological, on our Nation's youth—a toll far greater than any disease. The statistics are truly disturbing. A study of junior high school students in Chicago, the major city in the Presiding Officer's State, found that 75 percent of the junior high school students had witnessed a killing, shooting, or armed robbery. In another study of children 8 to 12 years old, the common bond was fear of guns, injury or deaths to a loved one because of gun violence.

That is a staggering indictment of how our young people see their own futures. In short, our children are living in fear, and that fear ought to be the concern of every single Member of this body regardless of party.

In my view, we can no longer continue with business as usual. With each passing day the violence escalates and more lives are lost.

Mr. President, I urge my colleagues to come together and to try, before this session ends, to do something about gun violence. We need to act now so that our children will be able to live their lives without the fear of violence,

or the very real possibility that they will never see their teenage years.

Mr. President, I ask unanimous consent to print in the RECORD two articles which have eloquently discussed this problem.

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

[From the Connecticut Post, June 12, 1992]

WEICKER: CONTROL FIREARMS

(By Christopher Blake)

HARTFORD—Clearly troubled by the shooting of a 6-year-old New Haven child on a school bus, Gov. Lowell P. Weicker Jr. said Thursday he will propose legislation in an upcoming special session to limit the use and sale of handguns.

"The track record of the nation, including Connecticut, is disgraceful when it comes to injuries and homicides committed with handguns," Weicker said. He made his remarks after attending the first meeting of a state task force to study ways to reduce sexual violence.

"When it's the kids that get caught in the crossfire created by kids, its incumbent upon the adult world to look at the adequacy of our laws and policies," the governor said. "We're going to take a tough look at it and fast."

A school bus carrying Cesar Sandoval, 6, was caught in the crossfire of a gun battle that erupted on Frank Street in the Hill section of New Haven Wednesday afternoon while he was riding home from kindergarten. Sandoval was struck in the head by a bullet and was in critical condition. It was the second shooting of a child in four months in New Haven.

The special session, which will follow the June 22 veto session, was originally called to ratify some labor agreements. The expanded session would allow enactment of legislation to limit the availability and use of certain weapons and to strengthen the penalties for unlawful possession of firearms.

Weicker said he is tired of "all the fuzzy sloganeering of the past" by groups such as the National Rifle Association, especially the campaign which states, "Guns don't kill people. People kill people."

"Our children are getting killed on the streets of our cities. If there's anything we're supposed to be about, it's the future of our children," he said.

Weicker said he doesn't dispute the constitutional right to bear arms, but too many guns are used for violent purposes in society.

"The proper use of guns I can appreciate, whether in the hands of sportsmen, law enforcement or in the military," he said. "But I think I've got enough common sense to understand the improper use of guns," he said.

"The NRA doesn't represent me and I don't think it represents any common sense gun owner. We don't want our children to have guns and we don't want our children to shoot guns and we don't want our children killed by guns," he said.

An NRA spokeswoman said the governor is "obviously misinformed on our stand. We are against the criminal use of firearms," said Susan Baldyga Misiora, the NRA's Connecticut liaison.

Weicker said the best way to attack the problem of violence with guns is "to come at 'em in the most direct way possible. Right now the most direct way as far as I can see is to very severely limit who it is that can have handguns," he said.

Weicker said he will review with law enforcement and criminal justice officials is-

sues such as the minimum age for legal possession and purchase of a handgun and restrictions on availability of handguns.

The governor said it will be difficult to come up with a major gun-control package in the upcoming special session, but he said he would develop a package for next year's legislative session.

[From the Washington Post]  
FINDING A CURE FOR GUNFIRE

The blood on the streets of this city every night is evidence enough of what some of the country's top medical experts are now concluding: that gun violence in America has become a public health emergency. It should be listed with cancer and AIDS, among other afflictions, as a primary killer. In an issue devoted to the subject, the Journal of the American Medical Association points up the finding of former surgeon general C. Everett Koop and journal editor George Lundberg that medical studies "paint a grotesque picture of a society steeped in violence."

So serious is the health menace of this country's open firearms market that Dr. Koop says owners of firearms should be tracked as carefully as operators of automobiles. Purchases should be restricted to buyers according to physical and mental condition and training, the editorial says. Topics in the issue include the ease with which high school students can acquire handguns and the high rate of fatal shootings of black male teenagers in urban areas—with the District right there at the top of the list. If this violence "were due to a virus," says Dr. Koop, "the American people and their leaders would be shouting for a cure."

Let the shouting begin, then, against a health menace that can be curbed dramatically if only lawmakers stopped quaking at the sight of National Rifle Association lobbyists and instead looked around a little. They might react to the fact that firearms are now a leading cause of accidental deaths, particularly among children.

More and more parents are now painfully aware of what handguns can do to a neighborhood, to a childhood, to a life. Law enforcement officials know it, too, and have been pressing the White House and members of Congress for the Brady bill, which would require a waiting period on handgun purchases, and for restrictions on assault-style weapons, which are now mowing down innocent bystanders, police, children at play and young men at war. The answer of the gun lobby is that bad people shouldn't have guns, but other people need to arm themselves because you can't rely on government protection. And if people want instant purchase of assault weapons or handguns, that's the NRA way. But is it a way of life—or a way of death?

Mr. DODD. Mr. President, I yield the floor and 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.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, a little more than an hour ago, I reported

to the Senate on the status of our efforts to obtain agreement to proceed to complete action on three measures prior to next Tuesday which would enable us to take up the Russian aid bill on Tuesday. The three measures are the pending Banking Committee bill; and then the supplemental appropriations bill, which is of great urgency and importance to the people in Los Angeles, Chicago, and other urban areas around the country; and then the unemployment insurance extension bill which is necessary because benefits will be expiring shortly for millions of Americans.

I proposed to Senator DOLE, the Republican leader, yesterday, a schedule under which we could complete action on those measures and then go to the Russian aid bill on Tuesday. Senator DOLE, as I indicated earlier, was favorably disposed and undertook to clear the matter with his Republican colleagues. That effort is continuing.

I have just met with Senator SIMPSON, the assistant Republican leader. He has requested additional time for that purpose, and I am convinced that this is a good faith effort to reach an accommodation on a schedule that I think will be in the interest of the Senate and of the country and enable us to complete action in an orderly and expeditious way on these important measures.

EXTENDING MORNING BUSINESS UNTIL 4:15 P.M.

Mr. MITCHELL. Accordingly, in response to the request by Senator SIMPSON, I now ask unanimous consent that the period for morning business be extended until 4:15 p.m.

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

Mr. MITCHELL. Mr. President, I hope that we will be able to resolve the matter at that time in a way that will permit us to proceed with these important bills promptly.

I thank my colleagues for their patience and consideration. This may be one of those occasions in which the apparent delays in beginning on a series of measures saves time at the end. And I surely hope that is the case, but I have no way of assuring Senators of that as of yet. But that is our hope. We are going to continue to await response from my Republican colleagues. I will have another report for Senators at or prior to 4:15 p.m.

Mr. President, I yield the floor, and 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. GRAMM. 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. GRAMM. Mr. President, like many Members of the Senate who were moved by the speech yesterday from

the President of the Russian Federation, I am eager to move ahead with debate on a package that would provide assistance to the Russian Republics. I think it is imperative that we help them rebuild their economy and in the process trigger economic growth in our own.

I understand that a compromise is either in the making or has been made on the issue of the emergency supplemental bill. Like many Members of the Senate, I was concerned when the President asked for \$490 million of emergency assistance, and the conference committee, following the lead of the Senate, proposed a bill that costs \$2 billion. I felt, as an individual Member, that that was an irresponsible action. But I understand that a compromise is either in the making or has been made that the White House has agreed to an agreement that includes their original package plus a summer jobs program.

I also understand that we are engaged in an effort to try to bring up the unemployment bill. I am hopeful that in bringing up the unemployment bill we can break the partisan gridlock that we faced in the past on similar bills.

I hope we can come up with a bill that is responsible, that is a bill that we can pay for and a bill that, in the process does, not crush more incentives and put more Americans out of work.

I am eager to move ahead with each and every one of those pieces of legislation. I am also ready today to debate any other bill. I am not aware that anyone on our side of the aisle objects to bringing any bill up at this point. I am eager, however, to vote on the balanced budget amendment to the Constitution. I think the American people want to know where the U.S. Senate stands on that issue.

Also, now we are some 1,060 days after the President sent a crime bill to Congress, a crime bill that has not been adopted, a crime bill which has been supplanted by a conference report that overturns 22 Supreme Court decisions that over the last 15 years have strengthened law enforcement, a bill that is so antilaw enforcement that 31 State attorneys general—15 Democrats and 16 Republicans—have asked the President to veto.

So I am eager to vote on a tough crime bill to give our law enforcement officials the strength they need to provide the stiff minimum mandatory sentencing to take violent criminals off the streets of this country.

So I want to make it clear. Mr. President, that I am eager to get on with the debate on these issues. I do not, as of the moment, have an amendment to the Soviet aid package. I am very favorably inclined toward it, because I believe the struggle for democracy in Russia is a struggle for democracy in the world, and I think it is vitally important.

I want to see it debated. It may be that I am persuaded that it should be improved. But I am not in favor and do not support nonrelevant, nongermane amendments to that bill.

I think the time has come to move on with unemployment compensation. It is clear we have a problem. It is clear we are going to help people who are unemployed. It is also clear, unfortunately—painful to me—that we are not going to do anything to try to create more jobs through Government action. But that is a sadness that I have lived with, now, for many months. And I suspect we will be living with it until, ultimately, the American people make a decision.

In terms of the emergency supplemental, that is a bill that has, apparently, been improved, and that the President is ready to accept. I have no inclination to amend it myself, though, obviously, if others move to amend it with relevant and germane amendments to those amendments in disagreement I intend to listen to that debate. But I, for one, am ready to get on with the debate about aid to Russia. I was moved yesterday. I think the American people were moved. And I hope we can act.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am pleased to hear that the distinguished Senator from Texas is anxious to proceed on these matters. As I previously reported to the Senate three times, we have been attempting to get an agreement that would enable us to complete action on the pending bill, and to do the supplemental appropriations bill, and the unemployment insurance bill, and then get to the Russian aid bill. I was advised, perhaps erroneously, it was the Senator from Texas who was objecting to proceeding in that way.

So perhaps now that he has made this statement I will go back and consult with the assistant Republican leader and see if we cannot get the proposal which I made to Senator DOLE yesterday—we have been held up for 24 hours—to complete action on the pending bill, to do the supplemental bill, to do the unemployment insurance bill, and to start right away on the Russian aid bill.

Mr. GRAMM. Will the distinguished leader yield?

Mr. MITCHELL. Certainly.

Mr. GRAMM. Mr. Leader, I want to make it clear where we disagree. I am eager to get on with the Russian aid bill. I think we need to pass the unemployment insurance bill. I would like to do more to stimulate the economy, but I, like the distinguished majority leader, know where the votes are on that issue. And I think, given that we are not going to agree there, we need to extend unemployment benefits for the people who are out of work.

We have, apparently, reached an agreement on the supplemental appropriations bill, and I am ready to proceed with that. It is not a bill that I am terribly happy with, since I wanted enterprise zones. But, again, it is a bill where a consensus has been reached. But, if we are going to debate the GSE bill, I want the right, and my colleagues want the right, which they have under the rules of the Senate, to offer the balanced budget amendment to the Constitution. That is where the dispute is.

The dispute is not about aid to Russia. The dispute is not about the unemployment insurance bill. The dispute is not about the emergency supplemental appropriations bill. The dispute is about the right of Senators to offer an amendment on a bill which is not part of this emergency legislation, a bill that, if brought up, clearly under the rules of the Senate is amendable. I just want to be sure we have the right to debate the issues that are of great importance to the American people. I believe the balanced budget amendment to the Constitution, and I believe the crime bill, clearly fall within that category.

I do not think we ought to disrupt these other three bills where we have a consensus, where there is, clearly, a tight timeframe. But in terms of the GSE bill, a bill that is a great disappointment in terms of what the administration had asked for. It seems to me this is a bill that we ought to be using as a vehicle to debate these other important issues.

Mr. MITCHELL. Mr. President, first let me address the issue of crime. The House and Senate, by substantial majorities, have approved a comprehensive crime bill, a tough crime bill, which has the support of every major police organization in the country. The policemen of this country, the men and women whose lives are on the line day after day after day, want this crime bill enacted.

A majority of the Senate has voted in favor of this crime bill. But twice a minority of the Senate, including the Senator from Texas, has used the rules of the Senate—in a manner to which they are entitled under those rules—to prevent the will of the majority, and the will of the policemen of this country from being exercised.

More than half of the Senate has voted for this bill. More than half of the Senate has twice voted to terminate debate on this bill, a bill which the police men and women of America, the people whose lives are on the line day after day in the fight against crime, support.

The Senator from Texas has been part of the effort of the minority of Senators that have blocked, delayed, and engaged in delaying tactics to prevent action on that comprehensive, tougher crime bill that the House has

approved, that the Senate has by majority approved three times—once voting on the bill, twice voting on cloture.

So, if there is a delay on acting on crime, the delay rests squarely upon the shoulders of the Senator from Texas and those in the minority, who have delayed, delayed.

We want to press forward with that crime bill. If the Senator would now, finally, agree to let us vote on it—he does not have to vote for the bill, just let the Senate vote on the conference report and let the majority exercise its will, then of course we could proceed.

But I want to emphasize, the Senator from Texas has a perfect right under the rules. People on both sides of many issues utilize the rules to their advantage. And I expect that the delay will continue on the crime bill because more than 51, but not yet 60, are agreeable to supporting that bill.

With respect to the GSE bill, over a week ago the Senate gave its unanimous consent to proceeding to that bill. The Senator from Texas was one of those who agreed. We could not have proceeded to the bill without the consent of the Senator from Texas. He agreed to let us proceed to the bill, as did other Senators. It has been 2 weeks since I announced my intention to go to the bill.

Now, at the very last minute, after having 2 weeks' notice of intention to proceed to the bill, after having consented to let the Senate proceed to the bill, after the Senate has begun consideration of the bill, the Senator from Texas says, no, we cannot consider the bill.

So my feeling is we ought to proceed. All this has done is to cause the delay of an entire day in the Senate, to inconvenience Senators, and to drag out the operations of the Senate.

The Senator from Texas can continue in this delaying tactics. He has a perfect right to do so under the rules. The only effect of that is to inconvenience the Members of the Senate, to delay action on the GSE bill, to delay action on the unemployment insurance bill, to delay action on the supplemental appropriations bill, and to delay action on the Russian aid bill.

I have presented what I felt was a reasonable proposal. My understanding is that the Senator from Texas disagrees with it, as he has a right to do. If he does, then when we get to 4:15 we will go on to the bill and he can exercise his rights under that bill as any other Senator will. If we do, then we will have votes tonight, we will have votes tomorrow, possibly votes on Saturday, because we want to proceed with these important measures and, of course, we will be back next Monday. I do not think anything will be gained. But the Senator will have had the opportunity to exercise his rights under the rules of the Senate.

I want to emphasize, I have no criticism of that. Every Senator is entitled

to use the rules. As long as it is fair or appropriate, that is something that is available to all.

Mr. President, I will yield to the Senator, now, if he wishes to respond.

Mr. GRAMM. Mr. President, let me make it clear. This is the third time I have come over here today to proceed to this bill. I in no way object to bringing the GSE bill up, because my colleagues are here, ready to offer the balanced budget amendment to the Constitution as an amendment to this bill. I am eager that it be brought up. I hope the clock will speed up to make it possible. So in no way am I trying to prevent this bill from coming up. I long for the hour when it will be up.

I do not know that it is going to serve any purpose to redebate the crime bill here, but we all know the President has said that he will veto the conference report. And what I have tried to do is take the best provisions of the House bill and the Senate bill, which the President will sign, so that we can pass a bill that can become law. That is my objective. In terms of blocking and delaying—that is not what I am about. What I am about is getting on with the job of passing the crime bill that will become law. We obviously have great disagreements about what should be in a crime bill and what our objective is here.

So I am eager to get on with either this bill, in which case we are going to see some very important amendments that are far more important, in my opinion, to the American people than the GSE bill. If we are ready at this moment to go to unemployment insurance, to the supplemental appropriations bill, or to the Russian aid package, I am eager to do that.

But, Mr. President, I am not willing to deny myself and my colleagues an opportunity to debate issues that are critically important, in my opinion, to the future of the country. If we want to bring this bill up and have amendments to it in the normal course of matters, I am for that. And if we want to set it aside and go to the other three, and we want restricted agreements to make that possible, then I am willing, because of the importance of those bills, to stand aside and to give up the normal right to offer relevant amendments and important amendments to move those bills.

But our dispute here is not about unemployment, not about supplemental appropriations, and certainly not about Russian aid. Our dispute is about whether or not we are going to have the right to offer amendments to bills that are brought up. This is something that we have now had a running dispute over for 5 or 6 weeks.

So I just wanted our majority leader, who I understand has his agenda, and has his responsibility, to know exactly where I am coming from. I am willing to agree to a unanimous-consent re-

quest concerning the three bills that are time sensitive. But I am not willing to agree to one concerning the GSE bill.

I am eager to take it up; I am not objecting to taking it up. But if we take it up, we have people here who want to offer amendments to it. I am not willing to agree to deny them that right.

That is what the dispute is about.

Mr. MITCHELL. Mr. President, I respect the Senator's right in that regard, and, of course, every Senator has the right to offer any amendment to any bill at any time. We all understand that to be one of the unique characteristics of the rules of the Senate.

It, of course, frequently occurs that in order to permit the Senate to proceed to accomplish its business, agreements are entered into either limiting or eliminating that right entirely, and that is a matter of judgment for Senators to make.

The Senator is perfectly within his rights to offer any amendment he wants, to any bill he wants. And if he chooses not to surrender that right, that is his privilege.

All I am saying is we are going to do these bills in the order that we have set forth and the Senator can take as long as he wants on as many amendments as he wants. All it means is that it is very unlikely that we will get to Russian aid at any time in the foreseeable future, because these amendments he talked about are important and will require a great deal of time and debate.

And it obviously delays, perhaps indefinitely, action on the emergency supplemental appropriations bill, which the President now supports, which is the result of weeks of negotiation, and which I believe we should—and I had hoped we would—act on today.

It also delay action on unemployment insurance, and that is a critical matter—with unemployment insurance benefits expiring—for Senators. But the Senator from Texas has the perfect right to exercise his right to offer as many amendments as he wants to any bill that he wants.

If one of the consequences is delaying action on the supplemental appropriations bill, delaying action on the unemployment insurance bill, delaying action on the Russian aid bill, why, of course, that is something everyone has to weigh in making their judgments. I accept perfectly his right to do that.

I also note that the supplemental appropriations bill is a direct outgrowth of the tragic events in Los Angeles of some weeks ago. Unfortunately, there was a long period of dispute over what should be in it. People on both sides, in good faith, had different opinions on what should be in it.

Now we have the opportunity to pass that and pass it promptly. There is finally agreement. I think it is important to Los Angeles; I think it is im-

portant to Chicago; I think it is important to people in urban areas all across the country. I regret that it will be delayed. I had hoped we could do it today.

One of the reasons why I made the suggestion was in an effort to expedite action in a manner that would permit us to pass that bill today and send it down to the President promptly. It appears that will not occur. I regret that, but I fully understand the right of the Senator from Texas to exercise his privileges under the rules, even if that is the consequence.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. MITCHELL. Yes.

Mr. GRAMM. Let me make it clear—I think it probably is clear—but I am eager, as of this moment, if the distinguished Senator asked unanimous consent to move to the emergency supplemental appropriations bill, I would certainly have no objection. If the distinguished Senator wanted to move to unemployment insurance, I would have no objection. If the Senator wanted to move to Russian aid, I would have no objection.

But if the Senator wants to debate the GSE bill, then our colleagues will want to have an opportunity to offer the balanced budget amendment. So if we do not move to those other bills, one can always debate as to who is responsible. But clearly, the majority leader has the power to move to those bills if he chooses to do it.

I certainly would not object if he did do it, I would certainly want to make that clear, and part of the RECORD.

Mr. MITCHELL. The Senator's position is clear. Let me just say that 2 weeks ago I announced my intention to go to the GSE bill. One week ago, I sought unanimous consent to proceed to the GSE bill.

The Senator from Texas did not object. He had a right to object; he did not do so. We have started on the GSE bill. Now, at the very last minute, he comes in and says: Well, no, we cannot proceed to that bill. We have to do other things on it.

The Senator has a right to do other things. All I am saying is the consequence of that is delay in these other measures, which I think are important to the country, and on which I hope we can proceed.

As I said, I respect every Senator's right to exercise the rules to the fullest, so long as appropriate under the rules. One of the consequences of the exercise of those rights by the Senator from Texas today will be an inconvenience to a large number of Members of the Senate.

Senators should be aware, under the circumstances that now appear to exist, there will be votes this evening; there will be votes tomorrow; and possibly on Saturday and Monday. But that is one of the consequences of taking action that the Senator believes is

necessary. And, of course, there will be indefinite delay in the other measures.

Mr. President, I yield the floor.

I yield to the distinguished assistant Republican leader.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. I yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The minority whip is recognized.

Mr. SIMPSON. I thank my colleague. Mr. President, let me just say, during the day, obviously, we are all aware that our leader, BOB DOLE, is in Kansas with President Yeltsin. He will return to the Chamber later this evening and tomorrow. During the interim, on several occasions, I have been trying to work with my colleagues on this side of the aisle to see if we could resolve this difficulty. It is a difficult situation.

The majority leader has been very accommodating in listening to my expressions as to how it might be resolved. I do not know if it will be resolved.

I think my good friend from Texas has been cooperative in the past as to wanting to bring this issue forward. There are others in the Chamber who have things they wish to bring forward.

It is quickly apparent these are four vehicles of the must-pass variety, and usually when this time of the session comes—which usually comes a little later—the must-pass variety material is the train going through the station to hook on the mail pouch. I understand that.

I think we are all aware that I think the majority leader has been quite attentive. I think the Senator from Texas has been quite clear in his indication of what he wants to do. I think it becomes apparent that there are four critical items of legislation. Three of them apparently are the kind that would be approved for handling and passage. But the majority leader has the right, certainly, to set the agenda. That is his right and his duty.

I do not know what will occur. The balanced budget amendment, at some point, will come before this body, and that is obvious. And when it does, it is also obvious that there will be a discussion in depth on it of various sources.

Mr. MITCHELL. Mr. President, will the Senator just yield on that point, so I can state a fact for the RECORD?

Mr. SIMPSON. Yes.

Mr. MITCHELL. We have debated the balanced budget amendment two previous occasions in the Senate. In 1982 debate on it spread over a 24-day period. In 1986, debate on it spread over a 20-day period. So I fully respect the right of the Senator from Texas to bring it up whenever he wants as an amendment, but no one can realistically or candidly say I am going to bring it up but we can still do all these

other things. Once it starts, it will take, if experience is any guide, somewhere between a 20- or 24-day period.

So there would be a very lengthy debate, and action on any other matters obviously will be difficult during that period. We have in the past, and I certainly would keep open, the possibility of double tracking and inserting other measures, but just for the information of the Senate these are facts. In 1982, the debate spread over a 24-day period, July 12 to August 4; in 1986, over a 20-day period, March 4 to March 25.

I apologize for interrupting the Senator. I wanted to add that. It was relevant to the point he was making at the time.

Mr. GRAMM. Will the distinguished Republican leader yield?

Mr. SIMPSON. Indeed.

Mr. GRAMM. I want my colleagues to understand, Mr. President, that I am not talking about offering a balanced budget amendment to the unemployment bill, to the emergency supplemental bill, or to the Russian aid bill. As far as I know, every Member on this side of the aisle—I am not sure about the other side of the aisle, but every Member on this side of the aisle—is ready to proceed to each and every one of those bills, and I, for one, in a spirit of compromise and comity, am willing to enter into agreements, if they should be asked, to have expedited consideration. But no one has said that the GSE is critical, must-pass legislation.

We have had an effort underway now for almost 2½ months to debate the crime bill, to bring a crime bill before the Senate that the President can sign. Our goal ought not to be to pass bills the President has to veto. Our goal ought to be to pass bills the President can sign, and that is what I am trying to do.

But in terms of the three must-pass bills, I am eager to move ahead with them. As far as I know, that is true of all of my colleagues. But if we are going to bring up a bill that is not a must-pass bill, then we are going to exercise our rights to bring up amendments and issues that we believe the American people view as being critically important.

So if there is obstruction here, it is not coming on these three critical bills: Russian aid, unemployment insurance, and supplemental appropriations, from this side of the aisle. We are eager to move ahead with each and every one of those. But on other bills that are not critical, we are not ready to give up our legitimate rights to amend those provisions. That is basically what this issue is about.

As far as the people in Los Angeles waiting, we have let this bill drag on and on and on because, beginning in the Senate and then in conference, the amount of funds appropriated compared to what the President asked for, were quadrupled. That is what the

delay has been about. That is what the dispute has been about.

We have not solved that. So we wanted to bring this up and vote on it today. If we wanted to set a time at 4:05, 2 minutes from now, for a debate, I would not object. So the dispute is not about the three must-pass bills. The dispute is about our right to offer legislation that we believe is critically important and that we know will not be reported from the relevant committees, the balanced budget amendment to the Constitution and a crime bill, which is not my bill, not the bill of the distinguished Senator from South Carolina, but is an effort at compromise by taking the strongest anticrime provisions adopted by the Senate and the strongest provisions adopted by the House and trying to have an expedited process to get a bill the President can sign. That is what the dispute is about.

I thank my colleague for yielding.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do uniquely hear both sides on this. And there have been times during the past weeks where the Senator from Texas has been very deferential and has relinquished his opportunity to go forward with several items about which he feels strongly.

I am advised that the House has passed the supplemental by a vote of 249 to 168. That is there before us, or could be. And we had heard the Senator from Texas say he is ready to go forward.

Perhaps I could go back to what I first heard the majority leader say when I came to the Senate. Senator BYRD often said that sometimes we must just let the Senate work its will. I do not know where that will lead, but it will lead to a delay and it will certainly lead to voting and activity on this floor on Friday and Monday without question.

I say to the majority leader, he has been very understanding of the schedule, and yet we have been doing the Nation's business. That has been getting done and accommodating people. I think in this situation we are just going to have to go forward so that people are able to express themselves, however long that takes, and let the Senate work its will, and that indeed scheduling will be done and accomplished by the Senator.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Mr. President, when I became majority leader, the first day I went to visit with the Republican leader, and I invited into my office a large number of Republican Senators. In both meetings, I inquired as to what it was more than anything else they would like from me as the majority leader of the opposite party.

Almost unanimously, they told me what they wanted was notice; that I would tell them in advance what it was I intended to do so they would not be surprised by what it was that I proposed and would have a fair opportunity to interpose objection, to suggest alternatives, or to prepare for debate on the regular occasions in which we disagree and we must ultimately debate and vote.

In all the time I have been majority leader, I have never once failed to provide such notice—never once, without exception. I have been open and have informed my colleagues on the other side of the aisle of what it is that I intended the Senate would do and permitted, invited indeed, any opposite point of view, any objection.

Two weeks ago, I publicly announced in the Senate our intention to proceed to the GSE banking bill. One week ago I sought and obtained from the Senate unanimous consent to proceed to it. That takes the consent of every single Senator—everyone, 100.

In accordance with that consent, the Senate began consideration of the bill this week.

Now we are told that somehow we cannot proceed to it, or we should not proceed to it, or it will cause a delay. Well, there will be a delay but the delay will be a consequence of the consideration of the bill and the exercise by Senators of their rights under the rules. Everybody here knows, every single Senator knows, that the balanced budget amendment may be brought up. The principal sponsor of the bill so stated in the Senate publicly, and he described consideration of it in the Senate as a waste of time. That is the principal sponsor of the amendment described any further consideration as a waste of time.

Reasonable Senators can agree or disagree with that characterization but there is one thing that we do know. It is that when it does come up it is going to take a long time. It is an important matter, and will involve a lot of debate. I cited the experience in the two previous occasions. Consideration spread over 24 calendar days in one case, 20 calendar days in the other.

So the fact of the matter is that any Senator has a right to offer any amendment any time he or she chooses. Any other Senator has a right to debate for as long as he or she chooses, and to offer other amendments.

The reality of the situation we find ourselves in is if that amendment is offered it is going to take a long time and it will delay action on these other matters. It will delay action on the emergency supplemental bill. It will delay action on the unemployment insurance extension. And it will delay for a long time action on the Russian aid bill, all of which I favor and think we should act on promptly.

I regret that, but that is the choice that will have to be made by the Sen-

ator from Texas or others, and if they so choose, then we will proceed accordingly. It is a right that exists, it is a right that can be exercised, and if any Senator chooses to exercise that right, he can do so. And I mean no criticism of that.

We all have an exercise of the rules as we see fit. But there has been plenty of notice of this, 2 weeks' notice, unanimous consent a week ago, and the Senate already started on the bill.

So I hope that we can proceed, and I hope we can proceed in a way that every Senator feels that he has had or she has had the opportunity to exercise their rights to the fullest, to state his or her position to the fullest, and if the consequence of that is delay in these important measures, I regret that but it appears an inevitable result.

Several Senators addressed the Chair.

Mr. THURMOND. I believe I have the floor.

Mr. GRAMM. Will the Senator yield? I will try to be brief.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The distinguished Senator from Texas [Mr. GRAMM] is recognized for 2 minutes.

Mr. GRAMM. Mr. President, we have all had notice of the GSE bill but we have all had notice of the offering of the balanced budget amendment, and also of the offering of the crime bill. In fact, three of the Senators on the floor said at a press conference 2½ months ago that we were going to bring it up weekly. So surely no one was surprised at that. The majority side was notified when we passed the bankruptcy bill the other day that if I did not have an opportunity to offer the balanced budget amendment to it that it did not matter because I could offer it to the GSE bill, and we are now on the GSE bill.

A great point is made by the majority leader that no one objected to bringing it up. No one objected to having it brought up. I am ready to proceed to it now.

I do not buy the idea that debating and voting on the balanced budget amount is a waste of time. I am hopeful that it might be brought back to life. I think it is important to the future of this country that it pass. And I would like to have an opportunity to vote upon it. I do not know how long it is going to take. I think the reality is that if we do not vote on the supplemental and unemployment and the Russian aid program, it is because a decision is made not to go to those bills.

I would be willing in a spirit of compromise to do one of two things: one, I would be willing to go to the GSE bill and give the majority leader the right at any point during its consideration to go to the supplemental or to the un-

employment bill or to Russian aid. I would be, and I cannot speak for this side of the aisle, but I am hopeful that we could get unanimous consent that if we went to the GSE bill now, and the majority leader decided to set it aside and go to one of these other three bills that we could do it, I would be willing to agree to that in a spirit of trying to move forward.

I would also be willing to allow the GSE bill to go forward if we could have a unanimous-consent agreement that we have a guarantee of a date certain and a time certain at which we could bring up the balanced budget amendment to the Constitution. So I would let all four of these bills go. The three I am eager to let go at this moment, and the fourth I would be willing to give up the right to offer an amendment on it if we could be guaranteed a future date.

I believe that those are all reasonable proposals and in a spirit of helping us move forward and helping our great leader lead, I simply make these suggestions and hope they will find the same spirit of receptiveness and eagerness to move the Nation forward by the consideration of such important issues as the balanced budget amendment as that spirit in which these proposals are made.

Mr. MITCHELL. Mr. President, the Senator—

Mr. THURMOND. Mr. President, I yield 2 minutes to the majority leader. I have to get this conference.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I believe I have the floor.

The PRESIDING OFFICER. The Senator from South Carolina does have the floor by prior recognition from the Chair.

Mr. THURMOND. Would you like 2 minutes?

Mr. MITCHELL. Certainly.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Among the many things on which the Senator from Texas and I disagree is the definition of "compromise." The Senator from Texas' definition of compromise is that we will do what he wants if he will let us do it. He wishes to exercise his right under the rules in a manner that would deprive others of their rights under the rules.

I do not think I can agree to that. That is the essence of what he said. He has a right under the rules, and he wants, by exercising that right, to deny other Senators their right. It is not a compromise at all, of course. It is a capitulation. It is getting what he wants and just having others agree to it, and obviously I cannot agree to that.

I respect his right under the rules, but I cannot deny other Senators their rights under the rules in order to accommodate the Senator.

Someone once said in the definition of "freedom" that "My right to free movement ends where my neighbor's nose begins." And I cannot accept the proposal which would deny the large numbers of Senators their rights under the rules to accommodate the Senator from Texas.

The PRESIDING OFFICER. Now the Chair recognizes the distinguished senior Senator from South Carolina.

Mr. THURMOND. Thank you very much.

The PRESIDING OFFICER. It is my honor, indeed.

#### THE RECENT INDICTMENT OF FORMER DEFENSE SECRETARY CASPAR WEINBERGER

Mr. THURMOND. Mr. President, I rise today to express my concern over a process which I believe has gone seriously awry. Tuesday's 11th-hour indictment of former Secretary of Defense Caspar Weinberger is not only an outrageous example of political grandstanding, but the latest in a series of transparent attempts to implicate former President Reagan in the Iran-Contra scandal.

Mr. President, Mr. Walsh and his team have finally gone too far. When will this process stop? While Mr. Walsh has been spending \$30 million of the taxpayers' money on an investigation which ran out of steam long ago, those whom he has targeted have been spending their life savings to prove their innocence and salvage something of their reputations. Several of the accused have reportedly entered into plea bargains simply because they could not afford to defend themselves. This whole investigation has turned into a politicized witch hunt, and it is time to put an end to it.

I know Caspar Weinberger well, and he is not only a great patriot, but a man of character and courage—an honorable man. He has served this Nation with great devotion for many years, and it is beyond my ability to believe that he would have engaged in the activities ascribed to him by the special prosecutor.

Let us be clear: what is at work here is not the long arm of the law reaching out to snag a criminal. It is simply another desperate attempt by Mr. Walsh to salvage a catch from a 5-year fishing expedition. His alleged attempts to coerce Mr. Weinberger and others into implicating former President Reagan are improper and shameful, and I am disgusted with the whole process.

Mr. President, it is clear that this investigation has long outlived its viability. The results have been mixed and confusing at best, and seriously damaging to innocent individuals at worst. The time has come to bring this process to an end and move on.

The PRESIDING OFFICER. The distinguished Senator from South Carolina yields the floor.

#### KUDOS FOR EL SALVADOR ADMINISTRATION OF JUSTICE SUPPORT

Mr. CRANSTON. Mr. President, I rise today in strong support of the administration's plan to allocate \$20 million from the El Salvador Demobilization and Transition Fund to the International Criminal Investigative Training Assistance Program [ICITAP].

As the violence ebbs in that beautiful but violent land, administration of justice assistance is vital to ensure the continued successful transition to full democracy there.

I have been a frequent critic of administration policy in El Salvador and elsewhere in the region over the last decade.

Today, however, I wish to express my appreciation to the State Department for responding to my concerns, and those of others, by making the overhaul of the Salvadoran internal security apparatus a priority objective of our assistance there.

Mr. President, in remarks on this floor on June 27, 1990, I talked about the need for drastic reform of the Salvadoran military and police.

I suggested, in order to strengthen the negotiating process and help break the stalemate existing at that time, that a key goal of the peace negotiations should be:

\*\*\* the redefinition of the military's eventual mission as one of strictly national defense, with the Salvadoran police delinked from armed forces control and given the role of protection of public safety.

Happily, the U.N.-brokered negotiations soon picked up this theme as a central tenet for what became, early this year, a successfully concluded peace agreement.

The task I pointed to them—the civilianization of internal security—became, and is still, perhaps the single most important one in terms of real peace and democracy taking hold in El Salvador.

Yesterday, the Washington Office on Latin America [WOLA] hosted a lunch for Salvadoran social democratic leader Ruben Zamora, a key figure in the democratic transition.

The issue of internal security, he said, "is the most dangerous threat to the peace agreements and the far right has begun to use it."

The problem outlined by Zamora is familiar to those of us who have followed closely the transitions to democracy in Argentina and Panama—two countries in the vanguard in moving the military out of internal security missions.

The problem, said Zamora, is the perceived breakdown in law and order that comes with the military moving to a strictly national defense function while new, civilianized police forces are being created.

This problem is exacerbated by the fact that democracy, but not dictator-

ship, brings with it guarantees for suspects—as well as other citizens—and a free and unfettered press whose job no longer is primarily coverage of the war front.

In the Salvadoran case, the crisis is aggravated even further by the fact that the army—which is in the process of being removed from its longstanding internal security functions—has stripped the police it once controlled of its equipment and even arms.

Zamora said that this disturbing lack of resources has forced his party to call for an increase in the police budget.

Mr. President, the Department of Justice's ICITAP Program is uniquely qualified to help provide critical support to El Salvador's experiment in the civilianization of law enforcement.

Unlike the police training programs of old, ICITAP has steered clear of any hint of involvement with abusive or undemocratic sectors of the police.

Indeed, the training offered forms an integral part of the larger menu the United States has to offer in support of human rights and the rule of law in emerging democracies.

According to the administration, ICITAP assistance in El Salvador will have two components: the development of a national public security academy and the development of the National Civilian Police.

This is indeed good news, and once again I congratulate the administration on its responsiveness to our entreaties to provide such support.

I look forward to watching with attention and interest the development of the administration of justice program in El Salvador, a country which now has the chance to become a model in Latin America and the rest of the developing world.

Mr. President, I ask unanimous consent that the questions I asked at a recent hearing of the Senate Foreign Relations Committee, and the answers provided to me by the director of the ICITAP Program, be reprinted in the RECORD.

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

DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, June 15, 1992.

HON. CLAIBORNE PELL  
Chairman, Committee on Foreign Relations,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This pertains to questions from Senator Alan Cranston to David J. Kriskovich, Director of the International Criminal Investigative Training Assistance Program (ICITAP), that arose during the hearing on May 6, 1992 concerning the proposed Mutual Legal Assistance Treaty (MLAT) with Panama. The Department's responses to Senator Cranston's questions are attached. Also enclosed is the corrected transcript of Mr. Kriskovich's testimony.

Please do not hesitate to contact me if we can provide any additional assistance in this matter.

Sincerely,

W. LEE RAWLS,  
Assistant Attorney General.

RESPONSES TO SENATOR ALAN CRANSTON  
QUESTIONS, MAY 6, 1992, HEARING

1. As you know, there were many criticisms of the old AID Office of Public Safety police training programs, allegations that resulted in Congress killing the entire effort. One of the most telling criticisms, in my view, was that the OPS program had an operational component. It is my understanding that the ICITAP does not conduct such activities. Could you please tell us why ICITAP has remained at the margins of such a mission? Do you see any reason for ICITAP to take on such activities in Panama or elsewhere in the future?

Response:

The absence of direct operational involvement is one of the basic policies of the work of ICITAP. Our efforts are clearly and cleanly focused on building strong institutions so that those institutions themselves can better perform their prescribed activities. Since its inception in 1986, ICITAP's role has been to provide assistance to countries in Latin America and the Caribbean in an effort to strengthen the administration of justice in those countries. Specifically, pursuant to Section 534(B)(3) of the Foreign Assistance Act of 1961, ICITAP develops: programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control; programs to assist in the development of academic instruction and curricula for training law enforcement personnel, and programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures.

In the case of Panama, Section 534(b)(3) has been broadened to enable ICITAP to address a wider range of activities related to all facets of civilian law enforcement. However, there is a prohibition against providing lethal equipment, and it is understood that the intent of Congress was to exclude direct involvement in police operations.

ICITAP is entirely non-operational. ICITAP experts may observe police in their work, but there is no interaction on a real-time basis. The observations serve only as a method of assessing capabilities and needs or to provide a demonstration of abilities which can be criticized after the fact as a training technique. Its programs are founded on technical assistance and training, with emphasis on the rule of law and internationally recognized human rights standards. By remaining in this role, ICITAP maintains objectivity and avoids even the suggestion that the credibility of the work could be compromised. ICITAP does not foresee or advocate involvement in operational activities in Panama or in any other country.

2. It is my understanding that in a number of countries in which ICITAP works, it had assisted local law enforcement agencies to create offices of professional responsibility. Where has this been done, and to what effect? Has Panama set up such an office?

Response:

ICITAP has developed Offices of Professional Responsibility (OPR) in Guatemala (1989), Panama (1990), and Honduras (1991). Additional offices are planned in El Salvador, as part of an ICITAP initiative to assist in the development of the new Salvadoran National Civilian Police. Nicaragua, on its own initiative and following a visit to the OPRs in Panama, opened a similar office within the Ministry of Government in 1991 to

provide oversight over police matters. However, this office has yet to evolve into an efficient instrument for addressing issues of police integrity and accountability. The primary purpose of these OPRs is to ensure integrity, accountability, and professional standards within their respective institutions.

All OPRs created by ICITAP have an established system of procedures, as well as trained administrative, investigative, and supervisory staff. Also, ICITAP has provided the basic resources to carry out their mission (manuals, office equipment, and supplies) and continues training and technical assistance to upgrade and enhance their capabilities.

It appears that OPRs are impacting levels of corruption and police misconduct within the various police organizations:

Formally inaugurated in March 1991, the Guatemalan OPR has been functional since 1988 and has investigated thousands of complaints. Nearly 25 percent of these have involved allegations of police brutality and other violations of human rights. OPR investigations have resulted in hundreds of dismissals, arrests, and detention of police officers and agents.

The two Panama OPRs located within the National Police (PNP) and the Judicial Technical Police (PTJ) have enjoyed similar success. Since its inception through late February 1992, the PNP OPR has received 458 cases, of which 72 percent had been fully investigated. In 11 percent of these cases, a total of 46 employees were dismissed from the PNP; 12 percent resulted in disciplinary actions; 42 percent were found not to warrant sanction; 16 cases (5 percent) were forwarded to prosecutive authorities for further action, and 30 percent were awaiting executive review. From its beginning through March 1992, the PTJ OPR received 290 complaints. Of these, slightly more than one percent were forwarded to prosecutive authorities for further action; 14 percent resulted in dismissals; 12 percent resulted in suspensions or other disciplinary actions; 17 percent did not warrant further action; 25 percent await internal review and recommendations; and 31 percent are pending further investigation.

Four months after it opened in September 1991, the Honduran OPR had investigated 101 allegations of misconduct involving 148 members of the Public Security Force. Of this total, 100 resulted in administrative or disciplinary actions (eight were referred for prosecution). Another 48 cases were under investigation.

Continued development of these resources will focus on strengthening the overall management of the OPR process as an institutional process.

3. In transforming personnel from the old PDF into the civilianized police of the Public Forces, a considerable change in mentality had to take place. Could you please outline what that change entailed, and what strategy was used to try to carry it out.

Response:

The effort in Panama has not been so much to transform former members of the PDF as to re-structure the entire law enforcement apparatus, constructing a new civilian force and wholly abandoning the former regime. In this process it was inevitable that some members of the new organization would be former Panamanian Defense Forces (PDF). But the distinction is important: new members were expected to emerge from training as civilian police, regardless of any previous experience.

The process employed to create this new structure was to provide intensive instruc-

tion first through a transition course and later through other skills courses. This was to ensure that members of the new PNP were oriented toward law enforcement, consistent with the basic principles of civilian policing, and not toward the military mentality of acting as a national security force.

In addition to the transition course offered to those former police who qualified basic training was developed for new recruits. With both categories of PNP members, and throughout all the courses taught by ICITAP and those established in the Panamanian academy, emphasis is placed on technical policing skills, orientation toward community standards and expectations, development of policies and guidelines consistent with their mission, and an overriding appreciation for the rule of law and respect for fundamental human rights.

The process of change will take time and is supported by the inevitability of the retirement cycle that continuously changes the balance in favor of an organization staffed with personnel based in civilian policing standards. By 1995, the PNP will experience a 50 percent attrition rate due to retirement, resignations, and dismissals for personnel at all levels. Furthermore, PNP plans call for 1,250 police academy graduates, yearly. At these levels, it is predicted that by 1995, 50 percent of all PNP will be academy graduates of a 16-week basic police recruit course designed by ICITAP. Professional competence, coupled with public and community education programs aimed at the general public, should serve to enhance credibility and erase the stigma associated with the prior regime.

A recent poll conducted in Panama shows that public confidence in the PNP is growing. This has confirmed that the approach taken in building the PNP as well as in educating the public to the new police orientation is taking hold.

4. What progress has been made by AID in the training of prosecutors and judges? To what extent does a continued inadequacy in their numbers and quality hamper administration of justice reform efforts overall?

Response (This question was answered by A.I.D.):

The A.I.D. Improved Administration of Justice Project will improve the operation and coordination of the justice system (i.e., Judiciary, Prosecutors, and Public Defenders) in the conduct of the investigative and trial stages of the criminal justice process. It is an institutional strengthening project to support a Panamanian-led reform program. To date, A.I.D. has provided technical assistance and training in a number of areas including (1) organization of administrative support; (2) expediting case handling; (3) support for the implementation of the judicial career; (4) improved case management; (5) provision of legal information; and (6) improvements in the operation of the justice sector through information systems support.

To date, A.I.D.-financed training has been provided to 350 officials. Training sponsored by A.I.D. has not been limited to judges and prosecutors, but has also been provided to mid-level officials as well as administrative personnel of the Judiciary, Attorney General's Office, Public Defender's Institute, and the Judicial Technical Police. (This latter agency was incorporated into the Attorney General's Office effective January 1, 1992.) A.I.D. is also working with the Supreme Court to develop the Judicial School which will provide continuous, in service training to judges, prosecutors, and other judicial personnel. Judges and prosecutors have par-

ticipated actively in the identification of training needs and development of curriculum so that the training is tailored to meet the requirements of the Panamanian justice system.

The training—provided locally and abroad—has enhanced the quality performance of participating officials. However, the overall quantitative improvements (e.g., reduction of case backlog) became more evident to the extent that complementary assistance in other areas is also afforded. For example, legislative changes to the existing criminal procedures have been enacted to expedite case handling. Nine new courts with the required personnel have been formed. The Supreme Court has approved the use of "itinerant judges" which can assist in case resolution in overloaded courts. Legislation now gives the Supreme Court the authority to create new courts and hire additional personnel as necessary. In the past, the number of judicial personnel was fixed in the judicial code; the Public Ministry is requesting this same authority. Management reforms include the development of a uniform system of case management and statistics to establish an automated, simplified but reliable tool for reporting on case resolution.

Progress is evident. Available statistics demonstrate that while the number of new cases entering the system increased by 78 percent in 1990 compared to 1987, the system resolved over 69 percent more cases in 1990 than in 1987 with essentially the same level of personnel.

5. Is ICITAP able to address problems and deficiencies in Panama's penal system?

Response:

ICITAP has access to the resources which would be needed to respond to the very grave dysfunction in the Panama penal system. The state of the Panamanian penal system has been identified in U.S. and Panamanian studies as sub-standard. The tremendous efforts of the United States and the Government of Panama to establish a humane and fully functional criminal justice system cannot succeed without radical changes in the prison system.

At present, ICITAP has no congressional authority to engage in penal reform. However, inasmuch as the PNP is responsible for providing approximately 300 police officers to maintain security at Panama's correctional facilities, ICITAP has developed a plan to assist the PNP with training and technical assistance to improve management practices with regard to inmate handling and classification. Should additional authority and necessary funding be provided, ICITAP would be in a position to act quickly.

During 1991, ICITAP secured the support of the U.S. Bureau of Prisons (BOP) and the National Institute of Corrections (NIC). ICITAP has proposed a plan of correctional reform which, in its first stage, would combine a program of training and technical assistance. With the assistance of the BOP and the NIC, ICITAP would concentrate on the organizational and administrative structure of Panama's Department of Corrections and the development of the security and operational resources needed to manage Panama's correctional institutions if given the statutory authority to do so.

#### TRIBUTE—DONALD A. LEHMAN

Mr. SPECTER. Mr. President, this month Donald A. Lehman will be completing his year-long tour as the State commander of the Pennsylvania de-

partment of the Veterans of Foreign Wars. The story of Donald A. Lehman's career with his organization is one of a highly dedicated veteran, Pennsylvanian, and American. His honor and commitment are an example that all Americans can admire.

Don's career in the U.S. Army is one of distinction and gallantry. He enlisted in 1955 and served in Korea, Germany, Japan, and Vietnam. As a senior intelligence supervisor, he earned several decorations including the Bronze Star and the Republic of Vietnam Gallantry Cross with Palm before retiring in 1975.

Don joined Post No. 8298 of the Veterans of Foreign Wars in 1970. He served in several post offices including all State post commander; he also served in all the district offices ending with district 12 commander. In 1985 he was selected as the Outstanding Veteran of the Year for district 12.

On the State level, he served as junior and senior vice commander, deputy inspector and membership director, and was a member of the voice of democracy committee. Lastly, as a member of the Eastern Conference, he was the chairman of the East/West Conference no fewer than five times.

Most recently, on the national level, Don served on the National Voice of Democracy and the Veterans Service Committee. Further, he was a national aide-de-camp and a national deputy chief of staff.

Outside of the Veterans of Foreign Wars, Donald Lehman is highly active in his community. He is a retired head steward of the No. 1 fire company. In addition, he is a member of American Legion Post 841 and the Military Order of the Cootie. Lastly, he has spent his time serving the youth of Pennsylvania as a scoutmaster.

Don Lehman is married to Esther Young Lehman who joins her husband in auxiliary service as the senior vice president of district 12. They have two sons, one daughter, two grandchildren, and live in Northumberland.

Don Lehman is a true American patriot. As such, the Veterans of Foreign Wars and the State of Pennsylvania are extremely proud of him. I would like to add my praise to them as I take this opportunity to recognize him before the U.S. Senate.

#### TRIBUTE—PRESIDENT ELLEN PHILP

Mr. SPECTER. Mr. President, Ellen Philp will be completing her yearlong tour as president of the Pennsylvania American Legion Auxiliary. When Ellen steps aside, she will leave behind her a lifetime of achievement for the veterans of Pennsylvania. Her courageous dedication to the causes of those who served America in her greatest of conflicts is a shining example of the actions of a true American patriot. Her

deeds are an honor to her organization, the State of Pennsylvania, and the United States of America.

She has spent the last 35 years serving with and for the American Legion Auxiliary. In those years she has held most of the offices in her unit, including 12 years as the president.

While serving on the council level, she was the president of Washington, Fayette, and Green Counties. In the department she served first as the director and later as the western vice president. Last year she served as the department vice president before being elected to the highest post of president.

As department president, Ellen Philp has attended all patriotic services, in addition to her extensive travels throughout the State to visit various other units and councils. Lastly, she will chair the department convention in Monroeville, PA, in early July.

In addition to her various posts, Ellen Philp has served as the chairman of the legislative program, community service, president's project—2 years, poppy and hospital field service director.

Ellen Philp's other responsibilities include blue and white leadership cards and active participation in other sister organizations of the American Legion Auxiliary. These include Eight and Forty and Salon 495. She is also a chapeau passe. Ellen's husband, Wayne, served in the Second World War in the U.S. Medical Corps.

Ellen Philp's extraordinary dedication to her cause, and extensive efforts on behalf of veterans in Pennsylvania, have made her an invaluable asset to the United States of America. Upon the conclusion of her tour, I extend my recognition of her before the U.S. Senate.

#### REGULATION AND SMALL BUSINESS

Mr. KASTEN. Mr. President, I rise today to call to the attention of the Senate a series of articles in the Wall Street Journal on "Regulation and Small Business."

I think all of us should be alarmed by the growing Federal regulatory and redtape burdens on America's small- and medium-sized businesses. In the last 3 years, the pages of the Federal Register—the rule book of the Federal bureaucracy—have increased from 55,000 to nearly 70,000. Each extra page of regulations imposes new requirements on business—especially small businesses.

I was a small businessman before entering public life, so I know what this means. It means more time, more work, and more expense. It means you have to hire extra workers for the sole purpose of filling out forms—as opposed to producing marketable products. In today's economy, this added burden becomes a very serious threat to the survival of many small businesses.

As ranking member of the Senate Small Business Committee, I have repeatedly pointed out to my colleagues that America's entrepreneurial small businesses are the source of new jobs for our workers. In the 1980's, small businesses generated 17 million new jobs at a time when the Fortune 500 companies were losing jobs.

However, instead of helping small businesses create jobs, Congress insists on killing this goose that lays the golden eggs for the economy with high taxes and new regulatory burdens.

The Wall Street Journal interviewed several small businessmen and women throughout the country to get a firsthand view of how growing Government regulations are threatening the future of small businesses. I urge my colleagues to read these articles. I think it's important for the Congress to start recognizing that the regulatory legislation we approve here in Washington imposes real costs on the people of this country who are trying to achieve the American dream.

I ask unanimous consent that the Journal series be printed in the RECORD.

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

[From the Wall Street Journal, June 11, 1992]

**SMALL BUSINESSES COMPLAIN THAT JUNGLE OF REGULATIONS THREATENS THEIR FUTURES**  
(By Jeanne Saddler)

WASHINGTON.—As Ben Cooper sees it, small business's fight against government regulation is like the famous "I Love Lucy" episode that features Lucille Ball frantically trying to wrap chocolates as they roll by on a conveyor belt.

"They just keep coming down the belt faster and faster," says Mr. Cooper, head of government relations for the Printers Industries of America in Alexandria, Va. Lucy and Ethel can't keep up; and to avoid retribution from their boss, they stuff unwrapped chocolates in their mouths, blouses and hats.

Small-business owners complain that growing government regulation is overwhelming them and sometimes even threatening their livelihoods. When Rapid Plating, a San Jose, Calif., metal-finishing concern, went out of business last June, the owners wrote a letter to former customers listing 38 federal, state and local rules that they contended contributed to the company's demise.

Across the nation, though some think they are overreacting, small-business owners are squawking more loudly than before. In a March survey by the National Federation of Independent Business, they ranked government regulation eighth in a list of 75 concerns, 11 notches higher than in a previous survey six years ago.

Mereco Technologies Group Inc. certainly feels victimized. The Rhode Island maker of adhesives for the aerospace and electronics industries says it must compile information on more than 800 chemical products that it makes or uses to satisfy an array of overlapping state and federal rules.

"The government seems to feel that every small company has a legal, personnel and chemical-administration department to write bulletins and fill out forms," says Mereco's president Herb Spivack, whose

company employs 14 people. "But I had to hire three chemists to work 40-hours a week for six months to write those things and get us ready for compliance."

**POLITICAL ISSUE**

With the election year getting into full swing, regulations are becoming a hot political issue. President Bush is trying to portray himself as the deregulation president. Early this year, he ordered a 90-day freeze on most new federal regulations. In April, he extended the freeze for another four months. Democratic presidential challenger Bill Clinton vows to help small companies compete better, while Ross Perot plays up his reputation as an entrepreneur who knows how to cut through red tape.

Nearly everyone agrees that many regulations benefit the public—and even small business—significantly. And for all their complaints about red tape, the burden hasn't kept plenty of small businesses from making big money.

Yet evidence abounds that the burden of compliance is indeed growing after a lull in the 1980s. As new laws hit the books, the number of regulators is climbing—as is the cost of meeting their demands.

The 1992 federal budget provides salaries for 122,400 regulators, the largest number ever (and 16,400 more than in 1989), notes Murray Weidenbaum, a chairman of the Council of Economic Advisers in the Reagan administration. He says increased regulation hits small companies disproportionately.

**COSTS OF COMPLIANCE**

About 150,000 small companies may have to spend more than \$10,000 each for pollution permits under the 1990 Clean Air Act, says Mr. Weidenbaum, now a professor at Washington University in St. Louis.

Thomas Hopkins, an economics professor at the Rochester Institute of Technology, predicts in a study sponsored by the U.S. Chamber of Commerce that regulatory costs for all businesses will increase 25% in the 1990s to \$600 billion in constant 1988 dollars. That will "increase the power of the big guys and make it hard for an entrepreneur to break into an industry," he maintains. Unlike large companies, small concerns often lack the large staffs and other resources to cope with regulatory burdens.

Companies already complain that they are hit from more sides than ever. J.W. Kisling, chairman of the small-manufacturers forum of the National Association of Manufacturers and chairman of Multiplex Co., a St. Louis maker of beverage-dispensing equipment, says: "It used to be the only thing people really worried about was the OSHA [Occupational Safety and Health Administration] requirements. Now we have all the problems with the Environmental Protection Agency and with the disability law" that went into full effect this year.

Since 1986, Congress has enacted 10 major pieces of legislation to regulate business, including, in 1990 alone, the Clean Air Act, Americans With Disabilities Act, Nutrition Labeling and Education Act and Worker Right to Know Act.

Some authorities believe the regulatory burden is sometimes overrated. Harvard University economics professor James Medoff argues that for all the fuss made over regulation, the sluggish economy has inflicted most of the pain lately. "Anything that's seen as weakening the bottom line will be screamed at," he says.

Moreover, small concerns often get special exemptions because of their size. "It's hypocritical for small businesses to seek tax re-

lief and loans from the government to boost their position in the marketplace and then to decry any costs imposed on them to protect the health, safety and other needs of their employees and customers," says Eugene Kimmelman, legislative director of the Consumer Federation of America. Other watchdog groups think small business might need more regulation, rather than less.

But many entrepreneurs think more regulation is the last thing business needs. Some are fighting back. Small-business trade groups are pressing government to switch to a more flexible mix of voluntary actions and economic incentives and away from the prevailing "command-and-control" mandates that tell a business exactly how it must comply. The current system is "a one-size-fits-all, line-in-the-sand" approach, says William Sonntag, a lobbyist for the National Association of Metal Finishers.

The Small Business Legislative Council, an association of 100 trade groups, recently asked the federal government to combine 45 different reporting requirements into one. The council also is suggesting other ways to simplify government inspections and paper work aimed at reducing pollution.

The Bush administration says it wants to make compliance simpler. It has also ordered government agencies to start using new cost-to-benefit analyses when evaluating legislation or submitting rules. "There hasn't been enough attention paid to the impact of regulation on small business," says Jeffrey Nesbit, a spokesman for the White House Competitiveness Council, a regulatory-oversight group of administration officials. Headed by Vice President Dan Quayle, the group is spearheading President Bush's deregulation drive. Mr. Nesbit says several federal departments are working to consolidate reporting requirements and ease other burdens on small concerns.

Small-business owners aren't holding their breath. "I'm dubious," says Multiplex's Mr. Kisling. "There'll be about as much improvement [in reducing regulation] as there's been in reducing the deficit."

[From the Wall Street Journal, June 12, 1992]

**GOVERNMENT RED TAPE PUTS ENTREPRENEURS IN THE BLACK**

(By Jeffrey A. Tannenbaum)

While some entrepreneurs angrily denounce government regulation, others mine it for opportunities to make money.

Take Perfection Automotive Products Corp., which long has sold do-it-yourself exhaust-repair products for car buffs. When the Environmental Protection Agency announced the first standards for automotive replacement-market catalytic converters six years ago, the Livonia, Mich., concern saw a chance to broaden its product line.

Original-equipment manufacturers were already making the pollution-control devices for new cars. The new legislation created a market for replacement models that could be made more cheaply because they wouldn't have to last as long in aging vehicles. Perfection says the federal standards "legitimized" those cheaper models that measured up, creating demand. Moreover, rigorous state inspections of cars to identify defective converters assured a steady stream of customers. "If the inspection programs were not in place, the demand would not be there," says Norman D. Ash, executive vice president of Perfection.

**DOUBLED WORK FORCE**

The company says its sales have "significantly increased because of the catalytic-

converter market." To serve that market, the company has added nearly 100 employees, doubling its work force since 1986.

Of course, the intense demand may fade. Starting in the 1995 model year, revised federal standards will require the original catalytic converters in cars to last 80,000 miles or eight years, up from 50,000 miles or five years. And that might bite into demand for replacement converters. As Mr. Ash puts it, "The government giveth, and the government taketh away." But for now, the company is enjoying a brisk business, courtesy of federal and state governments.

Perfection is hardly alone in seeing business openings in regulations. When the government requires workers to wear hard hats, entrepreneurs make money selling hard hats. There are myriad laws and regulations—and myriad money-making angles—for entrepreneurs.

"A lot of government regulation has been destructive," says Archie E. Albright, an executive vice president of International Process Systems Inc., Hampton, N.H. "But there has clearly also been a lot of new business opportunity created by other regulations, and a lot of demand for new technology to meet government standards."

He ought to know. His company was formed in 1988 by the owners of Earthgro Inc., a Lebanon, Conn., marketer of compost; International Process Systems sells technology to convert organic waste into compost, which can serve as a substitute for peat moss or topsoil. As communities scramble to meet government-imposed recycling goals, demand for composting technology is growing.

Mr. Albright says the company was growing so fast that it needed to seek a new owner able to finance its growth. He says the founders stand to profit handsomely from their pact with Wheelabrator Technologies Inc., Oak Brook, Ill., which acquired the company last year.

Complying with regulation is big business. Environmental protection alone has become a \$100 billion-a-year industry in this country, according to an EPA estimate. And the agency says that Clean Air Act requirements themselves will create 20,000 to 40,000 jobs by the end of this decade.

#### LIFT FOR EXPORTS

U.S. exports may get a lift, too. Companies pioneering in environmental technology are expected to find markets in Taiwan, Mexico and many other countries with emerging cleanup efforts. "These are big numbers, big markets, and they're getting bigger every day," William K. Reilly, the administrator of the EPA, said at a business conference in April. Behind the growth: increased foreign regulation.

Many entrepreneurs make a living simply helping the people keep track of the ever-rising tide of regulations. Counterpoint Publishing Inc., Cambridge, Mass., describes itself as "a company whose only reason for being is to help people handle the sheer volume of regulations issued by federal government agencies." For example, the company publishes an optical-disk version of the Federal Register, a government publication that details proposed and actual regulatory changes. Last year's register filled 68,000 pages in book form.

Computer technology makes it possible for many companies to jump into publishing. In Exton, PA., ERM-Computer Services Inc. sells optical disks of federal and state environmental regulations, updated every two months. "As many as 2,000 to 4,000 regulations will change in any two-month period,"

says Brian E. Gurnham, ERM's president. He says the company had revenue of \$5 million in the year ended March 31. Its parent company, ERM Group, is a consulting company working various angles in the marketplace created by environmental regulation. "Clearly, the rate of regulatory change is helping our business," Mr. Gurnham says.

The same is true in many other types of enterprises. That means brisk business for the likes of Advantage Business Services Inc. The Auburn, Maine, company franchises a payroll service; its franchisees help small companies process their payrolls. Companies turn to such services because they need help complying with complicated federal and state tax withholding regulations. The Bush administration has proposed simpler federal rules, but in the meantime the current regulations are driving customers into Advantage offices.

From a single location in 1967, Advantage has grown into a chain with 30 outlets; it says systemwide revenue was about \$6.8 million in its fiscal year ended May 31. A client with five employees on its payroll will pay Advantage about \$15 a pay period for help in complying with all the rules.

"We probably wouldn't be in business if it weren't for government regulations," says David J. Friedrich, president of Advantage. "And the states make things as messy as the feds."

#### IRONY OF THE ENTERPRISE

Some entrepreneurs recognize the irony in making money on red tape. Stateside Associates Inc., Arlington, Va., has grown from a home-based venture with a single employee to a company with 14 workers that expects \$2 million in revenue this year. It provides reports on pending regulatory changes, such as in state rules on underground storage tanks for gasoline.

"If all of a sudden governments got corporate-friendly, there would not be any need for us," says founder Constance Campanella. She says that when clients learn from her of regulatory moves that are bad news for them, they sometimes say, "I guess this is good news for you," Ms. Campanella doesn't disagree.

[From the Wall Street Journal, June 15, 1992]

#### SMALL FIRMS SPEND MUCH TIME, MONEY COMPLYING WITH ENVIRONMENTAL RULES

(By Eugene Carlsson)

Someday, William Anderson's costly struggle to rid his auto dealership of five small underground gas and oil tanks will be over for good. Someday, his Dreisbach Buick dealership on the outskirts of Pontiac, Mich., will be certified environmentally pristine by the state.

Someday—but not yet. Mr. Anderson has spent two years, and more than \$100,000, on the task so far. Two holes the size of swimming pools have been dug and filled in the lot behind the dealership building. Consultants have been hired, soil and water tested, and reports filed in numbing detail. The five steel tanks have long since been cut up and sold for scrap. Yet, much remains to be done.

Mr. Anderson isn't some big-time polluter. While gas, oil and chemical leaking from underground tanks have fouled water supplies around the U.S., there is no suggestion that his dealership's tanks were faulty. Over the years, occasional small oil and gas spills around the mouths of the tanks seeped into the ground, but tests indicate that the oily residue contaminated ground water no more than a few yards from the source. A consultant hired by Mr. Anderson says the threat to drinking-water supplies is nil.

Nor is the 57-year-old car dealer a casualty of a bureaucracy run amok. By most accounts, Michigan is making a good-faith effort to implement a 1988 federal rule aimed at eliminating defective underground storage tanks. To escape liability risks, Mr. Anderson and thousands of other car dealers and service-station operators in the state are replacing their old tanks with new ones.

Rather, Mr. Anderson considers himself the victim of good intentions gone awry. "Ours is just one small business, and we're trying very hard to be a good citizen and comply with environmental regulations. If it wasn't tragic, it'd be comical," Mr. Anderson says.

Entrepreneurs say that environmental regulation is a particularly fast-growing part of their red-tape burden these days. Many business owners strongly support efforts to clean the nation's air and water and protect workers and consumers from hazardous materials. But they say the "green" movement also has created a growing regulatory labyrinth.

Large corporations typically have in-house experts to guide the company through the maze. But most small businesses lack the staff and resources required to track the avalanche of paper from environmental agencies.

Up to now, small-business managers have typically taken an ad hoc approach to environmental rules, scanning trade association newsletters for hints of rule changes and hiring consultants to explain the seeming gobbledegook. But regulation's lengthening reach is forcing some companies to change tactics. "We now have two employees with engineering degrees who do nothing but track [regulatory] paper," says Earlyn Church, vice president and co-owner of Superior Technical Ceramics Corp., St. Albans, Vt.

To demonstrate the magnitude of the problem, an employee at Bernhardt Furniture Co., Lenoir, N.C., put all the government forms dealing with disposal of dirty cleaning rags, the company's principal hazardous waste, in a pile and stood beside it for a sardonic photograph.

"He's 6 feet 2 inches, and the stack of forms is slightly taller than he is," says Alex Bernhardt, the company's president. Mr. Bernhardt says his company "could easily spend twice as much on [environmental] compliance in the next five years as on R&D and new machinery and equipment" combined.

Figuring out how to comply can require outside specialists. Richard Cox Jr., president of Camden Tanning Corp. in Camden, Maine, says the latest puzzles are the rules governing hazardous-waste disposal. "Where does it go?" he wonders. "How much do we send in? We're not engineers, so we try and do the best we can. You can't fight 'em."

Mr. Cox says his company, which tans leather on contract for manufacturers, spends about one-third of its fixed overhead on environmental items. "Our biggest problem is the paper work. If they require a study, we have to hire somebody. That could be \$30,000," he says.

Bo Brasfield, co-owner of B&M Tractor Parts Inc. in Taylor, Texas, says complex new rules on disposing of tires and waste oil are counterproductive. "You have less liability if you go out in the middle of the night and dump it in a ditch. They've created a monster," he says.

In the past three years, Mr. Brasfield says he has spent about 25% of his working hours, and B&M has spent \$68,000, or about 3% of sales, to comply with environmental rules.

"That doesn't leave you just a whole lot," he says.

Mr. Anderson's adventure in digging up his storage tanks reads like an environmental soap opera. Like many states, Michigan has tried to ease the pain of excavation by setting up a trust fund to pay for all but \$10,000 of owner's removal costs. The fund, which totaled \$41.6 million last April 30, is financed by a fee on wholesale sales of gas and oil.

To remain eligible for reimbursement, a tank owner has to follow a strict timetable, spending money at each step. But the reimbursement pipeline is clogged. Mr. Anderson, for instance, says he still hasn't seen a penny from the trust fund.

Among the expenses he says he has incurred since 1990: \$500 for registering his tanks with the state; \$375 to purchase a state-required surety bond; \$1,100 to test the contents of the tanks before excavation; \$25,000 to dig up the tanks; \$73,000 to fill the holes; and roughly \$12,000 in consulting fees.

State law stipulates reimbursement for approved expenses within 90 days. But Sarah Burton, the private consultant supervising Dreisbach Buick's tank-removal project, says payment typically takes "nine months to a year, easily." Meanwhile, she adds, "You have to keep forking out money to stay eligible."

Dreisbach Buick isn't on the ropes. Mr. Anderson says business has "dramatically improved" from last year. But he is angry over a program that requires him to spend large sums with no apparent payoff to his company or to the public. "It's terribly inefficient, and it's a criminal use of capital," he says.

[From the Wall Street Journal, June 16, 1992]

#### ENTREPRENEURS EMPLOY RULES AGAINST RIVALS

(By John R. Emshwiller)

Despite all the noise entrepreneurs make about it, red tape can be their best friend—if it strangles their competitors.

Small businesses often manipulate regulations to their advantage, either by pushing through protective legislation that stifles competition or by winning exemptions to laws for firms with low numbers of employees. And where laws do technically apply to them, small businesses often benefit because enforcement against them is relatively lax.

Blackballing low-cost outsiders is a favorite ploy, critics say. Consider the oversight powers of the accounting profession in California. There, the state Board of Accountancy essentially bars anyone but certified public accountants from calling themselves accountants or using the word accounting to describe their profession. State officials say the restriction protects the public from hiring undertrained accountants.

Critics retort that the state accountancy board, half of whose 12 members are CPAs, has a less noble agenda. "It isn't consumer protection. It is protection of a particular special-interest group," says Bonnie Moore, who has been in the accounting business for 20 years but has never been certified.

Along with a statewide trade group of non-CPAs, Ms. Moore has filed suit challenging the curbs. The California Supreme Court is expected to rule on the case soon.

Similar disputes are regularly played out around the country in small-business arenas. Hundreds of local, state and federal regulatory boards sit in judgment of companies to see if they meet standards set down by law. Such boards cover fields ranging from pest control to hairstyling. Their backers claim their sole aim is to protect consumers

and there often are legitimate needs for industry regulation.

But Clint Bolick, litigation director for the Institute for Justice, a Washington, D.C. organization that challenges government efforts to restrict competition, complains that many of the boards are "dominated by the regulated industry."

That's certainly true at the Washington, D.C. board of cosmetology: All five members are licensed cosmetologists. And that has Taalib-Din Abdul Uqdah, an uncertified outsider, fighting mad. The board is threatening to shut down Mr. Uqdah's firm, Cornrows & Co., unless he complies with local licensing requirements.

He says that would force him and his employees to go through expensive training for no purpose, since his shop simply does hairbraiding and doesn't use chemicals. Competing "beauticians put pressure on the cosmetology board" to "harass" his business, Mr. Uqdah claims.

Mr. Uqdah filed suit in Washington, D.C., federal court to block the cosmetology board. Federal district judge Stanley Sporkin ruled earlier this year that the district government had the law on its side, a ruling Mr. Uqdah is appealing. But in his opinion, Judge Sporkin said: "It is difficult to understand why the District of Columbia wants to put a legitimate business out of operation." He urged the district to show "forbearance."

A spokesman for the District of Columbia government says the district is simply applying the law. "We've told [Mr. Uqdah] if he doesn't like the law, he should go to the [city] council to change it," the spokesman says. Mr. Uqdah apparently has taken that advice to heart: He is running for a seat on the council in the November election.

Of course, keeping out unwanted competitors isn't the only way government can help small businesses. Dozens of state and federal laws, from civil-rights legislation to worker-protection statutes, exempt small businesses from their requirements. Exemptions are usually based on the size of the company's work force.

However, the cutoff point at which firms qualify for exemptions varies widely from law to law. Political expediency, more than anything else, often decides the number. "There isn't any rhyme or reason" to why one bill exempts firms of 10 or fewer employees while another bill passes with a 50-worker exemption, says John Motley, a vice president of the National Federation of Independent Business, a major small-business trade group based in Washington, D.C. "It's just a matter of what we can negotiate."

For example, Mr. Motley says, supporters of a bill to regulate plant closings had to increase the small-business exemption to 100 workers to gain passage several years ago. This made the law inapplicable to 95% of U.S. companies.

Floyd Loupout, owner of Miracle Ear Center in Pasadena, Calif., says he is "very happy" that his six-person hearing aid retailing store is exempt from the employment provisions of the Americans with Disabilities Act [the cutoff is 15 workers]. He fears that the law might force him to hire a person who couldn't fully do the job. "When you have a small firm you can't afford that," he says.

The increasing frequency of such exemptions reflects the growing influence of small-business groups, says Mr. Motley. Up to several years ago, "nobody cared about how a bill affected small business," he says.

The trend doesn't please everybody. "We generally oppose small business exemp-

tions," says Margaret Steminario, director of safety and health for the AFL-CIO. "In many respects, the injury rates and problems aren't really related to size."

Putting pressure on regulatory boards isn't the only way a private business can keep a competitor at bay. Signing an exclusive contract with a city is another time-honored ploy.

Ricardo Bracamonte of Palm Springs, Calif., ought to know. The nearby city of Rancho Mirage has filed suit in Indio, Calif., state court seeking to block Mr. Bracamonte's company, Palm Springs Recycling Inc., from making pickups there.

The city says it has an exclusive arrangement with a unit of Giant Waste-Management Inc., also a plaintiff in the lawsuit.

[From the Wall Street Journal, June 17, 1992]

#### TAX CHANGES BY STATES VEX SMALL CONCERNS

(By Timothy D. Schellhardt)

You own a business. You have to think of a lot of things. And if you are a grocer in New York state, you also have to remember this: Large marshmallows are tax exempt as a baking item but small marshmallows are taxed as a snack-food item.

Of all the regulations that affect small business, tax rules often have the most direct impact on the wallet. Entrepreneurs say states and cities are changing or reinterpreting the rules right and left these days—commonly at the business owner's expense. Entrepreneurs find the whole process exhausting as well as costly.

Jazzercise instructors in Arizona, for example, are getting a workout of their own. The instruction they offer, combining aerobics and jazz-dance routines, places Jazzercise Inc. franchises firmly in the health-and-fitness arena, right? Not in Arizona, where Jazzercise has been classified an "amusement" subject to the state's 5% sales tax.

Now being dunned for back taxes, Jazzercise outlets in the state profess shock. "We didn't even know about the change," says Vicki Lessor, a Jazzercise instructor in Tempe, Ariz.

Lots of small-business people say they are being blindsided by the same trend: Rather than raise tax rates, states and municipalities throughout the U.S. are changing the regulations and expanding the definition of what is taxable. "This is an election year and that puts a damper on raising revenues directly by raising taxes," explains Philip M. Tatarowicz, a tax partner in Chicago for Ernst & Young, the accounting firm. But given the weak economy, many state and local governments urgently need more money.

States' new back-door ways to raise revenue are invisible to most taxpayers. Sales and use taxes are easy targets for reinterpretation: Since individual taxpayers rarely feel these actions directly, the chance of a nasty political outcry is slight.

Even the taxpayers most directly affected, usually specific businesses, often hear about the changes only well after the fact. Many states don't have to notify taxpayers of them. "It's unlikely small businesses will know if something has happened," says Robert C. Sash, a Chicago partner at accounting firm Arthur Andersen & Co. "Unless their industry group keeps them informed, a lot of changes can just slip by them."

That's the case with Maine advertising agencies, which suddenly discovered that sample ads they prepare to show clients are considered a taxable "fabrication service."

The tax was enacted in 1986, but "the ad industry was taking a nap back then," says Meredith Burgess, president of a Portland agency. It wasn't until the tax held up in court that all of the state's roughly 30 ad agencies were audited and assessed back taxes and penalties. "We've had to eat tax bills of \$5,000 to \$10,000, on the average," says Ms. Burgess, noting that it's difficult to go to clients now and ask them to pay a sales tax for past work.

Once a tax change is made, state revenue departments aggressively seek to collect the money, including back taxes and penalties they believe they are owed. In Maine, where the recession hit the state's coffers hard, the Bureau of Taxation "goes after minnows as if they were whales," asserts David Clough, a lobbyist in the state for the National Federation of Independent Business, the largest small-business trade group.

Many states are hiring more tax agents to ferret out noncompliers. Maine has added 20 tax professionals recently. Arizona added 150 to its revenue department in 1989-90 and now is adding 148 more. "This increased enforcement presence is hitting more of the mom-and-pop shops that have never been audited before," acknowledges Howard Boice, a spokesman for the state's revenue department.

States say they aren't making changes only to rake in more money. Spokesmen for Maine and Arizona say tax officials there often work closely with industry and small-business groups to help clarify or better define tax regulations.

But so many tax changes are afoot in the states that a new publication, *Sales & Use Tax Alert*, based in Atlanta, has begun to keep track of them. In its June issue, the newsletter notes that Maryland now applies its sales tax to cellular telephones, telephone answering machines, pay-preview television, newspapers, and prescribed cat and dog food; Missouri considers trophy fees charged to guests at a wild game ranch taxable, and North Carolina deems water-treatment equipment subject to sales tax.

Tennessee imposes a sales tax on mandatory tips added to a customer's bill. Minnesota taxes the preparation of a floral arrangement by a florist or nursery. In Washington state next year, retail car rentals will be subject to a special 5.9% sales tax in addition to the current regular 6.5% tax on retail sales.

Even if businesses keep abreast of each new tax regulation, they sometimes can't ascertain the exact scope or intent of each one. Iowa recently expanded its 4% sales tax to include consulting services, but many attorneys, accountants and other professionals are still trying to determine how the revenue department will define what specific services are taxable.

In Connecticut, local and out-of-state certified public accountants recently inundated the revenue department with questions regarding a new sales tax on tax preparation. Accountant Douglas Joseph of Farmington says the department "has difficulty articulating a policy that fairly determines where accounting ends and tax preparation begins." In response, the department has spelled out services not considered tax preparation.

Small businesses sometimes can get tax rules overturned. Take the "cooking oil" flap that recently heated up in Arizona. Last summer, the state began requiring restaurants to pay use taxes on 75% of the cooking oil they were buying. Officials arrived at that figure by calculating that roughly 25%

of the grease used in cooking went into the food, which is subject to a different tax at the time of sale.

The affected taxpayers, led by the 700-member Arizona Restaurant Association, persuaded state lawmakers to outlaw use taxes on grease and other food items that never reach diners' tables. Gov. Fife Symington signed the exemption. "Logic prevailed," says Penelope Miedener, the trade group's executive director. Besides, she asks, "Were they going to apply it to potato peels, too?"

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### DETERIORATION OF THE U.S. SENATE

Mr. EXON. Mr. President, I have been listening to the debate that is going on—if you want to call it a debate—with regard to how we proceed on the floor of the U.S. Senate. I am further discouraged, as one who has been in public office for a long, long time, to see the continued and further deterioration of the U.S. Senate, as we stumble forward to nowhere.

In meeting the responsibilities that we have, a day or so ago, after the S. 55, the fair employment bill, failed on the second attempt at cloture to cut off debate, I addressed the Senate on a subject that I would like to touch on this afternoon. But I think what happened on S. 55, and in the debate that we find ourselves in here today, brings further disrepute on this body, which I feel very badly about. Not that the body cannot take the punch, not that the body might not come back, but the way we are operating with a lack of comity, with a lack of understanding, with our failure to recognize that differing points of view are healthy, so long as they are kept in due bounds, all that is being pushed aside.

Mr. President, I very strongly feel that had there been some desire for understanding, accommodation, and reasonableness, we could have come to some kind of a phased-in program that would have allowed the passage of some type of remedial legislation that I think is necessary with regard to protecting workers. The continued threat that we have right now, faced with a proposition that there is nothing that anyone can do if a strike is called, because if you just wait long enough, and if you can immediately begin to hire permanent replacement workers when the strike is called, or even advertise and seek permanent replacement workers before the strike is called, we have totally undermined the collective bargaining process which most in this

body at least pretend that they support.

I talked to several people about the possibility of a phased-in program, where, after a certain number of days a small percentage of permanent replacement workers could be legally hired and phased in so that neither the rights of management or the rights of labor would be dramatically trampled on, but force them to get together and solve the problems without gridlock.

Unfortunately, gridlock and tension, lack of cooperation, and lack of understanding for the other points of view, have so deteriorated what we do to ourselves, the process, and most important the country. The place reeks with politics.

Now we are all locked up, regardless of what is said or claimed here on the floor of the U.S. Senate. It is absolutely insane from the standpoint of getting things done to waste further time in this year with the present makeup of the Senate and the present makeup of the House of Representatives to enact a constitutional amendment for a balanced budget, and everyone on both sides of the aisle knows that. Everyone on both sides of the aisle in the House of Representatives knows that. Yet here we are.

As my distinguished friend, the Presiding Officer, the Senator from Illinois, knows, this Senator has long supported a constitutional amendment for a balanced budget. I am not saying for a moment that it would necessarily be a cure-all. But having labored here for this my 13th year, I am convinced that while there may be lots of criticisms about a balanced budget amendment, I think it would be a very positive step in the right direction to bring some discipline to the Congress and, equally important, the equally shared responsibility of the President of the United States to get us on track to a balanced budget.

I think there can be no question about the determination and the dedication of this Senator from Nebraska in that regard. But I would like to say now, notwithstanding that I think that we cannot, I am confident, I know, as every Member should know, that we do not have the votes necessary, the two-thirds vote necessary, to pass a constitutional amendment. I can count noses and I know people. Once the constitutional amendment failed by nine votes in the House of Representatives, it was obviously dead for this session.

If, by some miracle, we can work our way to the place where, or be forced to consider a constitutional amendment in this session, then this Senator, despite his strong beliefs that a constitutional amendment should prevail, will vote against it. Maybe one voice can send a signal that we have to recognize, as Democrats and Republicans here, that there are things more important that face the United States of

America than our individual wills or our political determination to bring politics into more and more votes that are cast pro or con in this body.

I can tell the Senate that I know that there are not enough votes to pass a constitutional amendment in the Senate. Therefore, all of the talk that we hear about how important that is, and how every Senator has the right under the rules to do whatever he or she wants, that does not mean that we should tear the establishment apart. That does not mean, nor is it wise, nor is it in the good interest of the country for us to be going through exercises that lead to nowhere, as we did with S. 55.

Everyone on both sides of the argument, both inside and outside the Congress, knew that S. 55 as it was advanced and presented had no chance of becoming law even if cloture could have been advanced and if the measure had passed the Senate, as it had previously passed the House of Representatives, because the President had made a flat statement that he would veto it.

No one could imagine how we could come close to getting enough votes to override a Presidential veto in either the House of Representatives or the U.S. Senate.

So we wasted a lot of time. Why? We wasted a lot of time because it was politically expedient for us to cast a vote on the floor of the U.S. Senate on how we stood.

We are doing something, I believe, Mr. President, that is going to come home to haunt all of us—Democrats and Republicans alike—that happens to feel that the two-party system in the United States has served this country and served it well for a long, long period of time.

This afternoon, I heard an independent candidate for President of the United States making a mockery, if you will, to cheers and loud applause, of making fun of the Democratic Party and the Republican Party and what those two great parties with their great history behind them are doing to the United States of America today.

I happen to believe that at least a third or more of the people of the United States—maybe 50 percent of the people of the United States agree with that third party candidate's appeal, and the appeal simply is that "Elect me President of the United States because I will get something done."

Well, to the surprise of many, that just might happen come this November. Then we might have additional gridlock. I do not know. I simply want to add, if I can, some voice of reason to the collision course that we seem to be on.

It reminds me of the railroad worker who stood, many years ago, with a lantern in his hand at a railroad crossing to stop cars when trains came by. The story was told often by the great, late

Governor of the State of Nebraska, Ralph Brooks.

There was a terrible accident where two trains ran into each other at this crossing. There was a lot of damage and a trial was taking place. They put this watchman on the stand and the attorney said to the watchman, "Now, you were there with lantern in hand standing at your post? The watchman said, "That's right."

And the attorney said, "You saw a freight train coming this way at about 35, 40 miles an hour and saw another freight train coming at about 30, 35 miles an hour on the same track; is that right?" He said, "That's right."

And the attorney said, "Well, when you saw that happening, what went through your mind?" And the watchman said, "Well, nothin'."

Now, he said, "Mr. Watchman, you know here was this picture: Two trains coming at each other, impending disaster. What went through your mind?" And the watchman said, "Nothin'."

And he said, "Mr. Watchman, you are under oath to tell the truth. Something must have gone through your mind as these two locomotives approached each other. You have an obligation to tell the court what went through your mind." The watchman said, "Well," he said, "I did think that was a hell of a way to run a railroad."

Now, it seems to me, Mr. President, that this is not the proper way to run the U.S. Senate. I would simply appeal for reason, for sound heads to try and get together and see if we cannot be more productive than we have.

We have a majority and a minority in this body. We have a majority leader that has been duly elected. The majority leader, under the rules and precedents, has the responsibility of running the U.S. Senate and, looking back over the years that I have served here—and I have served under leaders of the Republican Party and I have searched under leaders of the Democratic Party, I must say that while I have not always agreed with the agenda and the scheduling—I felt that majority leaders, by and large, lean over backward to accommodate both the majority and the minority in their opinions, their desires, and how they want to bring things up.

The impasse that is being offered here over the constitutional amendment to balance the budget—which I again say I strongly support—will not receive the support of this Senator in this particular session, because I am not for any more waste of time to serve no possible good. All of us should have some understanding that this is more than a debating society of which we have a continual test of political wills. I hope that we come to some kind of accommodation.

Mr. President, I yield the floor.

Mr. MITCHELL addressed Chair.

The PRESIDING OFFICER. The distinguished majority leader.

EXTENDING MORNING BUSINESS UNTIL 5:45 P.M.

Mr. MITCHELL. Mr. President, a number of Senators have requested the opportunity to address the Senate on matters unrelated to the pending bill. Therefore, I ask unanimous consent that the period for morning business be extended until 5:45 p.m.

The PRESIDING OFFICER. Is there objection to the request of the majority leader to extend morning business until 5:45?

Mr. RIEGLE. Reserving the right to object, I want to make sure I protect my right to make a comment on the issue that was raised earlier about the time sensitivity of the GSE legislation. I do not want to object, but I do want to have a chance before this debate moves on and other extraneous material comes in to indicate why it is time-sensitive. Can that be accommodated within the Senator's request?

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. The Senator would be able to address the Senate during this period.

Mr. RIEGLE. I need to do if before we go to a situation where there are 10 other subjects raised by 10 Senators. This is the issue. This is the legislation we are trying to get up. And I want to protect my right to be able, in a 2- or 3-minute statement, to indicate why it is time-sensitive today, because that question has been posed, but it has not been answered.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I ask unanimous consent that the period for morning business be extended until 5:45 p.m. and that Senator SIMPSON be recognized to address the Senate, followed by Senator RIEGLE, and then any other Senator who seeks recognition.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request just stated by the majority leader? Is there objection? Without objection, it is the order.

The distinguished Senator from Wyoming.

THE SENATE WILL NOW WORK ITS WILL

Mr. SIMPSON. Mr. President, I will be very brief. I want to say that the delay that was occasioned today, and it was evident, was because the majority leader was attempting to accommodate those on this side of the aisle, and we appreciate that.

I think that we all know that we are going to go on and do some extensive activity in the Senate. The Senator from West Virginia has returned to the Chamber. As he would say, the Senate will now work its will on several various items.

I thank the majority leader very much and appreciate his accommoda-

tion. The delays were occasioned by me.

The PRESIDING OFFICER. The distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Presiding Officer.

#### GOVERNMENT-SPONSORED ENTERPRISES LEGISLATION

Mr. RIEGLE. Mr. President, the question was raised earlier about the time sensitivity of the legislation scheduled for today; that is the legislation on Government-sponsored enterprises, which are principally Fannie Mae and Freddie Mac, these two enormous housing mortgage finance organizations that we have within our Federal system.

I would assert to my colleagues that this legislation in fact is time-sensitive. It is ready to go. I think it can be taken up and settled today.

I might point out, for example, that when we brought this issue up in the committee—and the Senator from Texas, who is lodging the objections today, is a member of the Banking Committee—we were able to settle this issue in about 15 minutes; the bill passed out of the committee with a voice vote. It is fair to say that the Senator from Texas voted with his voice vote against it, but it was reported out by the committee.

It is here on the floor with bipartisan support. It is supported, with the managers' amendment that we are going to be offering, by the administration. A comparable bill passed the House by a vote of 412 to 8.

Why is it time-sensitive? Eighteen months ago—and the Senator from New Hampshire may recall this—coming out of the budget summit there were directives sent off to put committees of the Senate and the House under pressure to perform in certain areas where there was important work needing to be done.

There was a sense-of-the-Senate resolution passed as part of the Omnibus Budget Reconciliation Act, specifically directing that an effort be undertaken to reform the regulation of these GSE's, to examine and strengthen their capital standard position, and also to make any other necessary changes in their function and regulation. We were put under that directive to have it done by September 15 of last year. We were unable to meet that date because we had a major problem in the Federal banking system where we had to provide emergency funding to bail out the Federal deposit insurance system for banks; some \$70 billion of public loans had to be provided along with a series of banking reforms. That took precedence because of its overriding urgency, and the GSE legislation had to stand aside.

But we have since proceeded with the GSE legislation, and it is ready to go.

It reflects a strong bipartisan compromise. And here it is here on the floor today and we can pass it today. This is not something that has to drag on for hours or go on for days, but it is very much time-sensitive.

The reason we were put under that injunction a year ago to move on this issue is that the subject of capital standards and capital strength is very important, because we have seen in one financial sector after another a wash-out because of a failure to adequately monitor the capital strength of some major part of the financial system.

We saw it in the savings and loans. We have seen it in the commercial banking system. Although we do not regulate insurance at the Federal level, we have seen the pileup of certain problems out in that area. And there are others that might be cited.

There are real concerns that while the GSE's today are in a reasonably solid financial position, reforms are needed to make that stronger than it is today. So those reforms are embedded in this legislation. And it is time-sensitive in that respect.

There is another element of time sensitivity. The bill also facilitates enlarged and enhanced mortgage availability, mortgage lending through the purchase of these mortgages when they are originated into the inner-city areas, for the benefit of lower-income people across our country. Lower-income people who qualify and want to buy homes in inner-city locations are finding it very difficult now to do that. With this bill, we enhance the flow of credit through these Government-sponsored enterprises to those home buyers.

We know from the problems we saw in Los Angeles and problems we see in other cities that there is an urgent need to facilitate the proper flow of credit on a nondiscriminatory basis to people in those areas who properly can and should have the financing available to them to buy their own homes. It is one of the ways that we strengthen the fabric of neighborhood life; that we give people some sense we are responding to the problems in those areas. It is altogether necessary and proper that we do so.

That flow of mortgage credit, enlarged as it will be, cannot begin to happen until this legislation is passed. It has to be passed and implemented in order for it to start to have its beneficial effect.

We are here in other committees working on a response to the urban problems in America with other kinds of strategies. This bill is a very specific part of the strategy of response that can start to make a difference, and start to make a difference in building stronger communities. It very much needs to be done.

It has been worked out on a bipartisan basis, supported by the administration, and it needs to be enacted. We

should not wait another day; we should not wait another hour to postpone this. There is no reason to do so.

I know there are other amendments, unrelated to the subject I have just talked about, that someone else may want to offer that the Senator from Texas, who has created the delay, may have objection to in and of themselves. That, to me, is a side issue because those amendments may or may not come up. And his rights are certainly protected to argue against them, in any case, if they are brought up. And the Senate certainly could work its will.

This is an issue ready to go. It is time-sensitive. We should not wait any longer to take it up. We need to strengthen the capital standards of the GSE's. We need to enhance this flow of mortgage credit out into the areas where low-income people predominate who can properly qualify for these loans, so they can become homeowners, and so that you have that additional strength in these communities.

I want to see this move. We have been asked to do this. We have responded with a solid bill, with broad bipartisan support. It is ready to go. There is no excuse for delaying action on this issue, and there is every reason to do it and do it now.

I thank the Chair.

The PRESIDING OFFICER. The Chair will state we are now on morning business, under the unanimous-consent agreement requested by the majority leader.

Under the previous order, each person recognized in morning business will be limited to 5 minutes.

The Chair recognizes the distinguished senior Senator from New York.

Mr. MOYNIHAN. Mr. President, when was the previous order limiting us to 5 minutes?

The PRESIDING OFFICER. I would respond to the distinguished senior Senator from New York by saying it is the interpretation of the Parliamentarian that the unanimous-consent agreement just previously agreed to at the request of the majority leader, by reference incorporates the prior, earlier request in morning business to limit each Senator to 5 minutes.

The Senator, of course, has the right to request unanimous consent for additional time.

Mr. MOYNIHAN. Mr. President, I request unanimous consent I be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection to the request of the distinguished senior Senator from New York?

Without objection, the distinguished senior Senator from New York State is recognized for 10 minutes.

Mr. MOYNIHAN. I thank the Chair. (The remarks of Mr. MOYNIHAN pertaining to the submission of Senate Resolution 319 are located in today's

RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

(The remarks of Mr. RUDMAN and Mr. KENNEDY pertaining to the introduction of S. 2870 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### TRIBUTE—PRESIDENT ANN HELWIG

Mr. SPECTER. Mr. President, Ann Helwig will soon be completing her tour as president of the Pennsylvania Veterans of Foreign Wars Auxiliary. Her record is a testament to a lifetime of dedication to her fellow members and the people of her community. Her achievements are more than impressive, showing a rare dedication to her causes. Ann Helwig has devoted a lifetime to forwarding the welfare of her fellow Americans and, as such, is a great credit to her organization, to her State, and to her Nation.

In conjunction with her husband's leadership roles in the Veterans of Foreign Wars, she joined the auxiliary chapter O'Donnell-Martin-Baldino 7654 on November 11, 1968. From that point forth, she has advanced through the ranks of her organization.

Within her post, Ann Helwig moved through the auxiliary chairs to become president of the post in 1972, she served for three terms. Next, she moved on to become district 12 president, in addition to serving as a trustee for 1 year, the district secretary for 8 years, and the district banquet secretary for 9 years. Lastly, throughout her years in the Veterans of Foreign Wars Ann Helwig held numerous chairmanships at several different levels.

In addition to her Veterans of Foreign Wars Auxiliary responsibilities, Ann Helwig is a member of St. Joseph's Catholic Church, the Friends of St. Joseph, the Ramblers Club, American Legion Auxiliary 608, Past District Presidents Club, Rest Haven Hospital Auxiliary, and the Washington Fire Company Auxiliary.

Her other activities include community service with the Red Cross, Bloodmobile, Cancer Drive, Heart Fund Drive, and many other committees. Ann's husband, Don Helwig, served the United States well in the Pacific Theater in the Second World War.

The activities of Ann Helwig within and outside of the Veterans of Foreign Wars Auxiliary show extraordinary dedication to the common good. The Veterans of Foreign Wars and the State of Pennsylvania are proud of her, and I would like to add my appreciation of her deeds as I take this opportunity to recognize her before the U.S. Senate.

IN RECOGNITION OF ROCKFORD, IL, AS A 1992 ALL-AMERICAN CITY

Mr. DIXON. Mr. President, I am proud to inform my colleagues that the National Civic League and the Allstate Foundation have chosen Rockford, IL, the second largest city in my State, as 1 of 10 "All-American" cities for 1992. I congratulate Mayor Charles Box of Rockford, as well as the Rockford Area Chamber of Commerce and the good people of Rockford for their concerted efforts to build a strong, cohesive, supportive community.

Rockford is a community of almost 140,000 people nestled along the banks of the Rock River in far north-central Illinois. Settled primarily by Swedish immigrants, the area still retains and celebrates its Nordic roots, while recognizing the increased ethnic and racial diversity that constitute present-day Rockford.

The "screw capital of the world" has now properly joined the illustrious ranks of All-American cities, Mr. President.

In selecting Rockford as an All-American city, the National Civic League noted Rockford's outstanding recycling programs. Not only does Rockford lead the State of Illinois in the scope of its programs, it boasts a tremendous level of community participation. Over two-thirds of Rockford's residents recycle, diverting over 32,000 tons of refuse in less than 2 years. Businesses, community groups, city agencies, and individual citizens, working cooperatively, have successfully tackled one of the most vexing problems facing America's communities—how to deal with mountains of garbage. Rockford once again is leading the way.

Rockford has produced many leaders who made their mark on both Illinois and the Nation. Former Presidential candidate John Anderson was from Rockford, as is the current Labor Secretary, and former Congresswoman, Lynn Martin. Former Olympic figure skating champion Janet Lynn was a Rockford native, and social pioneer Jane Addams attended Rockford College.

Mr. President, I am proud to have visited Rockford many times throughout my career, and come to know the wonderful people who so richly deserve this honor.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Montana is recognized.

#### FOREIGN INFLUENCE ON U.S. ECONOMIC AND TRADE DECISIONS

Mr. BAUCUS. Mr. President, I rise today to discuss an issue of critical importance to both the competitiveness of our economy and the integrity of our political system. It is the foreign influence on our Government's economic and trade decisions.

I am making this statement today because I am angry—angry about fundamental problems that are eroding the foundation of our country. I am angry that when it comes to competing in an international economy, America seems to be coming up second best.

I am angry that we do not seem to work together in this country anymore. Our Nation came together to win the cold war and put a man on the Moon. How is it that we cannot manufacture a VCR?

I am angry that old-fashioned ideals about public service and patriotism have been replaced by Wall Street's code of ethics, where the premium is on getting rich quick, at any cost, live for the moment, never mind your neighbor—or any obligation to your country.

Most of all, I am angry that Americans no longer feel like they can trust their Government.

What have we done to foster this? And how can we begin to change? Well, there is no silver bullet, no magic solution. But I do know that when we see something that is wrong, we better start fixing it.

One thing that is wrong today cuts to the very integrity of our policymaking process: How decisions are made in this town, and who is making them.

I sometimes worry that Americans have been hit with so much scandal that they are immune from outrage. But even for the jaded and the cynical, I will wager that the following activities will strike most Americans as fundamentally wrong.

#### WASHINGTON'S REVOLVING DOOR

Today, Washington's revolving door sends many of our highest ranking foreign policy and trade officials to work for America's biggest economic competitors.

The U.S. Trade Representative is our Nation's international trade official. Of the eight former Trade Representatives, four have gone on to lobby for foreign interests. Three of those went to work for Japan, the United States' biggest trade competitor. The same holds true for USTR's senior staff. From 1973 to 1990, half of USTR's senior officials went on to lobby as foreign agents.

As with the USTR, top officials from the Commerce Department and the International Trade Commission have all moved on to lucrative careers lobbying on behalf of foreign interests. Two former Directors of the CIA went on to work for foreign interests.

#### INFLUENCING POLICY DECISIONS

What is the effect on U.S. policy? Part of the problem is that we do not fully know. Much of what happens in this town goes on behind closed doors. But from what we do know, I can tell you that something is wrong.

In an egregious example of foreign manipulation of U.S. trade policy, foreign auto makers in 1989 successfully reversed a U.S. Customs ruling on the

tariff status of multipurpose vehicles, [MPV's]. MPV's are vehicles like the Range Rover or Isuzu Trooper.

Since 1963, trucks imported into the United States have faced a 25-percent tariff. By contrast, cars face a tariff of only 2.5 percent. The issue was whether MPV's should pay the tariff for trucks or cars. In 1989, the U.S. Customs Agency ruled that MPV's were trucks, and therefore subject to a 25-percent tariff.

The ruling made sense. After all, MPV's are built in truck factories on truck assembly lines. MPV's are built on a truck chassis. In fact, when it comes to standards for fuel efficiency, safety, and taxes, foreign automakers themselves claim that MPV's are trucks, since trucks have lower standards in those areas. Unfortunately, common sense and the stake of U.S. taxpayers weren't enough.

Two weeks after the ruling by Customs, the Treasury Department took the unprecedented action of reversing Customs' decision. Four door MPV's were classified as cars, and therefore were subject to only a 2.5-percent tariff.

How did this reversal come about? Foreign auto makers, especially the Japanese, and their domestic subsidiaries launched an all out attack. An army of lobbyists descended upon Congress and the Administration to press their case.

Despite the strong views of the Big Three auto makers and the UAW, Japan's lobbyists prevailed. Perhaps most disturbingly, very few of the lobbyists were registered under laws governing foreign lobbying, laws designated to bring a measure of openness to the lobbying process.

Canada has also taken full advantage of former U.S. officials and lax American laws on foreign lobbying. In a recent administrative proceeding between the United States and Canada over lumber trade, Canadians paid prominent American lawyers and lobbyists more than \$20 million to argue their case. A great deal of this money went to pay former high ranking U.S. officials—State and Federal—to argue Canada's case. Some of these officials had ended their stint in government only a few months earlier.

This lobbying might have been somewhat less worrisome had it occurred in a public forum. But much of Canada's most significant lobbying took place outside of the agency proceeding, outside of public scrutiny. In other words, inside the beltway and behind closed doors.

These activities are scandalous on their face. But there is yet another kicker. As the New Republic recently stated: "The real scandal in Washington is not what is done illegally, but what is done legally." As amazing as it may seem, everything I have described is in compliance with existing U.S. laws.

#### CLOSING THE REVOLVING DOOR

We must close Washington's revolving door. At a minimum, I suggest the following:

First, senior U.S. officials, including Senators, Congressmen, Governors, the Director of the CIA, USTR, the Secretary of Commerce, the Secretary of State, the Secretary of Defense, and ITC Commissioners, should be barred for 15 years from lobbying for foreign interests.

Second, for lower level officials in the legislative and executive branches, a 10-year period should separate Government employment and lobbying on behalf of any foreign entity.

These restrictions would have two positive effects. First, there would be less concern about tapping-in to old friends in an old boys network. Second, more people would enter government service for the right reasons. There would be no promise of a quick windfall after a short stint in public life.

#### BALANCING INTERESTS—THE FOREIGN AGENTS REGISTRATION ACT

It is also time to revisit U.S. laws governing lobbying activities for foreign interests.

As Americans, we are fortunate to live in the most open society in the world. We cherish our first amendment right to free speech. But an open system such as ours is subject to abuses. In the late thirties, for example, Germany's Nazi government used the American press to spread anti-Semitic propaganda.

In response to concerns about foreign manipulation of American media and politics, Congress in 1938 passed the Foreign Agents Registration Act, commonly known as FARA. FARA delicately walked a narrow line. Rather than reduce the risks of an open society by closing channels of speech, FARA responded to concerns about manipulation by requiring more openness.

FARA does not prohibit foreigners or their American representatives from voicing their views. Indeed, it allows contact with the press. It even permits direct lobbying of U.S. political institutions.

FARA's remedy for the pernicious effects of foreign influence is sunshine. In other words, FARA's straightforward goal is to ensure that Americans receiving information from foreign entities know the source of that information. Thus armed, Americans are left to make up their own minds.

Specifically, present law requires foreign entities and their representatives to file a short registration form with the Department of Justice. In meetings with public officials, registrants must disclose the identity of their foreign principal. Twice a year, registrants must file a report with the Department of Justice listing their activities and expenditures.

FARA has significant potential for addressing some of our concerns about

foreign influence. Where it applies, FARA casts a measure of sunshine on the activities of foreign lobbyists.

#### THE LIMITS OF FARA

Unfortunately, FARA's effectiveness is undermined by exemptions.

Two critical exemptions provide mile-wide loopholes in FARA. First, the so-called lawyers exemption exempts from coverage lawyers who represent foreign clients in court or before a Federal agency.

The theory of the lawyers exemption might make sense. In theory, a court or administrative proceeding is a thoroughly public affair. Therefore, sunshine and public scrutiny are built-in to the process. Unfortunately, the theory does not match the practice.

As the United States-Canada dispute over lumber demonstrates, many trade cases turn on activities outside of the agency hearing room, outside of public review, but behind closed doors, and inside the offices of public officials.

A second critical loophole in FARA is the so-called commercial exemption. The commercial exemption removes many U.S. subsidiaries of foreign parent companies from FARA's coverage. Thus, the subsidiaries can lobby without disclosing the interest of the foreign parent.

Let me make one thing clear: I am not suggesting that foreigners—or the Americans who represent them—do not have the right to state their case. The United States has a remarkably open system of government. By comparison to the access rights of Americans doing business abroad, foreign businessmen and their representatives doing business in our country will retain virtually unhindered access to our system.

But when information shapes public policy, U.S. Government officials and the U.S. public have a right to know where the information is coming from. Eliminating FARA's commercial and lawyer exemptions would bring needed sunshine into Washington's murky backrooms.

#### CONCLUSION

I wish that American loyalty alone eliminated the need for a legal prescription. Unfortunately, it is clear that legal steps are needed. There is a lot at stake.

We are talking about the competitiveness of our economy. How can we hope to compete in a tough international economy if our international trade agencies have become farm teams for foreign lobbyists? We cannot.

It is time to rethink the way we do things around this town. Anyone who has not picked up that signal just has not been listening.

It is about team work. Working together to rebuild our country's foundation. It is about personal sacrifice, commitment to a goal higher than driving a Mercedes.

Bottom line—we are talking about the integrity of our political process.

We are right to maintain the world's most open government. But we need to know the source of the information that shapes our political decisions. That is an acceptable balance.

Two years ago Senator Heinz introduced legislation that would have accomplished many of the goals I outlined here today. I intend to use his bill as a starting point for new legislation on the revolving door and foreign lobbying.

It is long past time to address this problem.

#### COLORADO'S PROUD HISPANIC HERITAGE

Mr. WIRTH. Mr. President, among the public policy agendas I will miss when I leave this body at the end of the year is the work we began with the Democratic Hispanic Task Force. Over the years I have talked about the growing political strength of Latinos, and I have been proud of my associations with the Colorado Hispanic Agenda and the Colorado Hispanic League.

Today, I would like to share the thoughts of a good friend, Dr. David Sandoval—a distinguished scholar of Southwestern American and Latino history who teaches at the University of Southern Colorado, in Pueblo. Dr. Sandoval has written extensively on Western history, and a recent piece he finished detailing the story of Colorado's Chicano community is particularly interesting.

The pages of the RECORD are replete with descriptions of our Nation's heritage; we often reference our Constitution's founders, European exploration and Westward expansion. We have all too often neglected our native culture and the contributions of other groups which make up the American story—including Asian Americans, African Americans and Latinos.

With permission, Mr. President, I ask unanimous consent to have Dr. Sandoval's essay, "Colorado Hispanics" printed in the RECORD as follows:

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

#### "COLORADO HISPANICS"

(An essay written for the Colorado Institute for Hispanic Education and Economic Development)

(By Dr. David A. Sandoval)

#### HISTORY

So many flags have crossed Indian trails that the mere use of a term should be sufficient for identifying an era. The Southwest becomes a descriptive label for the area after 1848 while Mexico's northern frontier is more appropriate for the period between 1821 and 1848. The Vice-royalty of New Spain's northern regions followed the Castilian flag to New Mexico where a synthesis of cultures blended from the Indian and Spanish cultures. Thus, the historical perspective of Colorado Hispanics begins with the original inhabitants and encompasses European immigrants who came from the South and the East.

The era of Spanish exploration during the initial fifty year period contributed to the World's self-knowledge unlike anything that had ever occurred. From Cristóbal Colón's initial voyage in 1492 to the return of Francisco Vázquez de Coronado's expedition to Mexico City in 1542, Spaniards explored and colonized throughout the Western Hemisphere and developed trade relations with the Far East.

The first explorers were trying to survive an ill-fated attempt to explore Florida. After the 1528 Narváez expedition was lost trying to sail the edges of the Gulf Coast in horsehide boats, the red headed paymaster Alvar Núñez Cabeza de Vaca eventually reached Mexico City in 1536. Another survivor, the Berber slave Estebanico, was selected to guide a group back north when the three surviving Spaniards refused to go back. A veteran of the Pizarro campaign, a religious man, Fray Marcos de Niza was the official leader of the return group. After Estebanico died on a cross, full payment for insulting the Zuni Indians, Fray Marcos de Niza reported that he had seen a city made of gold. Perhaps the setting sun reflected gold off of the mud structures as the padre returned as a guide for the Coronado expedition.

Spaniards financed their own explorations and Francisco Vazquez de Coronado had to stop his soldiers from sending the priest to join Estebanico. After two years of exploring throughout the region—from the Grand Canyon to Kansas—the Spaniards returned to boards of investigation. Church and State walked together in the Spanish empire and Father Juan de Padilla returned to Kansas as a missionary soon martyred.

From 1542 to the 1590s the Spanish sent only two types of expeditions into the north—missionary and rescue expeditions. The first entry of Spaniards into what became Colorado was in 1593-94 when an unauthorized expedition led by Francisco de Leyva y Bonilla and Antonio Gutierrez de Humana ventured into southeastern Colorado. The entire expedition was lost without benefit of clergy and a Colorado river gained a name—Rio de Las Animas Perdidas [River of the Lost Souls]—the Purgatory.

Phillip II decided that the New Mexican region should be colonized so that the Spanish culture and religion could be extended. To that end he authorized a colonizing party under the leadership of Juan de Onate to settle in New Mexico in 1598. To encourage settlers he bestowed the title of nobility upon them and their descendants in perpetuity. The normal length of noble status was two generations and this unique honor was remembered in 1810 when the first representative to the Spanish Parliament from New Mexico, Don Pedro Pino, took his seat.

Spanish settlement remained constant between 1598 and 1821 with the exception of the 1680 Pueblo Indian insurrection but many of the families driven out returned under the leadership of Don Diego de Vargas in 1693. The issue of religion had been at the heart of the revolt and Spaniards continued their efforts to bring Indian souls into the Church and State. One of the first expeditions to come into Colorado was led by Juan de Ulibarri in 1706 when he led soldiers to capture runaway Indians along the Rio Napeste [Arkansas]. Ulibarri named the region the Province of San Luis before he returned to New Mexico. Other Spaniards travelled through Colorado in the 18th century. Fray Francisco Atanasio Dominguez and Fray Silvestre Velez de Escalante sought a route to California but returned before they reached their destination in 1776.

The desire to establish communications and trade routes must have been great for New Mexicans as their community was isolated from the centers to the south. The government even required a triennial caravan to take supplies north to the colonists. These intrepid pioneers faced hostile Indians completely surrounding them while the major road south crossed through the infamous Jornada del Muerto [Journey of the Dead]. Seventy miles of desert without water combined with bandits and Indians contributed to the unique cultural synthesis in New Mexico. While efforts were made to expand settlements, the majority of communities located along the Rio Grande in the Rio Arriba and Rio Abajo areas.

Spanish troops were never in great number on the frontier and citizens belonged to a militia that alternately traded or raided with the Indians. Traders with the Comanche Indians became known as Comancheros while Juan Bautista de Anza defeated the Comanche chief Cuerno Verde in 1779. Greenhorn Mountain overlooks the eastern plains and commemorates the famous battle. To populate was to pacify and the Spanish attempted to establish communities in southern Colorado. In July 1787 San Carlos de los Jupes was built near present day Pueblo but it was abandoned the following January after the death of a woman.

The Spanish began to consider Americans their rivals after 1803 more so than they had considered the French. The mercantilistic policies of Spain prohibited trade with New Spain except through the ports of Vera Cruz and Acapulco. French craftsmen and trappers were allowed into the region in limited numbers after the French victory for the Spanish throne in the early 18th century. Whenever smugglers and illegal trappers were found in Spanish territory, they saw the inside of Spanish jails.

When Zebulon Pike came into Colorado he followed the trail of Don Facundo Melgares who was meeting with Pawnee tribes to make common cause against Americans. A fort was built by the Spanish at the Sangre de Cristo pass in 1819 but was abandoned after the Adams-Onis treaty between the United States and Mexico.

Even though settlers in New Mexico were starved for manufactured goods they traded with Chihuahua merchants who held a monopoly. New Mexican culture was shaped by its isolation and the language spoken in southern Colorado still retains a Spanish colonial flavor. Spain's other institutions were also brought to the frontier and a caste system reinforced differences between peoples on the basis of blood mixtures—or money, if one purchased the royal proclamation "Gracias a Sacar" [Thanks to get out]. While detribalized Indians [genizaros] took on Spanish names and actions, the *Gente de Razon* [people of reason] took the highest offices.

The New Mexican frontier was no different than other Spanish frontiers and many mixtures came about. The synthesis was cultural as well as biological as unique artists, Santeros, began to reflect their reality. Los Hermanos de Luz, the penitentes, continued their responsibilities to assist their neighbors and re-enact biblical stories. Jonah and the Whale would make no sense to the new Mexican who caught trout in New Mexican streams but the Capitan and the Buffalo would convey the message. From the first European play performed in what is now the United States, "Los Moros y Los Cristos," to contemporary performances by Teatro groups the culture has been dynamic. While

culture changes, the desire to retain the values of society has remained constant as well.

In 1821 the Spanish colony of New Spain became the country of Mexico. The tricolor of Mexico symbolized the three guarantees promised by patriots. For isolated New Mexico celebration complete with patriotic speeches and dancing marked the beginning of independence. When Spain made an attempt in 1829 to regain its colony, Mexico ordered every Spaniard out of Mexico. This was the occasion of the first white women to travel across the Santa Fe Trail as they went east to the United States. But 1821 really meant that the frontier was opened up to Americans. Facundo Melgares who had been on the plains in order to defend the Spanish empire now sent out soldiers to bring in Americans to start a legal trade. William Becknell would be the first and is touted as the Father of the Santa Fe Trail. When he returned to Missouri and dropped Mexican gold and silver on the cobblestones, the echo signaled American traders and trappers that the frontier was open.

The Mexican period [1821-1848] also saw expansion beyond the Rio Grande River valley as Mexicans began to establish communities along the Pecos River and the front range. Mora became home to buffalo hunters as did Las Vegas in the 1820s. The Mexican government even began to give land grants in areas of Colorado. The Gervacio Nolan grant was awarded in 1843 as were the Sangre de Cristo Grant to Stephen Luis Lee and Narciso Beaubien as well as a grant to Cornelio Vigil and Ceran St. Vrain. The first land grants were awarded to the Tierra Amarilla site in 1832 and the Conejos Grant in 1833. While these grants were given they were not settled permanently until after the war with the United States.

Many Mexicans began to engage in trade with the United States and the commerce opened up additional opportunities for employment. Some Mexican merchants, such as the Otero and Chavez families, sent their children to college in St. Louis along with American frontiersmen like the Bents. This era of cooperation prepared the New Mexicans for the subsequent period after the conquest. Very early on, New Mexicans learned how the American system worked and one Mexican Governor sent his child to study in the United States with the comment that he should go and learn English and come back prepared to defend his people as the "heretics" would soon conquer.

In 1848 a different imaginary line was drawn between two nations by the Treaty of Guadalupe-Hidalgo. Certain rights were granted former Mexican citizens but many wished to retain their Mexican citizenship and relocated to the Mesilla Valley only to be brought into the United States in the Gadsden Purchase of 1853. While the line was only imaginary and immigration continued along the border, the national experiences differed between those New Mexicans incorporated through war into the United States. They and their descendants are often called *Manitos* which derives from *Hermanitos* [brothers]. Through the latter years of the nineteenth century when massive migration from Mexico began, because of the pull of the economy and the push of revolution, distinctive terms were coined and used.

Manitos began to expand into Colorado in San Luis in 1851 while San Pedro is dated in 1842 and San Acacio in 1853. The settlement at Ft. Pueblo was massacred on Christmas day 1854 but regional communities began to expand throughout southern Colorado. New Mexicans along the eastern slope in commu-

nities like Mora and Las Vegas began to come into the Trinidad area, while the San Luis area was settled by people who hailed from Taos and Conejos was settled by people from Tierra Amarilla.

The American government had promised to pacify the Indians in the Treaty of Guadalupe-Hidalgo and they began a program of building military forts throughout the Southwest. Ft. Garland was associated with Ft. Union as wagons of supplies poured over the Santa Fe Trail. In August of 1858 newspapers blared the news that gold was discovered in the Kansas Territory and the fifty-niners began a run into Colorado that rivaled the previous decade's dash to California.

War and politics led to the creation of the Territory of Colorado and the Assembly met in Denver with twenty-two members including Jesus M. Barela and Jose Victor Garcia. From 1861 to 1876 Manitos served in the territorial assemblies and 9th Assembly saw ten Hispanics out of thirty nine members. The tradition would continue through the turn of the century as Casimiro Barela became the "perpetual Senator" and his supporters elected him even if he changed political parties. Colorado could thank its Hispanic citizens for more than governmental leadership as it could thank them for contributions in the livestock industry, the mining industry, railroad development, military service, and as citizens in every endeavor.

The nineteenth century had its share of hardship as Chicanos were cheated out of landgrants by the "Golden Crowd." In 1863 two brothers began a reign of terror that ended with their deaths and that of a nephew at the hands of vigilantes and Tom Tobin. The heads of the Espinosas rolled across the floor at Ft. Garland and ended the fear that swept Colorado from Denver to New Mexico. But the legacy of the Espinosas would be recounted in poetry, song, and legend. The symbolism became more important than the reality.

While the Espinosas fought the authorities, New Mexicans volunteered to fight the Confederates and persons like Trinidad's Jose Rafael Chacon began a record of military distinction that is unmatched to this day.

In Mexico, the country faced the military occupation of the French. While the early victory of Cinco de Mayo acquired its significance as a day of hope during the occupation, many Mexicans began to cross the border to safety. El Paso del Norte was renamed Juarez after the full-blooded Zapotec Indian President who led his people against the French empire. The Reforms of Juarez gave way to the dictatorship of Porfirio Diaz who controlled the country from 1876 to 1911. Porfirio Diaz was praised by foreign business as he developed sweetheart arrangements with them. Not only was Mexico open to foreign exploitation and land policies which made an agricultural people destitute, but Diaz used Mexican labor as an exportable commodity. When William J. Palmer envisioned a railroad that ran from Mexico City to Denver, he brought in Mexican labor. Manitos continued to ply their trades in animal husbandry while Mexican nationals were brought to work in numerous industries. Manitos also began to work in the Rockefeller mines and industries in southern Colorado. The tariff policies of the United States encouraged the development of sugar and industries like Great Western Sugar joined other companies who found that Mexican labor served their needs.

When the Mexican Revolution broke out in 1910 the first in massive waves of immigrants

began to flood the United States. When one faction lost, many followers escaped to the United States. The greatest number of immigrants were probably those who were fleeing the civil war as one could be drafted by any side. The followers of Pancho Villa, Venustiano Carranza, Pasqual Orozco, and even Emiliano Zapata sought refuge in the United States in the early decades of the twentieth century. The 1920s saw many religious refugees as the government and the "Cristeros" were at odds. Many of these refugees were educated and provided a level of leadership within a community which was being excluded from educational institutions.

In California, anti-immigrant demagogues began to rail against the "Brown Scare." But in Colorado Mexicans and Manitos were welcomed until the Depression of the 1930s led to Colorado's brand of demagoguery. In 1935 Governor Ed Johnson proposed to put Mexicans into a military camp and in 1936 he declared martial law and sent troops to the southern border to keep Mexicans out. When he was asked how one was to tell the difference between Mexican citizens and those of Mexican ancestry, he replied that if they had money they were United States citizens.

The era of the 1930s saw a "back to Mexico" movement where among five hundred thousand repatriated Mexicans, fifty thousand Chicanos were deported from their country and sent to Mexico. One should not be surprised that Manitos began to differentiate between themselves and Mexicans arriving in the twentieth century. First, the American media portrayed Mexicans in the most negative light. Then if you were identified as a "Mexican" you could get sent out of your country. While Chicanos had developed *mutualista* organizations to provide for health and death benefits, the 1930s saw many Colorado communities with one organization for the Manitos and another for recent arrivals who were often called the pejorative term *Suramato*.

In addition, the Mexican Revolution significantly changed the culture of Mexico while the Manitos only went through the Revolution vicariously. Jose Vasconcelos attacked the Spanish Caste system and the racists of his day by developing the concept of la Raza Cosmica. He reinforced the new identity by incorporating Indians through schools as well as the muralist movement. The Revolution provides much of the base for contemporary Mexican culture—in music, art, politics, and self identity.

To many Mexicans escaping the Revolution, the Manito fascination with the Spanish caste system was pretentious. To many Manitos the reality of an isolated existence of over two hundred years along with regional communities had meant the development of a *Patria Chica* concept. Sure they acknowledged historical ties but they also believed themselves to be distinctive and different from the more recent arrivals. Even when Governor Johnson declared martial law a group of Pueblo citizens organized the Americans of Spanish Descent to support his efforts against the Mexicans. While Johnson couldn't tell them apart, Mexicans could.

The beginning of World War II saw a new need for Mexican labor and the Bracero Acts began to fill labor needs throughout the Southwest. Mexican nationals joined the Texan migrant stream in eastern and northern Colorado while Manitos and Mexican nationals worked in the San Luis Valley and on the Western Slope. Chicanos became an urban people in 1940 and colonias gave way to inner city barrios. In Pueblo almost the

entire community of Cerrillos New Mexico came to work at the Pueblo Army Depot and settled on the east side while the colonia at Salt Creek provided labor for the mill next door. The steel industry needed more workers and Chicanos began to fill the ranks of labor as quickly as the military ranks.

World War II not only brought a new migration, new industries, it also brought new opportunities as veterans returned to strive for education and economic mobility. American social scientists were often as baffled as Big Ed Johnson when it came to Mexicans and up until 1930 they wrote that the reason that Chicanos did not excel in American education was that the Chicanos were biologically inferior for genetic reasons. Between 1930 and about 1965 most social scientists rejected the genetic argument but began to assert that it was the culture of the Chicano that held them down. Of course all the evidence pointed away from Chicano culture but many institutions began efforts to "Americanize" Chicanos—"No Spanish" laws became common in education.

At the turn of the twentieth century Anglo missionaries had come to southern Colorado for the same purpose and they had the same effect. Chicanos were fervently in favor of cultural retention. Never reluctant to accept new cultural characteristics, but always determined to retain the cultural base best describes attitudes. Chicanos were willing to acculturate but not assimilate as they reasoned that a person was at a disadvantage if English was not spoken and they could still retain the Spanish language. There were some who believed that they could melt into an American stew and as they did, their community continued to suffer discrimination and racism.

As the Civil Rights movement gained impetus with the 1954 *Brown v. Board of Education* decision American society seemed to view itself with a black or white perspective. Not until 1960 when the success of the Viva Kennedy clubs encouraged ethnic organizations did Chicanos command a place on the national agenda. Even though Operation Wetback in 1954 meant national discrimination against Chicanos, a national voice was not heard in the 1950s with the lonely exception of the champion of Chicano Civil Rights, New Mexico's Senator Dennis Chavez.

Chicano Civil Rights leaders took encouragement from Johnson's War on Poverty but rising expectations quickly led to frustration. By 1966 a group of conservative Manitos formed the New Hispano Party and Democratic Party leader Rodolfo "Corky" Gonzales appealed for them to remain in the Democratic Party. By 1967 Corky had broken from the Democrats and began his Crusade for Justice. Corky based his movement on cultural nationalism and while others would compromise with political factions, his idealism pushed for an independent metaphysical nation of Aztlan.

Direct action tactics followed the 1968 Blow-out at West High School in Denver while Chicanos began to organize under numerous rubrics. Richard Castro and Mario Padilla were beaten by the police in Curtis Park; Rep. Betty Benavidez staged a hunger strike in the Capitol to support the farmworkers; La Raza Unida ran candidates like Sal Carpio for Congress; community riots took place all over the city of Denver while activists marched from throughout the State protesting the lack of parity, equity, and self-determination; Denver School teachers organized the Congress of Hispanic Educators [CHE]; Ricardo Falco and a former Colorado legislator were killed in events sur-

rounding the Raza Unida convention in El Paso; Luis Martinez was killed on March 17, 1973 when the Crusade was bombed; six students were killed in Boulder in 1974; and Chicanos continued in their efforts despite numerous obstacles.

The Colorado Chicano continues to attempt to realize all the benefits of full citizenship in the face of a complex history that is ignored by most Americans who view them as all the same. The issues have remained the same since 1958, a desire to preserve culture and build a society

#### CULTURAL CHARACTERISTICS

Culture is often defined as the ways people live. Material culture includes physical items used by a people to exist. For example, one should wear a wide-brimmed hat in the desert sun, a sombrero. But wearing a sombrero does not make a Mexican.

Material culture can reflect the values of a society such as the same santero art of southern Colorado. While culture is dynamic and changes as often as people change through technology or political events, there are certain values conveyed through time among groups. National groups are often made up of numerous ethnic groups and when one begins to describe the culture of the Mexican one should be aware that a political term is used to describe various ethnic groups. *Mexicano* is usually accepted as a cultural term but is translated as a political identity.

Is there a prototype American? Is there a prototype Mexican? What values and culture emerge because of life-style? Are there differences between a rural agrarian people and an urbanized society? What values can be seen in an agricultural people beyond ethnicity and national origin? What role has the media and scholars played in defining the Culture of the Chicano?

If one remembers the history of the Chicano, one should remember that the historical legacy of animosity between England and Spain continues to affect American educational institutions. Not only the sixteenth century Black Legend but twentieth century racism, bigotry, and ignorance shape relationships between Chicanos and their fellow citizens. Some social scientists even equate the Culture of Poverty with the Culture of the Chicano and while one must agree that many Chicanos are caught in the cycle of poverty one must be careful to not equate an ethnic culture with an economic one. There is nothing within the Culture of the Chicano that ties it to ignorance or poverty.

If one imagines a wheel with various ways of living listed in segments of the wheel between the spokes, one may get a glimpse of Chicano Culture. In one segment is customs, in another is occupation, yet another food and clothes. The outer rim of the hub is the means through which these non-salient characteristics begin to shape the inner values—that outer rim is language and family. The salient values are those cultural characteristics that make up the real values of a society such as respect for the elderly and religious values. Each wheel is unique to its time but the wheel is evolutionary and continues to turn—often times changing the non-salient characteristics [celebrate the 4th of July as well as 16th of September]—while the internal values are altered less often.

Notwithstanding various interpretations, several values have continued through the synthesis of Indian and Spanish cultures and through the American experience. The Indian and Spanish sense of regional identity continues to shape relationships among people generically called Hispanic by the Amer-

ican government. The Indian value of living in harmony with the environment seems to be much more limited since the urbanization of the Chicano in 1940. The Spanish sense of caste was altered for many by the Mexican Revolution but Manitos continue the belief in the "fantasy heritage." The Spanish language and system of extended family [compadrazgo] continues after more than ten generations for many in the United States. The value of respect for the elderly continues as demographics indicate. The role of religion continues although it is not as strong as before the urbanization. The Spanish and Indian value of clan, family, and regional community continues. The participatory legacy of Manito politics continues although it has been declining in recent years. The historical value of great respect for education continues even through the realization of education remains a dream for many.

#### DEMOGRAPHICS

When one reviews demographics regarding Chicanos a clear pattern emerges since 1930 when the national government began to differentiate in statistics. In almost every category Chicanos fall behind their fellow citizens. In some areas the values placed on family and respect for the elderly become apparent.

I. Colorado—1990 Colorado Hispanic population 424,302—13 percent.

Metropolitan Areas:

Colorado Springs 34,473—9 percent.

Denver-Boulder 226,200—12 percent.

Fort Collins 12,227—7 percent.

Greeley 277,502—31 percent.

Pueblo 44,090—36 percent.

Counties:

Adams 49,179—19 percent.

Alamosa 5,254—39 percent.

II. 1990 National Hispanic Demographic Characteristics.<sup>1</sup>

A. 21.4 Million—8.6 percent of total population. This number is often described as an undercount.

B. National Origin of 1990 Hispanic Population:

62.6 Mexican;

11.1 Puerto Rican;

4.9 Cuban;

13.8 Central/South American;

7.6 Other Hispanic [This number includes persons who identified themselves as one of the following: Spain, Hispanic, Spanish-American, Hispano, Latino, La Raza, etc.]

C. Labor Force participation:

Hispanic origin males 78 percent.

Hispanic origin females 51 percent.

Non-Hispanic males 74 percent.

Non-Hispanic females 57 percent.

D. Poverty:

Family poverty—1 in every 6—17.9 percent in Poverty.

Hispanic families below the poverty line 25 percent—Non-Hispanic 9.5 percent.

Family maintained by 65 year old or older 17 percent—Non-Hispanic 5.9 percent.

Hispanic Female maintained home 48.3 percent—Non-Hispanic 31.7 percent.

Hispanic Persons in poverty 28.1 percent—Non-Hispanic 12.1 percent.

Hispanic Children in poverty 38.4 percent—Non-Hispanic 18.3 percent.

Unemployment rates:

Hispanic 10.6 percent.

Non-Hispanic 7.8 percent.

Marital Status:

Hispanic single 32.6 percent. Non-Hispanic 26 percent.

<sup>1</sup>García, Jesus M. and Patricia A. Montgomery. "The Hispanic Population in the United States: March 1991" Series P-20 No. 455. Issued October 1991.

Hispanic married 56.7 percent. Non-Hispanic 58.4 percent.

Hispanic divorced 6.8 percent. Non-Hispanic 8.3 percent.

Hispanic widowed 4.0 percent. Non-Hispanic 7.3 percent.

Hispanic Married couple families 69 percent. Non-Hispanic 79 percent.

Hispanic female maintained 24 percent. Non-Hispanic 16 percent.

Hispanic male maintained 7 percent. Non-Hispanic 4 percent.

Hispanic Family size 3.80. Non-Hispanic 3.13.

Hispanic 5 or more members 29 percent. Non-Hispanic 13 percent.

Mexican origin 5 or more 34 percent.

Income and Earnings:

Hispanic household income 22,300

Non-Hispanic 30,500.

Hispanic incomes below 10k 21 percent

Non-Hispanic 15 percent.

Hispanic incomes above 50k 13 percent

Non-Hispanic 25 percent.

Person's income:

Hispanic Male less than 25k 77 percent.

Non-Hispanic 55 percent.

Hispanic Male over 50k 4 percent.

Non-Hispanic 13 percent.

Hispanic Female less than 10k 50 percent.

Non-Hispanic 41 percent.

Hispanic Female more than 25k 12 percent.

Non-Hispanic 20 percent.

Family income:

Hispanic 23,400.

Non-Hispanic 36,300.

Puerto Rican 18k.

Mexican 23,200.

Cuban 31,400.

Person's income:

Hispanic Male 14,100.

Non-Hispanic 22,200.

Hispanic Women 10,100.

Non-Hispanic 12,400.

#### CURRENT CHALLENGES

Education is often viewed as a measure of success in the United States and the American Council on Education reported that between 1985 and 1989 the Hispanic high school completion rate declined. "There are no neutral educational systems. It is impossible for me to think about education without considering the question of power." Paulo Freire (April 1990) *Omni* V. 12, #7: 74, 93-94.

Education is but the tip of the iceberg which causes such damage within the Colorado community. Mechanisms of domination have long been used by individuals who exploit Chicanos and those who have not realized their institutional responsibilities.

Confusion in respect to identity serves irresponsible public servants well. Recruitment of "Hispanic" teachers especially in higher education instead of Chicanos allows institutions to hire Third-World elites and usurp the purpose of Affirmative Action. Institutions of Higher Education in Colorado continue the push out rate of Chicano students while Mexican nationals do better in American schools than Chicanos.

Poverty continues to take its toll among Colorado Chicanos while negative stereotypes foster images which support a secondary citizenship. Chicanos are viewed as the latest immigrants and as foreigners in their native land. The coercive power of the State is used through human delivery systems and is reflected in the number of incarcerated Chicanos versus those employed within the Department of Corrections. There were twice as many Chicanos in State Prison [951] than those who graduated from a Colorado college with a Baccalaureate degree in 1985 [477].

The challenges that face Colorado Hispanics are keyed to Demography, Depend-

ency, and Domination. Chicanos are the youngest fastest growing ethnic minority in the nation. They are also a focused population with the largest group of Chicanos located in the Southwest and in Illinois while Florida contains the largest concentration of Cubans and New York reflects a Puerto Rican constituency. The future calls for bilingual day care centers, diversity in education, diversity in trade and commerce, and parity as well as equity in employment.

The global village faces its greatest challenge given the environmental disasters ignored by world leaders. A microcosm of world interdependency can be seen within the Hispanic community. While many suffer the ravages of poverty and simply try to survive, political leaders ignore the natural resource talent of bilingual citizens in a world community. Demagogues like former Governor Richard Lamm curry favor from racists as he scapegoats Mexicans and denigrates the potential benefit for American society. This latter dimension of Domination can only be altered through collective action and the building of alliances. The English Only Movement passed in Colorado and it gains strength from myopic political leaders.

#### ASPIRATIONS

The goals of the Hispanic community in Colorado remains fairly constant—a desire to live through the content of their character without bigotry, racism, or hatred. To achieve that goal Hispanics have realized that they have to organize, to challenge, and to critically address major issues within society.

Mr. WIRTH. Mr. President, I yield the floor and 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### TRIBUTE TO DINO ZAGAMI

Mr. BYRD. Mr. President, there may be several of us here who remember a friend who was a long time servant of the Senate, Mr. Placidino Zagami. We all knew him as "Dino."

I regret to apprise the Senate of the passing on June 15 of Dino. He was 78 years old. He died of congestive heart failure at his home in Hyattsville, MD. Those of us who remember Dino will recall that he served a cumulative 34 years with the Office of Official Reporters. He retired in 1972 as the special assistant to the Secretary of the Senate. He was a native of this city, and he resided in Washington and in the metropolitan area his entire life. His only absence occurred in the years 1942 through 1946 when he left to become a member of the 4th Armored Division, 3d Army, during the Second World War. He participated in the D-day invasion landing at Utah Beach and then fought with his division through Europe into Germany under the command of the late Gen. George S. Patton.

Dino earned 5 battle stars while serving in the European-African-Middle Eastern Theatre. Among the major campaigns he fought in were the Battle of the Bulge and the Battle of Bastogne.

He and three other soldiers captured more than 600 enemy prisoners, and for his wartime efforts and gallantry, Dino Zagami was awarded numerous medals and commendations, including the Bronze and Silver Stars, the Purple Heart, the French Fourragere with Cluster, and the World War II Victory Cross.

Upon the conclusion of World War II, he returned to the Nation's Capital, where he was admitted to the Old Mount Olivet Veterans Hospital for the treatment of wartime injuries from which he had not yet fully recovered. After his military discharge and hospital release, he married his wartime sweetheart, the former Rosemary Anastasi, also a native Washingtonian. He then returned to government service, this time working for the U.S. Senate, where he remained for the duration of his career.

He worked in the Senate Chamber as a special assistant to the Secretary of the Senate, and after his retirement in 1972, he continued to reside with his family in the Washington, DC, area.

I wrote Dino a letter on December 16, 1970. He was still with us at that time working in the Official Reporters Office, and I will read that letter.

DEAR DINO: As the Christmas Season approaches and the year draws to a close, I am reminded of the many advantages which I have enjoyed during the current year. Among them is the splendid cooperation extended me by you, which has allowed me to render my best assistance to the people whom I represent here in the United States Senate. You have enabled me to be of service to the people of West Virginia.

Please accept my grateful appreciation for your assistance and my best wishes for the happiest of holiday seasons and a brighter year in 1971.

With gratitude and good wishes, I am  
Sincerely yours,

ROBERT C. BYRD,  
U.S. Senator.

Then, in 1972, Dino went to the hospital and I wrote him a letter on January 20, 1972.

DEAR DINO: I cannot tell you how surprised and sorry I was to learn that you are in the hospital. I can tell you, however, that, even though the session is just two days old, you are sorely missed.

No one has ever been so attentive to every Senator's request with regard to matters concerning the Congressional Record, and this has developed in us a real dependence on you. You have a reputation for your genuine interest in your work and in serving the Members of the Senate. I, personally, know how much you care, because I have called upon you many times, in your office and at home in the evening, and you have always been most helpful. Yours is a very demanding work, and the pressures upon you are great when we are in session, but you are always pleasant and cooperative in every way.

Mr. President, I will not read the rest of the letter. That will suffice for now.

The PRESIDING OFFICER. The Chair will remind the Senator that his 5 minutes under the morning business agreement has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 3 minutes.

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

Mr. BYRD. Mr. President, that will suffice. Those expressions of mine on January 20, 1972, will suffice not only for my feeling toward Dino at that time but also for my feeling today as I recall his helpful work to those of us who were Members during those years.

He was always most helpful, always cooperative, and considerate and courteous. He loved his work. He loved the Senate. And I know that I speak for a number of my colleagues who knew Dino personally as well as the numerous staff members with whom he worked in expressing to Mrs. Zagami and Dino's family our sincerest condolences, and again recalling the appreciation and gratitude that the U.S. Senate owes a man who served this institution and his country so faithfully, so unselfishly, and so tirelessly throughout his life. Indeed, if institutions possess the faculty of memory, I feel safe in saying that Dino Zagami will be remembered a long, long time by the U.S. Senate.

We are all so busy, Mr. President. We often think of our friends who have retired and we think someday perhaps we will get to see them again. We hope there will come a time when we will have the opportunity of greeting them again; but, before we know it, that opportunity is snatched away and we are too late.

It reminds me of a bit of verse which I shall try to remember in closing.

Around the corner I have a friend,  
In this great city that has no end;  
Yet days go by and weeks rush on,  
And before I know it a year is gone;  
And I never see my old friend's face,  
For life is a swift and terrible race.

He knows I like him just as well,  
As in the days when I rang his bell,  
And he rang mine; we were younger then,  
But now we are busy tired men;  
Tired with playing a foolish game,  
Tired with trying to make a name.

Tomorrow I say I will call on Jim,  
Just to show that I am thinking of him;  
But tomorrow comes and tomorrow goes  
And the distance between us grows and grows;  
Around the corner, yet miles away,  
Here's a telegram, sir—Jim died today.  
And that's what we get and deserve in the end,

Around the corner a vanished friend.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

#### INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MOYNIHAN. Mr. President, on December 18, 1991, the President signed

the Intermodal Surface Transportation Efficiency Act of 1991 into law. This is the most significant piece of transportation legislation passed by the Congress since the Federal-aid Highway Act of 1956. At a hearing of the Environment and Public Works Committee on May 14 our first Secretary of Transportation, Mr. Alan S. Boyd, called it breakthrough legislation.

As with all such major bills, this one contained some provisions not directly related to surface transportation. These ranged from the construction of a border station in Minnesota to the naming of a boat ramp in Tennessee.

Also included was language relating to the construction of a Federal courthouse in Brooklyn. The Eastern District of New York which includes Brooklyn, has one of the highest drug caseloads in the Nation. Its jurisdiction covers LaGuardia and John F. Kennedy Airports and much of the New York coastline. In 1989, the Judicial Conference of the United States, headed by Chief Justice Rehnquist, declared that the situation of the Federal courts in Brooklyn constituted a "judicial space emergency," the first and only such declaration ever. Juries were meeting in closets and files were being stacked in hallways. This alarmed me. Senator D'AMATO and I wrote to Mr. Richard Austin, the Administrator of the General Services Administration, to ask what was to be done.

The GSA responded with a plan. They would lease the Brooklyn Post Office at Cadman Plaza from the U.S. Postal Service and, while preserving the existing facade, reconstruct it as a courthouse. The Brooklyn Post Office, which is directly across the street from the court's present location, is a spectacular building not unlike our Old Post Office here on Pennsylvania Avenue. This was a grand idea, and the judges approved.

Still it seemed that nothing was being done. On November 4 I wrote Mr. Austin again. Mr. Austin replied that he had a proposal, and that his staff would provide it to my staff. In order to move things along, GSA asked my staff if we could offer an amendment to authorize the project. At this point the transportation bill was in conference, and my staff went to the House staff and asked if there would be any objection to including a no-cost authorization for the Brooklyn project in the bill. There was none, and the language was inserted in the conference report.

After the conference report passed, OMB undertook to score the bill. To everyone's surprise, OMB ruled that the cost of the entire courthouse project would be scored against the transportation bill. This was new. The intent of the amendment—that is, my intent and GSA's intent in proposing an amendment and drafting language—was never this. Our plan was to authorize the project and seek appropriations

in the coming year to move it along. In my 15 years of the Environment and Public Works Committee I have authorized dozens of GSA projects and I have never seen one treated this way. But there you are.

And things got worse. The courthouse was "scored" not at its projected \$457 million cost, but at \$998 million. What's more, the CBO had originally proposed that it be scored at \$3.5 billion. Something was going very wrong.

All this was happening after the transportation bill had been sent to the White House. Congress had adjourned for the year and nothing was to be done but wait for the new session to begin in January. All could be set right then. On December 11 I wrote Mr. Austin and then-Secretary of Transportation Sam Skinner stating my intention to seek the earliest possible repeal of the provision. I drafted legislation to do just that.

Meanwhile, on February 4, the Senate and the House acted on H.R. 4095, a bill to extend Federal benefits to unemployed workers. Under normal circumstances this would not affect transportation spending or my effort to repeal the courthouse authorization. But these are not normal times.

I will do my best to explain. The Brooklyn project is expected to cost \$457 million. OMB withheld \$998 million to pay for it—a \$541 million discrepancy. Why? This was the result of a little-noticed provision in the transportation bill. It reads as follows:

#### SEC. 1004. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause (1) the total outlays in any of the fiscal years 1992 through 1995 which result from this act to exceed (2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992, then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

Of course. Well, perhaps I should summarize.

To comprehend what happened one must distinguish between obligations on the one hand and outlays on the other. Take our courthouse: \$457 million would be obligated for the project in 1991, and this money would outlay little by little over the next 5 years. Obligations occur when the Government commits money at the outset of a multiyear project. Outlays occur over several years as money actually gets spent.

Experience tells us that highways are built more quickly than buildings—that is, their outlays occur sooner. Specifically, highway projects outlay mostly in years one and two and building projects outlay mostly in years three and four. Simple enough.

Well, maybe not.

The budget compliance language I cited a moment ago has the effect of creating outlay caps for each year of the transportation bill. This is the source of our problem. OMB declared that \$457 million must be obligated in 1991 to build our courthouse, and using this money for a courthouse instead a highway means higher outlays in 1994 and 1995. This is balanced by a commensurate outlay reduction in 1992 and 1993, but, evidently that doesn't help. That would make too much sense.

All that mattered to OMB was the violation of the 1994 and 1995 outlay caps. To prevent this, OMB decreed that more than \$457 million would have to be cut back. The figure they came up with was \$998 million. Crystal clear.

So for better or worse, \$998 million was set aside to pay for a \$457 million courthouse. So what happened to the extra money—\$541 million? The answer is, nothing. At least not at first. It was simply classified as savings.

As it turns out, savings can be spent, which is what happened. Our \$541 million was snapped up 9 legislative days after Congress returned to session in January. The unemployment bill that passed the Senate on February 4 needed to be paid for. What better source of funds than already existing savings?

Now, to restore the full amount of funds that had been mistakenly withheld for the courthouse—\$998 million—it seemed we would not only have to repeal the courthouse provision, but find \$541 million to pay for it. Impossible? Still I felt I should try.

On March 24 the Senate took up and passed my S. 2398 by unanimous consent and sent it on to the House. The bill would have restored the full \$998 million. In the House, the Committee on Ways and Means made it clear that it would not allow this bill to become law. Strike one.

It became clear that the most we could hope to do was restore the funds actually allocated to the courthouse. The money that had gone for unemployment benefits, I now understood, was gone for good. And so we drafted a new bill, S. 2641, which was sponsored by myself and Senators BURDICK, CHAFEE, SYMMS, SASSER, and DOMENICI. On April 30, OMB issued a statement of administration policy saying, "The administration supports enactment of S. 2641." On this same day the Senate took up and passed the bill by unanimous consent.

This second bill was drafted to satisfy the objections of the Ways and Means Committee. Rather than restoring the full \$998 million, the new bill would restore only the money that we had in hand, you might say. One would think that this would be \$457 million—the cost of the courthouse. Evidently not. An April 29 memorandum from the Senate Budget Committee explained:

The Congressional Budget Office and the Office of Management and Budget have de-

termined that \$369 million is the maximum amount of highway obligation authority that can be restored by repealing the direct spending for the Brooklyn Courthouse without causing a pay-as-you-go sequester.

There you are. And so I drafted S. 2641 to restore \$369 million.

The bill went over to the House and was referred to the Public Works Committee, where it sat for weeks. It seemed clear that it might sit forever. Strike two.

The next chance was H.R. 5132, the dire emergency supplemental appropriations bill, which passed the House on May 14. On May 20 the bill was taken up in the Senate and I added the language contained in S. 2641 as an amendment. It was accepted by voice vote. The Senate passed the bill the next day and all indications were that the amendment would be included in the conference report by common agreement.

Not so. I learned as the bill went into conference that the House Appropriations Committee had objections.

As near as I can tell the reasoning was as follows: Our transportation bill had diverted highway funds to a courthouse. Not by intention, but true nonetheless. This meant that \$369 million in what are called mandatory outlays normally allocated to the Appropriations Committee's Subcommittee on Transportation were shifted to its Subcommittee on Treasury, Postal and General Government, which appropriates money for the GSA.

This shift was not a problem. Undoing it, however, was.

By moving \$369 million from the courthouse back to the highway program, my amendment would have increased the mandatory outlays for the Transportation Subcommittee without increasing the total outlays available to the subcommittee. Out of a limited budget, \$369 million more would go to the highway program and not be available for other things. This was unacceptable to the House.

It should be kept in mind that the allocation of outlays among the various subcommittees of the Appropriations Committee is decided by the full Appropriations Committee. It is not a matter of law, and cannot be altered by enactment of a law. Which is to say that no amendment could have avoided this situation.

The conferees met on June 4. The House stated its strong opposition to my amendment and it was dropped. Strike three.

Mr. President, it is now mid-June. We have barely 3½ months left in the fiscal year. The benefits of repealing the courthouse authorization diminish as the days and weeks roll by. You see, the figure of \$369 million—the amount that OMB and CBO told us we can restore without causing budget problems—is not static. It is based on spending projections made in January.

It is now June. OMB and CBO are now in the process of revising their spending projections for the remainder of this fiscal year, and our \$369 will soon become something closer to \$300 million or \$250 million.

Three different times the Senate has passed legislation on this subject. The House has been unable to accept any of these bills. So be it. I have gotten the message.

#### RUSSIAN TROOPS OUT OF BALTIC STATES: A TOP PRIORITY

Mr. PRESSLER. Mr. President, yesterday Congress and the American people heard an eloquent address by the President of the Russian Federation, Boris Yeltsin. This impressive man sent a number of important messages about the kind of relationship he wants with the United States and the kind of country he desires to rise from the ruins of communism.

I believe that Congress and the American people really want a cooperative partnership with Russia and the other new states of the former Soviet Union. However, one important issue should not be overlooked or soft pedaled.

Boris Yeltsin was one of the most courageous of Russians when he advocated independence for Estonia, Lithuania, and Latvia from the Soviet Union. Now is the time for him to help make sure those states become truly independent.

Mr. President, 31 Senators have joined me in writing to President Bush to urge him to raise in discussions with President Yeltsin the timely withdrawal of Russian forces from the three Baltic States. Nearly one-third of the Senate has spoken—negotiating and then implementing a withdrawal timetable should be a top priority for Russian civilian authorities and the Russian military. It should also be an important component of our bilateral policy.

I commend these Senators for expressing their concern on the issue of Russian troops in the Baltic States and ask unanimous consent that copy of the letter appear in the RECORD immediately following my remarks.

U.S. SENATE,

Washington, DC, June 16, 1992.

Hon. GEORGE BUSH,

The White House,

Washington, DC.

DEAR MR. PRESIDENT: We respectfully urge you to raise the issue of timely withdrawal of Russian forces from the Baltic States during your discussions with President Yeltsin. Before taking office, President Yeltsin courageously supported independence for the Baltic States. But Latvia, Lithuania and Estonia cannot be fully free or independent with thousands of foreign troops stationed on their territory against the will of the people and governments of those states.

Russian armed forces are there illegally, contrary to the express wishes of the legitimate independent governments of Estonia,

Lithuania, and Latvia. The Russian government has not demonstrated good faith by undertaking serious negotiations with Baltic governments for a rapid withdrawal timetable. We consider the presence of these troops destabilizing and believe they represent an obstacle to normal diplomatic relations between the United States and Russia.

We ask you to convey the gravity we attach to the unwillingness or inability of the Russian government and its military commanders to agree to a reasonable withdrawal timetable. While we understand there may be difficulties in removing over 100,000 troops and closing bases, we believe the effort to conclude a mutually-agreeable timetable for withdrawal is vital. Mr. President, we urge you to raise the issue of good faith signals with President Yeltsin. For example, we cannot understand why conscripts continue to be deployed in the Baltic States. In addition, units that pose the greatest threat to Baltic sovereignty, such as the 107th division in Lithuania, are not being removed.

Belligerent and threatening rhetoric by the Russian military, under the guise of protecting the Russian minorities in the Baltic States, is not helpful to concluding a reasonable pullout schedule. We note a recent statement by General Grachev, the Russian Minister of Defense, that "all possible means" will be used to protect the honor and interests of the Armed Forces of Russia.

We have great respect for President Yeltsin's actions in assisting the Baltic States to achieve their independence in 1991. We have no desire to handicap his efforts to promote representative government and free markets. However, we believe that he alone is responsible for the actions of the Russian military and that he must assure that a mutually-acceptable agreement is speedily concluded with the Baltic States on a timetable for withdrawal. Additionally, he should assure Russian adherence to this timetable and respect the sovereignty of these countries.

We consider a Russian demonstration of good will on troop withdrawal to be vital to the success of democracy and freedom in the Baltic States and Russia and a precondition to U.S. assistance to Russia.

Sincerely,

Larry Pressler, Donald W. Riegle, Jr., Arlen Specter, Paul Simon, Barbara A. Mikulski, Brock Adams, Alfonse M. D'Amato, Alan J. Dixon, Malcolm Wallop, Harris Wofford, Dennis DeConcini, Daniel Patrick Moynihan, Robert W. Kasten, Jr., Daniel K. Inouye, Bob Smith, Joseph I. Lieberman.  
Robert C. Byrd, Dan Coats, Jesse Helms, John Glenn, Hank Brown, John Seymour, Al Gore, Ernest F. Hollings, Wendell H. Ford, Christopher J. Dodd, Bill Bradley, Paul S. Sarbanes, Frank R. Lautenberg, Steve D. Symms, Edward M. Kennedy.

#### HONORING OUR FLAG

Mr. STEVENS. Mr. President, having recently celebrated Flag Day, and looking forward to the traditional celebration of our Nation's independence, I bring to your attention an article in the June issue of the American Legion magazine.

The article discusses why Americans love our flag, why we need our flag, and why we believe in pledging allegiance to our flag.

The author, Michael Novak, notes that our Constitution leaves us free to go in our own directions most of the time. But—because of that freedom—there is need to celebrate what unites us in our diversity: Our loyalty to our U.S. Constitution.

The flag stands for our Republic, Novak notes in the article, as well as for our Constitution and for our constitutional community. It has been a beacon, an inspiration, a guiding light in dark times, and a symbol that strengthens, inspires, and reinforces our loyalty and love of country.

Mr. President, as one who has supported the Senate's amendments to protect our flag, I wish to include the following article from the June 1992, issue of the American Legion magazine by Michael Novak in the CONGRESSIONAL RECORD.

Thank you, Mr. President.

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

#### WHY PROTECT OUR FLAG?

(By Michael Novak)

That the American flag evokes powerful emotions I learned most vividly over lunch, curiously enough, with five fellow faculty members at the University of Notre Dame in the autumn of '88. As we sat down, trays in hand, one complained about the "triviality" of the presidential campaign.

"Like what?" I softly asked.

"The Pledge of Allegiance," he replied with finality.

"I don't think that's trivial," I commented quietly. That was a mistake.

Almost instantly my companions raised their voices, outdoing one another in heaping up examples of how "trivial" the "flag issue" is. "Gestapo," "storm troopers," and "coercion" the first voices said.

Still louder voices denounced a "meaningless ritual," which "violated the Constitution," and was "illegal" and "un-American." They were quite worked up about it. The issue wasn't as trivial as they were saying.

Some people are passionately against the pledge, others are passionately for it. Why does the flag do that to people?

The Notre Dame experience taught me that George Bush understood the nation's symbols better than—may they forgive me—my faculty colleagues did. Four years ago, candidate Bush asked the entire Republican Convention in New Orleans to stand and recite these words:

I pledge allegiance to the flag of the United States of America, and to the republic for which it stands. One nation under God, indivisible, with liberty and justice for all.

Incredibly, the entire election of 1988 sometimes seemed to hang on this simple pledge.

The Democratic candidate, Michael Dukakis, thought so too. For he told the Democratic Convention in New York City why he had vetoed a Massachusetts bill, passed by both houses, that would have required teachers to lead the first class each day in a group recitation of the pledge.

He insisted that he himself said the pledge and encouraged others to say it, and he attacked the Republican candidate: "If the Vice President is saying that he would sign an unconstitutional bill, then in my judgment, he's not fit to hold the office of President."

Perhaps never before has this simple pledge incited such a storm. This cloth flag of the United States, this piece of red, white and blue bunting, this ensign that has thousands of times, preceded troops into stormy battle, has itself become a battleground. Would-be presidents combat over it. Elections are partly decided by its meaning. What gives?

And what did President Bush know about the flag that my university colleagues didn't? Three things.

First, the only reality that holds Americans together is our form of government, the republic. We don't share a common ancestry, language of origin, single patch of land, long history. The British, the French, the Spaniards, and Germans pledge allegiance to a plot of land, a history, a language, a fatherland. We pledge allegiance to a republic—take away the republic and the deal is off.

That's what holds us together, this republic. That's why we want to pledge our allegiance to it often by pledging allegiance to the flag "and to the republic for which it stands."

That's why we want our children's attention focused on the one symbol that holds us together, as their first action every day and in a way they will never forget, in classrooms that hopefully will mirror the nation's diversity.

True enough, some 50 years ago, the Jehovah's Witnesses protested that they could not pledge allegiance to any object except God, and the U.S. Supreme Court ruled unconstitutional a West Virginia statute that threatened to punish students, the Jehovah's Witnesses, who refused.

At that time, the Jehovah's Witnesses, citing Exodus 20, the Ten Commandments, proposed a compromise. They could pledge full allegiance only to God, since the Bible said literally: "You shall not have other gods besides me. You shall not carve idols for yourselves . . . you shall not bend down to them."

But they would pledge "allegiance and obedience to all the laws of the United States that are consistent with God's law, as set forth in the Bible."

But in 1954, the words "under God" were inserted into the pledge. This insertion seems to have met the objection raised by the Jehovah's Witnesses, if not, it still makes a very good point.

As our second President, John Adams, once wrote, what civilization most owes to the Hebrews is the conviction that, no matter how rich or powerful a nation might become, it is always under the unceasing judgment of the Almighty. The words "under God" solidify that lesson: This republic is under judgment. It is no idol in the place of God.

Second, a country as diverse as ours—of many religions, ethnic backgrounds, and races—needs at least a few focal points like the Constitution, which undergirds the republic.

In standing for the republic, the flag represents the Constitution, too. So it is a little odd, isn't it, to say that it's unconstitutional to pledge allegiance to the Constitution?

Third, the American community was never conceived of as a "national community," in the sense that a single central government could or should override everything, or in the sense that all citizens would normally march in lockstep in pursuit of "national goals." That may sometimes be necessary. That is why there is one flag.

But look at that flag. It doesn't symbolize uniformity. Its 50 stars and 13 stripes signify a diversity of states, regions and purposes.

The United States is not a national community; it is, "a community of communities."

And, therefore, just because our Constitution leaves us so free to go off in our own directions most of the time, there is need occasionally to celebrate what unites us in our diversity: our loyalty to the U.S. Constitution.

The flag stands for the republic; for the Constitution; and for the constitutional (federal) community. These are three reasons why we love the flag, why we need the flag, and why we want ourselves and our children to pledge allegiance to it in public.

But what about flag burning? What can we do to protect the flag? Some people say that we should not call the flag sacred or speak of its desecration, since these words belong only to God and religious things dedicated to Him.

But Abraham Lincoln did speak of the ground of Gettysburg in these words: "We cannot dedicate—we cannot consecrate—we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract."

If the ground over which soldiers fight can be hallowed, then surely the colors beneath which they fought can be even more hallowed.

To pay an earthly regard to certain special things as holy, sacred or hallowed is not to trespass on what properly belongs to God. It is to practice a habit of respect, quite appropriate to a worldly republic.

The Supreme Court, alas, has ruled that burning the flag is protected expression. We must respect the court. But free citizens can also reason before it. A free republic needs free speech.

Speech is rational and is aimed at persuading fellow citizens in a civil, reasoned way. Civil conversation.

But not all expression is civilized. One person's flag burning inflames the passions—not the reason—of many. A republic based on law and reason—the Statue of Liberty holding the lamp of reason in one hand, the Book of Law in the other—does not rest on inflammatory expression.

To burn the flag is, symbolically, to burn the republic and the Constitution. It is also to abandon reasoned speech for passionate kid stuff. It is an act worse than book burning.

So shame on the court! Those who burn the flag burn the symbol of their own rights and liberties. Even the court allows us to hold them in contempt and to subject them to ridicule, catcalls, jeers and whistles. They may loathe the republic; we don't.

Republics are not like monarchies. They have very few public liturgies, and discourage bowing and scraping. Their style is humor, jest, backslapping and waving to friends, rather than the exchange of deference, the calling out of titles and the formal sobriety of regal pomp.

A republic is no stronger than the love its free citizens pledge to it. Call off that love, perish the republic. Perish the republic, dissolve our people's love.

No wonder we want to pledge allegiance to Old Glory often. It is like pledging allegiance to a great gift of Providence, better than we deserve, the last best hope of humankind.

And since the flag represents our public selves, public should be our pledge. Since children do not come born with the habits of the republic in their hearts, their wandering attention should be focused on the republic often and with regularity in a public way.

And where else but school are they likely to meet the citizens with whom they will

share their generation's struggles, and learn to be as true as those who went before them?

That flag is an emotional symbol? You bet. It cuts to the quick of who we are and what we are about.

#### THE HOSTAGE ERA

Mr. MOYNIHAN. This week families and friends of Heinrich Struebig and Thomas Kempfner—indeed, the world—celebrate the freedom of the last Western hostages held in Lebanon. I rejoice with them. But the hostage era is not over, as a headline in today's Washington Post prematurely claims.

Ron Arad, an Israeli serviceman, has been missing in Lebanon for more than 5 years. Other Israeli servicemen are also missing and may be held captive in Lebanon. On June 1, 1992, 41 of my Senate colleagues joined me in a letter to President Bush urging him to work diligently to secure the release of Ron Arad, Heinrich Struebig, Thomas Kempfner, and others held in Lebanon. As a simple matter of humanity. And international law.

Mr. President, we must not forget and abandon the other hostages—the Israeli servicemen—still missing. As Israel rejoiced in the release of Terry Anderson, so we must remain faithful to the plight of citizens of this most steadfast ally and sister democracy.

#### CONCLUSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, it is my understanding that the period for morning business has expired.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM addressed the Chair. The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair. (The remarks of Mr. GRAHAM pertaining to the introduction of S. 2872 are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

#### DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1992—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of H.R. 5132 the conference report on the dire emergency supplemental bill.

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

Mr. SIMPSON. Mr. President, I realize the majority leader has made a determination, but I will say that the majority leader has been good enough to communicate that he is going forward with that. I think it is critical that we do. I hope we can process that. There are two on our side of the aisle who are indicating some type of activity, and I am not aware of that. But, in

any event, we will go forward with the measure, as we must. It has to be dealt with and perhaps they will find location on another measure to express themselves.

I just want to be certain of the procedure. That is the majority leader's wish and he is going to that immediately.

Mr. MITCHELL. The Senator is correct.

Mr. President, it remains my hope and intention that we will complete action on the supplemental appropriations bill, the unemployment insurance bill, and the GSE bill in the next couple days. We are going to proceed and try to do that as best we can.

Senator BYRD is ready to proceed with the supplemental appropriations bill and I hope that we can complete action on it promptly this evening. And at that time I will consult with Senator SIMPSON regarding our best way to proceed. But I still intend to proceed to complete action on those three bills, if possible, within the next couple days.

I thank my colleague for his cooperation.

Mr. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 5132 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of June 17, 1992, p. 15230.)

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have sent word to my colleague, Senator HATFIELD, the ranking member of the Committee on Appropriations, to come to the floor. This bill is being taken up on rather short notice. I am not faulting anybody. I understand the situation that confronts the majority leader and I am glad that we could get the conference report before the Senate at this point.

But Senator HATFIELD, I am sure, will be along shortly and for the time being I will proceed.

The conferees completed their work on H.R. 5132, the dire emergency supplemental for disaster assistance, on

June 5, 1992. As passed by the House, this measure includes, for the Small Business Administration, the Disaster Loans Program account, \$169,655,000; SBA disaster loans, \$500 million; SBA administrative expenses, \$27 million; SBA loans, \$1.53 billion; technical assistance grants, \$4 million; Business Loans Program, \$7.32 billion; limit on microloans, \$26 million; Microloan Demonstration Program, \$5 million.

In addition, the measure includes \$300 million for FEMA Disaster Relief Program and a \$22 million limit on FEMA direct loans as well as \$500 million for summer youth employment.

The House in action earlier today modified what the conferees agreed to in order to ensure that the President will sign this measure and get this urgently needed disaster assistance to the cities and communities around the country that are in dire need of the resources which this bill will provide. And the changes adopted by the House are as follows:

First, the removal of a requirement that a Presidential declaration of emergency be made before SBA business loan program funds became available. This will mean that the approximately \$1.5 billion in SBA business loans will be available, but that subsequent outlays will not be declared an emergency.

Second, the \$675 million provided for the Summer Youth Employment Program has been reduced to \$500 million, of which \$100 million will be available to the 75 largest cities, and the remaining \$400 million will be available under the existing statutory formula.

Third, the House also deleted the \$250 million appropriation for Head Start, the \$250 million for chapter I compensatory education, and the \$250 million for the Weed and Seed Program.

It is important, Mr. President, that we take quick action on the measure and present it to the White House, where we are assured it will be signed. The funds appropriated in this bill are for emergencies and should be made available to those who most need them as quickly as possible.

The crucial SBA loan assistance and payment disaster aid are vital not only for Los Angeles and Chicago, but for other communities, including those recently devastated by tornadoes in the Midwest.

I urge my colleagues to support the compromise.

I understand Senator STEVENS will be handling the conference report on the other side of the aisle. He will be along shortly. He is on his way to the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, Senator STEVENS is now on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the distinguished President pro tempore, the chairman of the Appropriations Committee. In the absence of Senator HATFIELD, I am pleased to announce he and I support the conference report on the dire emergency supplemental. I will be pleased to answer any questions concerning the conference report, which is before the Senate. I hope it will be promptly adopted.

The PRESIDING OFFICER. Is there further debate on the conference report?

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

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

Mr. KENNEDY. Are we under controlled time, Mr. President?

The PRESIDING OFFICER. We are on the conference report on H.R. 5132. And there is no time limit.

Mr. KENNEDY. I thank the Chair.

Mr. President, I join in supporting the urban emergency supplemental appropriations conference agreement. I commend Congressman GEPHARDT for his efforts to reach a compromise on this package, and I also commend the leadership of Senator BYRD, Congressman NATCHER, and Senator HATCH. The final agreement includes \$500 million for time-sensitive job programs for youth that can make a significant difference for the Nation's cities this summer; \$100 million of these funds are targeted for inner city youth.

Under the bill before us, an additional 360,000 teenagers will have the opportunity to earn a paycheck over the summer. The overall summer job program will be almost doubled. Massachusetts will receive \$13.4 million of which Boston will receive \$2.8 million in additional funds for summer jobs. That means 10,000 new summer jobs across the State, including 2,000 in Boston. Many other cities across the country will receive similar increases.

Important as this first step is, it is a small step and it cannot be the only step. It is only a downpayment on the larger investment that is needed to revitalize our cities. We have had ample warning of the consequences of past neglect. None of us can afford to relax or think we have done enough.

Congress and the administration must continue to work together on an

effective additional response in follow-on legislation to deal with other urgent aspects of the urban crisis.

Enterprise zones can be a significant part of the solution, by offering special tax incentives and reduced regulatory burdens for businesses willing to invest in inner cities. I hope that we can structure these tax benefits to encourage investment in inner-city labor forces, in addition to traditional capital investment.

But enterprise zones must be accompanied by new public investments in jobs, job training, housing rehabilitation, education, and health care, so that citizens in the country can participate in the benefits of the enterprises that move in.

Head Start and the Chapter 1 School Program for disadvantaged students are among the most effective ways to improve the lives of inner-city children and pupils of all ages. Education has always been a cornerstone of the American dream, and it will continue to be if we are wise enough to make the investments that our schools so urgently need.

Immediate, additional investments are needed in programs such as community development block grants, which provide the Nation's mayors with resources for a range of projects such as housing rehabilitation in poor neighborhoods, job-creating public works, and community projects such as senior citizen centers and Head Start facilities.

We also need a stronger commitment to Community Development Corporations, which have been effective in creating jobs and revitalizing neighborhoods from Los Angeles to New York. They also promote lasting stability by ensuring that impoverished areas develop the anchors that middle-class neighborhoods take for granted—including strong community organizations, corner banks, thriving local businesses, safe parks, and decent housing.

For example, the Coalition for a Better Acre, a community development corporation in Lowell, MA has helped capitalize 12 successful small businesses since 1990. In every case, the new owners were low-income citizens in the community who could not obtain financing from traditional banks.

The private sector, community groups, and Federal, State, and local governments must work in partnership to achieve these goals. Each has a major role to play. None can do the job alone. Private sector support is especially important, because it means a commitment to provide loans to rebuild devastated neighborhoods and businesses, and to continue to provide insurance to areas in which there has been unrest.

In law enforcement, the emphasis should be on additional aid to State and local authorities. We should insist

on the enactment of clear nationwide police training standards and Federal enforcement authority, to reduce the likelihood of excessive use of force, and to root out the disastrous effects of race discrimination in all aspects of the criminal justice system. The Police Corps, which is authorized in the stalled crime bill, is an excellent idea; it can bring new recruits and new perspectives to police departments across the country.

We must bring a new sense of commitment to address the long-run domestic challenges we face. A decade of neglect has redlined the entire Nation—not just our cities. We have seen too much disinvestment in vital areas such as education, job training, housing, health care, and research and development. The need is more urgent than ever, and it is more important than ever that we begin to meet it now. As the Los Angeles riots proved, we face few more serious challenges than to deal responsibly with our festering urban crisis.

Finally, in rating this development—in evaluating the new sense of the possibilities of productive bipartisan action—the official scorer may well give an assist to the visit of President Boris Yeltsin. He may have provided the catalyst needed for Congress and the administration to come together on aid to American cities, as well as aid to the former Soviet Union.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, I am very relieved and delighted we now have the supplemental bill to work on. A number of us have been most concerned about moving forward on this particular measure. I spoke on the floor several days ago about the urgent need for summer youth funds in our major metropolitan areas. That is based on a lot of discussions and visits I have made in both St. Louis and Kansas City in my State. And I know in Kansas City where there were some very real difficulties following the verdict in the Los Angeles Rodney King trial, our distinguished mayor of Kansas City, Mayor Manuel Cleaver, worked hard to keep the city under control. As a result of that, the political leadership on a bipartisan basis, the business community, the inner-city community, all came together to say the one thing that we most need for our youth and for our city is to provide productive jobs, useful work endeavors for the young people in our cities this summer.

At the time, they emphasized the urgency of this entire problem. They said

it is not going to do us a lot of good if you send us money in July or the middle of July. We need that money now to begin worthwhile youth programs.

Mr. President, Kansas City also went forward on a massive communitywide operation in which the media agreed to put on a telethon. Businesses of all kinds and institutions in the nonprofit sector, came forward to offer employment. All of this was to be supplemental to what they would hope come out of the Federal Government Summer Youth Employment Program.

For a while there it was a real concern to me and others that maybe Congress would not get around to doing what everybody realized we should do and we must do right away in order to make constructive use of the energies and the talents of the young people, particularly in our cities.

The fact that this measure has come over from the House is very good news. I talked with the ranking Member, Mr. MCDADE, earlier in the week when he said he thought this compromise was possible. I know there are lots of different views and there are many possible amendments that could be offered. I would just urge my colleagues to move forward on this bill without slowing it down.

There will be other opportunities to talk about many, many important issues that we do need to address in the few days remaining in the legislative session, but in terms of a dire need for quick action, this emergency supplemental really meets those needs. There are problems with the disaster relief funds and the emergency loan programs that are included in it, but I do not think anything is a better investment to ensure that our cities enjoy a productive summer than getting money to put the youth of our cities and the other areas of high unemployment to work during this summer in constructive endeavors. I am very pleased we have this bill, and I urge my colleagues to accept it as promptly as possible.

I thank our distinguished chairman and Senator STEVENS for bringing this matter to the floor, and I hope that we can move it expeditiously. I thank the Chair, and I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to add my voice in support of this important legislation. I am especially glad to see an agreement worked out which is acceptable at both ends of Pennsylvania Avenue, because for too long there has been a gridlock in Washington between the executive and legislative branches and also between the Democratic and Republican Parties.

An agreement has been forged that will allow the legislation to move ahead. This action is of critical importance, not only to maintaining equi-

librium in the cities during the coming summer months, but also in demonstrating to the American people that Washington, DC, can function, that there can be agreement, notwithstanding political differences and notwithstanding the fact that we are in a hotly contested election year.

Within a short time after the April 29 riots in Los Angeles, I was discussing this issue with mayors of cities in my State. On the following Monday, May 4, I met with several Members of the Pennsylvania Congressional delegation in Philadelphia, with Philadelphia's Mayor Ed Rendell. In addition, we had a followup meeting the following Monday on May 11, and then assisted in convening a meeting of Republican Senators with the mayors who were in Washington that following Friday, on May 15. On that day, the mayors had a meeting with Democratic legislators and one with a number of Republican Senators which included Senator DOLE, Senator DANFORTH, Senator DURENBERGER, Senator KASTEN, and myself. We met with a number of mayors whose views were characterized by Mayor Flynn of Boston saying that he was concerned with keeping the lid on in the summer, and as Mayor Flynn characterized it, it was a matter of cops and kids.

Later on that day, I had occasion to fly to Pittsburgh with the President and discussed with him my view of the urgency of the need for summer jobs. The President said that he agreed this was a high-priority item. The President expressed some concern about all facets of the bill and the issue of cost, and of course that is a matter which concerns us all as our deficit continues to rise. I had a sense however, from that meeting with the President, although no commitments were made, that he was going to do his very best to work out a legislative solution. We find that the logjam was broken at the meetings yesterday, and we are now in the position to move ahead with this conference report.

I express some regret, Mr. President, that we were not able to include some funds for Head Start, which I think would have been very important. I note the Chair nodding in agreement on that one statement, the Chair being the distinguished Senator from Iowa, Mr. HARKIN, who is the chairman of the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, where I am the ranking Republican. Senator HARKIN and I work very closely, including our efforts to try to increase the portion of funds allocated to our subcommittee because we have such tremendously pressing needs. One of those needs is on the line of Head Start which has been such an enormous success, where we are now pressing funds to increase from \$2.2 to \$2.8 billion on a program which has had enormous success over the years.

I had occasion in the course of the past several weeks to meet with the superintendent of schools of Philadelphia, Dr. Constance Clayton, who implored action and some help for this summer funding to enable that school district to move ahead. It would have been my preference, and I expressed it in the appropriation conference a week ago today, that we should have included some of those funds, but as the compromise and accommodation has been worked out it is important that we take the steps which we have taken and we can revisit the issue of Head Start perhaps at a later time.

The \$500 million, Mr. President, will mean a tremendous amount for the cities. I am pleased to see that we will be using the formula which has been in existence, that we are not going to make a change on the formula without an opportunity to really digest it. I am pleased that we are retaining the formula which has been in existence.

When I talked to Mayor Rendell of Philadelphia I was able to gain some of the specifics on the needs of Philadelphia. Philadelphia's share of funding under the current youth summer program amounts to right at \$5 million, and that provides summer jobs for some 5,600 young people. The mayor told me that they had some 2,000 people on a waiting list, so that this additional \$500 million will just about double the availability of summer jobs.

I think that is very important, important in terms of a constructive, appropriate program for summer youth and also a demonstration that the Congress and the President can function, political differences can be put aside, gridlock can be broken, and we can move ahead with very constructive action.

I thank the chair. I thank my colleagues for waiting for a few moments for my arrival. I did not know precisely when this bill would be called up, but as soon as I heard about it I concluded my business in the office and walked right over to make this very brief statement in support of this important legislation.

I thank the Chair and yield the floor. Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. STEVENS. I do thank the Senator from Pennsylvania for his comments and his contribution, and I would report to the Senator from West Virginia we are prepared now to move to adopt the conference report.

Mr. GRAHAM addressed the Chair.

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

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, it is with regret that I must conclude I cannot support this conference report for one basic reason, which is that we are proposing to finance this by adding again to the Federal budget deficit, a deficit which already is projected to approach or exceed \$400 billion in this fiscal year.

All of the causes that are cited in this bill are worthy and laudatory. The fundamental question is should we pay for them, this generation of Americans who will receive the benefit of these programs, or should we ask our grandchildren to pay for them?

My own opinion is that if we are describing these as dire emergencies, urgent to benefit the Nation today, this summer, before the end of this fiscal year, they should be expenditures of sufficient gravity and importance that we are prepared to figure out how we going to assume financial responsibility.

We can do that in one of several ways. Probably the most direct way would be to find areas of expenditure which have currently been authorized of an amount equal or greater than those we are about to propose and to terminate those, thus relieving from the current level of Federal appropriations that amount of funding so we will not by this action be adding to the Federal deficit.

That, Mr. President, is my principal concern. I am also concerned that we have been creating almost assured emergencies by the manner in which

we have been funding the Federal Emergency Management Agency. In each of the last 3 years, we have funded the Federal Emergency Management Agency an average of \$246 million each year. That represents \$200 million in fiscal year 1989, \$270 million in fiscal year 1990, and \$270 million in fiscal year 1991.

That was the original request of the administration. The Congress in those years appropriated \$100 million in 1989, \$98,450,000 in 1990, and zero in 1991. The actual average outlay in each of those 3 years has been \$806 million. That is to say that in each year we have exceeded what the President recommended by an average of more than 3 times and what we had appropriated by more than 8 times.

Mr. President, by this pattern we have been virtually assuring that every year we would have an emergency in the emergency fund. I believe this experience we are going through this afternoon, where yet again we are having to appropriate on a dire basis funds for an emergency fund that has been consistently underfunded, raises the importance of our attending in the original appropriation, and hopefully in the President's request, to adequately funding these programs so that we do not artificially underfund and thus create almost an inevitable emergency throughout the fiscal year.

Mr. President, that is a matter that we can correct. My fundamental reservation with this legislation is the issue of who should pay for programs which we are judging today to be of great urgency and importance to the Nation. My position is that we should pay and, therefore, that we should not fund this by adding to the Federal deficit as we propose to do with the supplemental appropriation.

Mr. President, I ask unanimous consent that a table from the Congressional Research Service be printed in the RECORD.

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

TABLE 1.—REQUESTS, APPROPRIATIONS AND OUTLAYS, THE DISASTER RELIEF FUND, FY 1984-93  
(In thousands of dollars)

Fiscal year:	Administration request <sup>1</sup>	Appropriations			Actual outlays
		Original	Supplemental	Total	
1984	0	0	0	0	243,014
1985	100,000	100,000	0	100,000	191,683
1986	194,000	100,000	250,000	345,700	335,444
1987	100,000	120,000	0	120,000	219,112
1988	125,000	120,000	0	120,000	186,901
1989	200,000	100,000	1,108,000	1,208,000	140,316
1990	270,000	98,450	1,150,000	1,250,950	1,433,959
1991	270,000	0	0	0	844,800
1992	<sup>2</sup> 185,459	185,000	943,000	<sup>3</sup> 1,128,000	<sup>4</sup> 659,911
1993	292,000	N/A	N/A	N/A	<sup>5</sup> 734,873

<sup>1</sup> Information in this column represents first request made each year by the Administration in submitting its budget to the Congress. Does not include amended requests or requests submitted at other times.

<sup>2</sup> According to FEMA, in fiscal year 1986 a sequester of \$4.3 million was applied to the total appropriations.

<sup>3</sup> Public Law 100-202, the Continuing Appropriations Act of Fiscal Year 1988 (101 Stat. 1329-200), appropriated \$120 million for disaster relief. According to information provided by FEMA, the original appropriation for that fiscal year was \$125 million, but \$5 million was transferred, pursuant to instructions, to the Department of Labor for "low income agriculture workers."

<sup>4</sup> Supplemental appropriated in P.L. 101-100, a continuing appropriations bill enacted after Hurricane Hugo struck in September 1989. According to FEMA, this amount was "referred to as a 'supplemental' but was technically an increase in the original appropriation during a continuing resolution."

<sup>5</sup> P.L. 101-130, enacted after the Loma Prieta earthquake to make further continuing appropriations, appropriated \$1.1 billion for the disaster relief fund. In addition, \$50 million was appropriated to the disaster relief fund in P.L. 101-302, dire emergency supplemental appropriations legislation. Also, according to FEMA, total appropriation includes \$2.5 million transfer from President's Unanticipated Needs Fund.

<sup>6</sup> Current estimate.

<sup>7</sup> Does not include budget amendment of \$90 million submitted by the Administration after action taken by House Appropriations Committee.

<sup>8</sup> Includes \$186 million original appropriation and \$943 million dire emergency supplemental approved in P.L. 102-229 (H.J. Res. 157), enacted in the fall of 1991 after Hurricane Bob. The President is required to submit a request designating \$143 million of the supplemental an "emergency requirement" under the Budget Enforcement Act. The total appropriations do not include dire emergency supplemental appropriations bill (H.R. 5132) currently under consideration. House and Senate have approved supplemental appropriation of \$300 million in different versions of H.R. 5132, introduced to meet "urgent needs because of calamities such as those which occurred in Los Angeles and Chicago."

Note.—The appearance of a deficit between outlays and appropriations is misleading because this table is a partial funding history. This table does not include appropriations made prior to 1984 and therefore available for future outlay. According to information provided by FEMA on April 22, 1992, approximately \$1.14 billion was expected to be available in the Disaster Relief Fund prior to obligations made for the Chicago flood or the riots in Los Angeles. This amount excludes the \$143 million appropriated for fiscal year 1992 but not yet designated "emergency funding."

Sources—FEMA Justification of Estimates in U.S. Congress. House. Committee on Appropriations. Subcommittee on VA, HUD, and Independent Agencies. Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations. Hearings, fiscal years 1984-1992. Washington, U.S. Govt. Print. Off. and Appropriations legislation as cited in preceding notes.

Mr. GRAHAM. Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the conference report?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE AMENDMENT TO SENATE AMENDMENT  
NO. 1

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

The assistant clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 1 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, \$169,650,000, to remain available until expended, of which \$50,895,000 shall be available only to the extent that a presidential designation of a specific dollar amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress, to subsidize additional gross obligations for the principal amount of direct loans not to exceed \$500,000,000, and in addition, for administrative expenses to carry out the disaster loan program, an additional \$25,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), \$70,325,000, to remain available until expended, and in addition, for administrative expenses to carry out the business loan program, an additional \$2,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

In addition, for the cost of direct loans authorized under the Microloan Demonstration Program (15 U.S.C. 636(m)), \$5,000,000, to remain available under expended, and in addition, for grants in conjunction with such direct loans, \$4,000,000, to remain available until expended and to be merged with appropriations for "Salaries and expenses": Provided, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SENATE AMENDMENT NOS. 2, 3, 7, 9, 11, 12 AND 13

Mr. BYRD. Mr. President, I ask unanimous consent that other than amendment numbered 1, the amendments in disagreement, namely 2, 3, 7, 9, 11, 12, and 13 be agreed to en bloc.

Mr. STEVENS. We concur with that request.

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

The amendments agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION  
TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services", \$500,000,000, to be available for obligation for the period July 1, 1991, through June 30, 1992, to carry out part B of title II of the Job Training Partnership Act: Provided, That notice of eligibility of funds shall be given by July 1, 1992: Provided further, That the Secretary, to the extent practicable consistent with the preceding proviso, shall utilize the 1990 census data in allocating the funds appropriated herein: Provided further, That, for the purposes of this Act, of the funds appropriated herein, the first \$100,000,000 will be made available by the Secretary to the service delivery areas containing the seventy-five cities with the largest population as determined by the 1990 Census data, in accordance with the formula criteria contained in section 201(b)(1) of the Job Training Partnership Act. Provided further, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING  
CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" \$1,500,000 for law enforcement training activities of the Center, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" \$5,500,000 for the hiring, training and equipping of additional full-time equivalent positions for violent crime task forces and for increased costs associated with the Los Angeles riot, to remain available until expended.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR AND MARINE  
INTERDICTION PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102-141, \$3,400,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-141, \$500,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-141, \$800,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-141, \$1,765,000 are rescinded.

Executive Office of the President

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-141, \$1,000,000 are rescinded.

SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES.

(a) FINDINGS.—The Senate finds that:

(1) The crisis of poverty and high unemployment in America's inner-cities and rural areas demands an appropriate and timely response from Congress;

(2) Manufacturing and industry has largely disappeared from many United States inner cities which, in turn, led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) Encouraging small and medium-sized businesses, which create the majority of new jobs in the United States economy, to locate and invest in poor neighborhoods is one of the keys to revitalizing urban America;

(4) Enterprise Zones will help convince businesses to build and grow in poor neighborhoods; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful having generated capital investments in poor neighborhoods in excess of \$28,000,000,000 and having created more than 258,000 jobs; and

(6) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators the Conference of Mayors, and the Conference of Black Mayors.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Enterprise Zones are a vital, proven tool for inner-city revitalization; and

(2) Congress should adopt Federal enterprise zone legislation and that such legislation should include the following provisions:

(A) Competitive designation which will maximize State and local participation;

(B) Tax incentives addressing both capital and labor costs;

(C) Tax incentives aimed at attracting investment in small businesses; and

(D) Tax incentives to encourage the hiring and training of economically disadvantaged individuals.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

#### DEPARTMENT OF TRANSPORTATION

##### FEDERAL TRANSIT ADMINISTRATION

For fiscal years 1992 and 1993, funds provided under section 9 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102-240.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "103", insert "102".

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "105", insert "103".

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the section number "107", insert "104".

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 105. (a) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who is convicted of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992.

(b) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who—

(1) is under arrest for, or

(2) is subject to a pending charge of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992: *Provided*, That the prohibition on the use of funds in (b) shall not apply if a period of 90 days or more has elapsed from the date of such person being arrested for or charged with such crime: *Provided further*, That should such person be convicted of a riot-related crime of violence cited in (a) and (b), such person shall provide to the agency or agencies which provided such assistance, payments equivalent to the amount of assistance provided.

(c) All appropriate Federal agencies shall take the necessary actions to carry out the provisions of this section.

(d) **APPLICANT CERTIFICATION.**—Any applicant for aid provided under this Act shall certify to the Federal agency providing such aid that the applicant is not a person described in subsection (a) or acting on behalf of such person.

(e) **DEFINITION.**—For purposes of this section, the term "riot-related crime of vio-

lence" means any State or Federal offense as defined in section 16 of title 18, United States Code.

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

#### SEC. 106. HUMANITARIAN ASSISTANCE TO BOSNIA-HERCEGOVINA.

Notwithstanding any other provision of law, up to \$5,000,000 of the funds made available for foreign operations, export financing, and related programs in Public Law 102-145, as amended by Public Laws 102-163 and 102-266, and previous Acts making appropriations for foreign operations, export financing, and related programs, shall be made available for humanitarian assistance to Bosnia-Herzegovina: *Provided*, That such assistance may only be made available through private voluntary organizations, the United Nations and other international and non-governmental organizations: *Provided further*, That funds made available under this paragraph shall be made available only through the regular notification procedures of the Committees on Appropriations.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

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

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

#### ORDER OF PROCEDURE

Mr. BREAUX. Parliamentary inquiry. I was just wondering if it would be appropriate now to ask for a period for morning business for the purpose of introducing a bill.

Mr. BYRD. Mr. President, will the Senator place a time limitation on that so we can move on this?

Mr. BREAUX. Three minutes more or less.

Mr. BYRD. I have no objection.

Mr. BREAUX. I ask unanimous consent that there be a period for morning business not to exceed 3 minutes.

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

The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 2873 are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

#### DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1992

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The pending question is the House amendment to the Senate amendment No. 1 in disagreement.

#### AMENDMENT NO. 2432 TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 1

(Purpose: To provide urgent disaster assistance funding for recent tornadoes in the Middle West of the U.S.)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2432 to House amendment to Senate amendment No. 1.

At the appropriate place, insert the following:

For emergency disaster assistance payments made available to the Federal Emergency Management Agency, the Small Business Administration, and the Department of Agriculture that are necessary to provide for expenses related to recent tornado-related damage in the Midwest designated as Presidentially declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for disaster relief, \$50,000,000, to remain available until expended, which funds shall be available only after submission to the Congress of a formal funding request by the President designating such funds as an "emergency requirement" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. WELLSTONE. Mr. President, I sent this amendment to the desk with a heavy heart. I would really like to thank Senator BYRD for his patience.

Mr. President, the last several days in Minnesota, southwestern Minnesota, and western Minnesota, have really been days of terrible pain and heart-break for people. We had tornadoes hit the southwest part of our State. A Minnesota Department of Public Safety official, after surveying the damage, said he cannot recall anything in Minnesota where we had so much destruction simultaneously.

The town of Chandler, population 316, was virtually flattened; a town almost completely flattened. About one-third of the town's homes were destroyed, and there was serious damage to other homes. The school was demolished. In the town of Clarkfield, 70 miles north of Chandler, the city hall was destroyed. Many local businesses had the fronts and the roofs torn off, and in other areas, elevators have been destroyed.

Mr. President, you are from an agricultural State, and you know exactly what I'm talking about. It has just been a very difficult time for people in Minnesota. I appreciate this emergency supplemental bill and recognize the need for the aid to Los Angeles and Chicago. But right now, I care as much about Chandler, MN, as I do any town in the United States of America. Mr. President, I have met with a variety of Federal agency representatives, including those from FEMA, Farmers Home Administration, and the Small Business Administration, and I think those agency people have been very coopera-

tive. Senator DASCHLE had a meeting in his office yesterday, and I thought we made real progress.

But, Mr. President, as I think about what has happened in my State, a news release from the American Red Cross describes in detail, city by city, the damage caused by the storm. For example, in Lake Wilson, MN, there were 29 homes destroyed, 20 with major damage, 5 minor. Five businesses were heavily damaged. It goes on and on, in a good many counties in western and southwestern Minnesota. What I am concerned about, and the reason that I have offered this amendment, is that I want to make sure that when all the smoke clears away and all the photo opportunities have taken place and people have visited these counties and all these programs have been laid out, that the money will be there. FEMA deals with the temporary assistance, medical assistance, and temporary housing, and that is helpful. What is going to happen when the people in Chandler want to rebuild their homes and businesses? What is going to happen to the farmers who are going to be faced with massive crop damage? I want to know that the assistance will be forthcoming.

Mr. President, I certainly hope that there will be an assurance that the assistance will be forthcoming, that the guarantees will be there, but I do not see any reason to be in the U.S. Senate, except to make sure that when this kind of tragedy hits, people that live in any of our States, we make sure that the assistance will be available. I intend to stand firm until I receive an assurance that if this disaster in my State is recognized as a disaster by the President—as it was declared today by Minnesota Gov. Arne Carlson—then sufficient funds will be available to cover the damage.

Mr. President, right now, I am just proposing this amendment. I want make it crystal clear that I wish I did not have to. I certainly hope that we get some clear commitments on this question of availability of funds soon. I speak for this amendment out of real conviction. I want to make sure that this support and assistance is going to be available for people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, I have a list of the already declared disaster areas for the 1992 funding needs. I wonder if the Senator has seen this list. There are 27 disasters already eligible for FEMA funding, and 79 disasters al-

ready eligible for SBA funding. They include 15 States for FEMA and 34 States for the SBA moneys. In addition to that, there are 5 territories that qualify for FEMA money, and 6 that qualify for SBA money.

May I inquire, is this disaster already declared disaster area by the Governor of the Senator's State?

Mr. WELLSTONE. The Senator is correct. The Governor has declared this a disaster area. I want to say to the Senator from Alaska that I am aware of the programs, but what I have been waiting for is some commitment. I have been here on the floor and waiting for reassurance and commitment from the White House and the administration that, as a matter of fact, this assistance will be forthcoming. I have not received such a commitment. I have been waiting all day for this.

Mr. STEVENS. Mr. President, may I inquire, has the Senator's Governor requested Federal assistance?

Mr. WELLSTONE. That is correct, and today the estimate was \$50 million.

Mr. STEVENS. Mr. President, this Senator's information was that, as of noon today, there was no such request.

Mr. WELLSTONE. As of 2 o'clock, there was such a request, I say to the Senator from Alaska.

Mr. STEVENS. Mr. President, my statement to the Senator would be that neither he nor his Governor needs any assurance. Once that request is received, the State would be eligible for FEMA and SBA assistance under the law, just as these other 27 areas are already eligible for disaster assistance.

Mr. WELLSTONE. If the Senator will yield, first of all, I want to thank the Senator for his inquiry, because I know it is out of concern.

Mr. STEVENS. I might say—

Mr. WELLSTONE. The question is not one of eligibility, but whether the money will be there, should these areas be eligible. It's that simple. I recognize that the programs are available. I want to make sure the money will be there. That is the issue.

Mr. STEVENS. Well, Mr. President, I happen to represent a State that has more disasters than all the rest of the country put together, and we work with these agencies. I assure my friend that—it is my understanding that there is \$300 million more added to this disaster account by this bill. At the time it was requested, it is clear that this disaster that the Senator is referring to had not occurred. But clearly, once the request is made, it is eligible for assistance, just the same as all of these other disasters are already eligible.

As I said, as of the 31st of May, there were a whole series. Mr. President, I ask unanimous consent to have this list printed in the RECORD, so that it is available for everybody to see, the 1992 funding needs as of May 31.

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

## FY 1992 FUNDING NEEDS AS OF MAY 31, 1992

## FEMA (27 DISASTERS)

- (1) California.
- (2) Delaware.
- (3) Illinois.
- (4) Iowa.
- (5) Massachusetts.
- (6) Maine.
- (7) Minnesota.
- (8) Mississippi.
- (9) New Hampshire.
- (10) New Jersey.
- (11) New Mexico.
- (12) Texas.
- (13) Vermont.
- (14) Virginia.
- (15) Washington

## Territories

- (1) American Samoa.
- (2) Guam.
- (3) Marshall Islands.
- (4) Micronesia.
- (5) Puerto Rico.

## SBA (79 DISASTERS)

- (1) Arkansas.
- (2) California.
- (3) Colorado.
- (4) Delaware.
- (5) Florida.
- (6) Hawaii.
- (7) Idaho.
- (8) Illinois.
- (9) Iowa.
- (10) Maine.
- (11) Maryland.
- (12) Massachusetts.
- (13) Minnesota.
- (14) Mississippi.
- (15) Missouri.
- (16) Montana.
- (17) Nebraska.
- (18) New Hampshire.
- (19) New Jersey.
- (20) New Mexico.
- (21) New York.
- (22) Nevada.
- (23) North Carolina.
- (24) North Dakota.
- (25) Oklahoma.
- (26) Oregon.
- (27) Rhode Island.
- (28) South Carolina.
- (29) South Dakota.
- (30) Texas.
- (31) Utah.
- (32) Vermont.
- (33) Virginia.
- (34) Washington.

## Territories

- (1) American Samoa.
- (2) Guam.
- (3) Marshall Islands.
- (4) Micronesia.
- (5) Northern Moria.
- (6) Puerto Rico.

Mr. STEVENS. This disaster has occurred, and if it is certified as being disaster-eligible for Federal assistance, it will be considered for receiving some of this money. And if the money runs out, there will have to be another dire emergency supplemental to request more money. But, clearly, these disasters are eligible, and we do not earmark money for disasters, as I understand it.

Mr. WELLSTONE. If the Senator will yield, first of all, the Senator from Alaska is correct that, with FEMA, it has to be approved, and the President

has to declare an emergency; but, in addition to FEMA and the temporary emergency assistance, there is also the question of what happens to small businesses, and what happens to other people. Will the SBA loan money be available? Will Farmers Home Administration loan money be available? That is still of great concern to me.

I have been waiting in vain for some clear assurances and commitment; that such funding is in fact available. I cannot be here in the U.S. Senate and not represent people who are in a lot of economic pain. That is why this I offer this amendment. I think it is important that we move forward and provide some assistance.

Mr. STEVENS. Mr. President, my information is that we create these funds, and the funds are made available to disasters as certified, first as requested by the Governor for Federal assistance, and then certified by the agencies. It is on a first-come first-served basis.

We are told—and I say to the Senator, the information received by the minority staff and myself is—that there will be sufficient funding in this mechanism for the SBA and FEMA moneys. The Senator has raised a new issue with regard to agricultural moneys. There are no agricultural moneys in this bill, as I understand it. And we do not have the answer to what the Senator refers to in his amendment, as I understand it, as agricultural moneys. I think that is a new element in this bill.

But as to FEMA and SBA, I again say to the Senator, I am informed that if this disaster is covered by the request, as he indicates has been made as of 2 p.m. for Federal assistance, and it is certified as a Federal disaster, as I understand it would normally be, then there are moneys available to cover the requests of those who are affected by this disaster.

Mr. President, I am on my feet basically to urge the Senator not to hold up this bill. We have been told repeatedly that we must get this money out. We have been in extreme negotiations on this bill. There has been a total endorsement now of the administration of this bill. The areas that are affected by the disasters, that are already waiting for money, will be affected by the delay.

Clearly, it does come out of a dire emergency concept, affecting Los Angeles and other areas. I think it would be very unfortunate to hold this up.

With regard to the new addition of the agricultural money, I do not have information as to coverage of agricultural, and I am not prepared to answer any questions concerning that.

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

Mr. STEVENS. I do yield.

Mr. WELLSTONE. I thank the Senator.

Mr. STEVENS. I will yield the floor, Mr. President, unless the Senator has a question for me.

I yield the floor.

Mr. WELLSTONE. No, Mr. President. But I would like to respond briefly.

I want the Senator to know that I am not trying to hold up the bill. I have been waiting all afternoon for a response from the White House, or from the various agencies, for some reassurance that what the Senator said will happen, will in fact happen. I do not think that is too much to ask.

There are people who are hurting in southwest Minnesota. First come, first served does not cut it with me. I am interested in whether or not there is going to be assistance available for these people.

I say to the Senator from Alaska, I just now have received a letter from the Federal Emergency Management Agency advising me that, indeed, the funding will be available. This is the kind of reassurance that I need to represent my people in the State of Minnesota.

My understanding is the Small Business Administration will, in fact, also provide such an assurance. I hope that will be the case. I have been waiting all afternoon to hear from these people. I do not think that is too much to ask, when small towns are flattened and people in Minnesota have lost their homes and businesses. People are worried about it, and we have an emergency declared by the Governor of my State.

Mr. STEVENS. Then I ask for a vote, Mr. President. Let us vote. I am prepared to vote.

Mr. President, I cannot support the Senator's amendment that asks for agricultural money that is not in this bill.

And I again say—the Senator is requesting information—the letter that is before me says that money will be available “to fund any necessary assistance to the State of Minnesota should the recent storms in the Midwest cause any major damage to your State qualifying for a Presidential Disaster Declaration.”

That is a statement this Senator made on this floor; that is available from both SBA and FEMA.

Again, if you think this is bad, you ought to see my whole State, leveled by the earthquake, the most powerful to hit the continent in the history of recorded earthquakes. My State took the Federal Government's promise of assistance with a grateful attitude. We did not try to hold anything up. Again, this is holding up this bill. I want this bill passed tonight.

I cannot quite understand. Does the Senator withdraw his amendment concerning agricultural moneys? There are no agricultural moneys in this bill. We cannot assure the Senator availability of agricultural moneys.

Mr. WELLSTONE. Farmers Home Administration money is available for housing assistance. I am waiting for a written response from them, dealing with the whole issue of crop damage and whether money will be available.

These are things that I have to find out about. These are not like abstract issues to the people out there. The Senator knows that.

No, I will not withdraw the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Alaska.

Mr. STEVENS. Mr. President, I seek no disagreement with the Senator from Minnesota. Minnesota is already one of those States that is listed as being eligible for a prior disaster. All States under the law have equal access to these funds once they qualify.

The House is not in session. It will not be in session until noon on June 22. This bill is vitally needed for many areas, and it is essential that we get the bill passed.

I am informed the House will not vote until June 23. I would hope that the Senator would take our assurance and the assurance of the agencies involved that if his State becomes eligible for assistance from these funds, the funds will be made available to the people who are eligible for them.

We do not earmark funds for any disaster. We have not done that, and the funds here on this bill are not earmarked for Los Angeles, or for any of the disasters for which their eligibility was declared as of May 31.

But, again, I urge that we pass this bill tonight, that we get this bill signed and get this money out as soon as it can be disbursed to those people who are already waiting in line for a series of disasters that occurred before May 31, of this year.

Mr. President, we have given the Senator assurance that, as his State qualifies for funding under these laws, it will receive equal treatment with all other States, and, as the funds are depleted, we will get another request, if that is necessary, for more money. I am told that will not be necessary, but it may be because these disaster claims sometimes do increase as the actual estimates are brought in with real appraisals for the moneys that are needed for loans and grants.

But I plead with the Senator to let this bill go. It is not a matter of discrimination against him or his people. And, believe me, I wonder how many other people have had to make applica-

tion for disaster assistance. I have and I know what it means to wait. But there are people out there now that are waiting. And the Senator's people on this new disaster have not yet complied with the Federal law. The Governor has requested assistance, but I am informed the papers that follow that are not here yet.

Why should we wait until the House has a chance to act on this on the 23d? This is the 18th. There is no reason to delay this. This is the last item on this bill.

It has been a very controversial bill. I congratulate everyone that has worked on it. I never thought, when we first had this bill before us, that we would see it this quickly. But we have it now, and it is very much a dire emergency supplemental.

I urge the Senator to reconsider and accept the assurances he has received and to let this bill go.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, again, I appreciate what the Senator from Alaska is saying.

I just want to repeat one more time: It is not my intention to hold this bill up. I have not been the one who has delayed. I have been asking the White House all day for some reassurance.

I have been told—and I want the Senator from Alaska to know this—that the Small Business Administration is supposed to be getting me some written reassurance. That is all I have asked for. We know about the programs. We know about what is, in theory, available. I just want to get some written reassurance, and hopefully, I will.

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

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURENBERGER. Mr. President, I have the sense that at least the quandary in which we find ourselves is just temporary and that some appropriate assurances will be forthcoming from the administration which at least this Senator hopes will not make a vote on this amendment necessary.

But I thought it appropriate to rise and confirm a couple of things for my colleagues. I know that some of my colleagues have been around here a lot longer than I have and have seen a lot of disasters. They have lived with floods, they have lived with the tornadoes, they have lived with fire, and pes-

tilence, and a variety of things. Most recently we have lived with the damage of inattention to an infrastructure system in the city of Chicago and neglect, if you will, of law enforcement and other systems in the city of Los Angeles.

But I think we need to remind ourselves on each of these occasions of the human damage as well as the physical damage that is done by nature. There is a reason why we have the FEMA, the Federal Emergency Management Agency. There is a reason why as a nation we flock to help communities and people who cannot help themselves. It is because a lot of these emergencies are totally unexpected. There is not a thing we can do about them.

Those of us who are born and raised on the so-called prairies and hinterlands of this country are used to heading for the appropriate corner of the basement or into the storm cellar, as it is called, particularly during the summer months when the broadcast warning of a tornado comes. So the loss of life is not what it once was, but the property damage and the devastation to the communities certainly is.

In the case of 10 States which were visited by a terrible tornado just in the last 36 hours, it is just another important reason for us to focus on what we are doing here with the dire emergency supplemental. We are providing for those who cannot provide for themselves.

In our particular case, my colleague from Minnesota and I have been discussing for the last 24 hours and during the course of this day, in particular, with the appropriate Federal agencies. We are talking about a 10-State area. We are talking about in the State of Minnesota, which I am sure was the worst hit, we are talking about towns' and people's livelihoods which have been literally uprooted.

There are hundreds of million of dollars of damage and that total damage will not be estimated immediately. Some of it can be done fairly quickly, and over the course of the next week, that will be accomplished. The rest of it will take months literally to determine. With regard to eligibility for certain disaster assistance that is only available from the ASCS through the Agriculture Department, the extent of that damage is not going to be known until sometime this fall. The reality exists.

The little town of Chandler, MN, has been wiped off the map; 35 homes destroyed; 34 homes destroyed great enough that they probably cannot be rebuilt; an apartment building destroyed; a school destroyed. In fact, I met out on the steps of the Capitol today a young Girl Scout who is wondering whether or not she is going to have to go back to school this fall because it was her school that was leveled. I assured her somehow or another

between PAUL and myself we were going to make sure that her school was rebuilt. But the reality is her school as of today is no more while she was here in Washington. Her church is no more; five businesses are gone. One of the businesses was Hiskin's meat processing which is a major employer in Chandler. It provided more than 200 jobs in a small town that size. It will be lost forever. Four hundred homes in Minnesota are still without electricity. It is expected to cost \$7 million to rebuild the rural electric co-ops power lines in that area, which is \$7 million more than the co-ops have. But what is most troubling about the disaster is that it caused extensive crop damage, property damage to farming communities already suffering under low commodity prices and huge losses in last year's soybeans and corn crops. Hail storms 15 miles long, 4 miles wide, moved through southwestern Minnesota destroying everything that was not spared by the tornadoes. The soybean crop is devastated. I heard estimates of loss as high as 75 percent. And the corn crop is not much better. The President of the National Corn Growers, as I understand it, John Nelson, with whom I was in Chicago on Tuesday testifying before the EPA on the ethanol case, John Nelson is alive, but everything John Nelson owns has been totally wiped out.

In Darwin, MN, a corn farmer lost everything, he lost his garage, machine shed, barn. He walked away with his life and the shirt on his back and that is about it.

The Governor, Arne Carlson, has requested FEMA to assess the damage. He estimates the damage at \$60 million. Minnesota needs help, the farmers need help. The Federal Government has the responsibility to help and to help now. My colleague has well stated the facts and of his efforts all day long to get some kind of commitment from a variety of agencies, as both of us have tried. We now have in hand the letters from the Federal Emergency Management Agency, the U.S. Small Business Administration, and hopefully the commitments from the Agriculture Department as it relates to Farmers Home money as well, and I will be glad to yield to my colleague in the expectation that he has some news for all of us.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. Mr. President, let me first of all thank my colleague from Minnesota. Let me also thank Senator BYRD, Senator STEVENS, and the majority leader for their patience.

Mr. President, I do have in hand written reassurances which have really been the goal all day. First, I have a letter from the Federal Emergency Management Agency:

DEAR SENATOR WELLSTONE: This is to advise you that with the additional \$300 million Supplemental Appropriation through Congressional passage of H.R. 5132 for the Disaster Relief Fund and the \$143 million Dire Emergency Supplemental Appropriation available, FEMA anticipates it will be able to fund any necessary assistance to the State of Minnesota should the recent storms in the Mid-West cause any major damage to your State qualifying for a Presidential Disaster Declaration.

Mr. President, I ask unanimous consent to print this letter in the RECORD.

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

FEDERAL EMERGENCY  
MANAGEMENT AGENCY,  
Washington, DC, June 18, 1992.

Hon. PAUL D. WELLSTONE,  
U.S. Senate, Washington, DC.

DEAR SENATOR WELLSTONE: This is to advise you that with the additional \$300 million Supplemental Appropriation through Congressional passage of H.R. 5132 for the Disaster Relief Fund and the \$143 million Dire Emergency Supplemental Appropriation available, FEMA anticipates it will be able to fund any necessary assistance to the State of Minnesota should the recent storms in the Mid-West cause any major damage to your State qualifying for a Presidential Disaster Declaration.

I am available to discuss this matter with you at your convenience should you have any questions. Otherwise, please have your staff contact our Office of Congressional Affairs on (202) 646-4500.

Sincerely,

GRANT C. PETERSON,  
Associate Director,  
State and Local Programs and Support.

Mr. WELLSTONE. Mr. President, I have a letter from the U.S. Small Business Administration, for which I thank Pat Salki:

DEAR SENATOR WELLSTONE: Should the destruction qualify as either a presidential or administrator disaster, there will be sufficient funds under H.R. 5132 for the SBA to cover any loan from that disaster. Indeed, these monies are essential for the SBA to meet existing and expected disaster loan obligations. There are no funds set aside for any specific disaster; they are all available to meet the demand from any disaster.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

U.S. SMALL BUSINESS  
ADMINISTRATION,  
Washington, DC, June 18, 1992.

Hon. PAUL WELLSTONE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR WELLSTONE: Should the destruction qualify as either a presidential or administrator disaster, there will be sufficient funds under H.R. 5132 for the SBA to cover any loan from that disaster. Indeed, these monies are essential for the SBA to meet existing and expected disaster loan obligations. There are no funds set aside for any specific disaster; they are all available to meet the demand from any disaster.

Sincerely,

PATRICIA SAIKI.

Mr. WELLSTONE. Finally, Mr. President, I have talked to Mr. James Dyer, deputy assistant to the President for legislative affairs, and he assures me that the Farmers Home Administration will not have any problem responding with sufficient funds to the damage that farmers may have incurred through crop damage.

Finally, Mr. President, I ask unanimous consent to include a variety of documents that describe the extent of the damage in many counties in southwestern Minnesota.

I would like to include the Governor's request for assistance. I would like to include a variety of articles which spell out in personal terms what this damage means, which is why I have been on the floor.

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

MINNESOTA PICKS UP PIECES AFTER STORMS  
WREAK HAVOC

(By Ruben-Rosario and David Shaffer)

Judy Gilbertson of Lake Wilson, Minn., grabbed her 10-year-old daughter, Tiffany, and a next door neighbor and herded them into the basement of her two story wood frame home.

Gilbertson, the wife of the town's mayor, had been warned of the approaching tornado by an emergency beeper her husband keeps at home.

Huddling against the side of a freezer unit for added protection, the three held tight to one another and prayed.

A couple of minutes passed. Glass shattered, wood and metal twisted, but the basement dwellers were so scared that they do not recall hearing the sounds.

Then Judy Gilbertson sneaked a peek at her surroundings.

"We looked up and saw the sky" she recalled Wednesday.

The house was gone, ripped from its foundation. The only structures left untouched were the basement walls, and, amazingly, two racks holding Mason jars.

Seconds later, a large field rake that had been lifted from a farm a quarter of a mile away landed in the basement about 10 feet from the women and the girl. They weren't injured.

Battered but unbowed, Gilbertson and hundreds of other residents in southwestern Minnesota had similar tales to recount Wednesday in the wake of a tornado-producing thunderstorm that ravaged the area Tuesday evening.

The fury unleashed by one of nature's most destructive forces injured at least 49 people and reduced a 75 square-mile area to rubble and debris that one area resident compared to the aftereffects of an atomic bomb.

Cars and trucks were crushed and hurled into the air like Matchbox toys.

Schools, churches, farmhouses, homes and businesses were destroyed or reduced to rubble.

In the town of Chandler, Minn., twisted pieces of a silo were scattered like crumpled balls of aluminum foil. The silo was made of galvanized steel.

"The damage is absolutely amazing," said Lt. Gov. Joannell Dyrstad who viewed the affected area from a helicopter. She added that it will take several more days of damage assessment before federal disaster relief is requested.

David Lundberg, program coordinator for the Minnesota Division of Emergency Management, said the hardest-hit areas were Chandler, Lake Wilson, Clarkfield, and Cokato. The small towns are all about 200 miles southwest of the Twin Cities.

Lundberg said the storm, accompanied by at least one tornado and possibly more, accounted for more injuries than any since the Fridley and Tracy tornadoes of the mid- to late 1960s.

"It was the most massive outbreak of tornadoes we have seen in almost 30 years," he said. "We're dealing with a more sparsely populated area of the state. If it had been in the Twin Cities area, we would have really been in a world of hurt."

Dan Effertz, meteorologist for the National Weather Service at Minneapolis-St. Paul International Airport, said only one tornado—the one in Chandler—could be confirmed. He said it was possible there were others.

There were no storm related fatalities reported in the affected area. A 7-year-old St. Paul boy was killed Wednesday when he accidentally came in contact with a downed electrical wire near a housing development on the city's East Side during a day of heavy winds.

Twenty-five people from the Chandler and Lake Wilson area were treated at Pipestone County Medical Center, said Carl Vaagenes, hospital administrator.

Six were admitted and are in serious-but-stable condition, 15 were treated and released, and four were transferred to Sioux Valley Hospital in Sioux Falls, S.D. A nursing supervisor there said one is in critical condition, one in serious condition and two in fair condition.

Another 12 patients from Chandler and Lake Wilson were admitted to Murray County Hospital in Slayton, Minn. Five were treated and released and seven were admitted and are in good condition.

A half dozen people received minor injuries in Clarkfield, five people from the Cokato area were treated for minor injuries at Health One Buffalo Hospital and released, and one man is in stable condition at Luverne Community Hospital.

About 90 Minnesota National Guard troops were sent into Chandler, Lake Wilson, Clarkfield, Olivia and Cokato, said Maj. Lucy Kender, public affairs officer for the Guard.

In Chandler and Lake Wilson, 25 troops were securing the area and providing traffic control. Another 27 were in Clarkfield and 14 were near Olivia, surveying rural areas where telephone lines had been downed. There were 25 troops in Cokato, many of them helping with two portable generators and water trucks brought in because the town's sewage system had backed up after a power failure.

Lundberg said spillage from an agricultural chemical storage facility in Chandler damaged by the storm poses no danger to the town's drinking water supply.

Red Cross and Salvation Army staffers from throughout the state moved into the area Wednesday to provide food, shelter, clothing and other forms of assistance. Many who lost homes moved in with relatives or neighbors who had been spared substantial property damage, authorities said.

In Cokato, a National Guard unit from Litchfield, Minn., began working to clean up streets littered with debris spread by a late night storm that injured eight people, shut down the business section and damaged numerous buildings.

The storm front that marched through the southern portion of the state also knocked out power to 28,000 customers in the Twin Cities, said Northern States Power Co. spokeswoman Margaret Papin. The thunderstorms were accompanied by damaging winds and heavy rains.

Greg Spoden, assistant state climatologist, said the heaviest precipitation appeared to be in west central Minnesota, in Big Stone, Lac qui Parle, Swift, Chippewa and Kandiyohi counties. "We have found a number of precipitation amounts of 4 to 7 inches, he said.

He said Montevideo got 6.32 inches, Willmar 5.35 inches, Madison 5.06 inches and an area near Watson almost 7 inches.

Nearly 2.2 inches of rain was recorded at Minneapolis-St. Paul International Airport, 1.34 inches at the St. Paul campus of the University of Minnesota and 2.76 inches in Stillwater.

Almost all parts of the state got some precipitation, which Spoden said will help ease dry soil conditions.

"We are coming off a very dry period," he said. "Through Monday morning nearly all of Minnesota had received less than 75 percent of normal precipitation since April. In fact, some areas of southwestern Minnesota had received less than half of normal for that period."

The ferocity of the storm was described with awe by southwestern Minnesota residents, many of whom somehow managed to escape injury.

Clarkfield Police Chief Bunker Hill was sitting in a patrol car when the storm hit late Tuesday, damaging at least two-thirds of the homes and businesses in the town of 1,003 in central Yellow Medicine County.

"It was a gentle rain and a little bit of wind," he said. "Then all of a sudden the wind came up and a torrential downpour started. I've never seen anything like it.

"The next thing I know," he continued, "the windows in the car exploded and I rocked and rolled for about 90 seconds." The car, a 1992 Ram Charger with 4,600 miles was destroyed.

Gert Krosschell, 72, of Chandler fought back tears Wednesday as she sifted through the remains of what once was her home.

Krosschell and her cancer stricken husband, Peter, also 72, had taken refuge in the basement.

The only part of the house what was left standing was a masonry chimney and a supporting wall.

"The whole town is just . . ." Gert Krosschell said while clutching a mud-caked picture of her husband taken in 1942. It was among a few personal belongings she had been able to find in the debris.

She pointed to a hill. "There were houses up there," she said. "There is nothing there now. It's just like a junkyard."

Her 71-year-old neighbor across the street, Jacoba Prinsen, was alone in her home when the tornado struck.

Her home also was ripped from its foundation and its contents scattered throughout the neighborhood.

"I don't think that I can start over," Prinsen said. "The only thing that I can be thankful of is that we're all alive."

#### CARLSON TO SEEK FEDERAL ASSISTANCE FOR STORM AREAS

(By Steven Thomma)

WASHINGTON.—Minnesotans in areas hit by this week's tornadoes can expect federal help ranging from counseling to cash grants if

storm-struck areas are declared disaster areas.

Gov. Arne Carlson is expected to ask President Bush today to declare several counties disaster areas, according to a spokesman for Sen. Dave Durenberger, R-Minn.

That request would trigger a visit by inspectors from the Federal Emergency Management Agency, said Steve Moore, Durenberger's spokesman. If they agree that the storms were a disaster, Bush could be expected to open the door to federal help by Monday or Tuesday.

The agency then could: Pay for temporary housing for those whose homes were destroyed.

Make grants of up to \$11,500 for personal expenses such as food and clothing.

Cover unemployment compensation not covered by the state for those out of work because of the storm.

Provide crisis counseling. Pay 75 percent of the cost of repairing roads, bridges, utilities and sewer systems.

The Small Business Administration could offer:

Loans to repair or replace homes at interest rates of 4 percent to 8 percent.

Loans to repair business property or replace damaged inventory at rates from 4 percent to 6.5 percent.

Working capital loans for businesses at 4 percent.

The Farmers Home Administration could offer low-interest loans to help farmers rebuild homes. Those farmers who had crop insurance would turn to it to cover damaged crops. Moore said the state's congressional delegation would likely seek an emergency federal appropriation to help those without crop insurance.

The Bureau of Indian Affairs has a social services program to help tribes after catastrophes.

#### TWISTERS LEAVE TRAIL OF SHOCK, TEARS— THIS TIME, THE RIDGE DIDN'T SAVE CHANDLER

(By Richard Meryhe)

CHANDLER, MN.—Folks here never worried much about tornadoes. They say they didn't have to. They had Buffalo Ridge for protection.

From Hwy. 91 on the east end of Chandler to County Rd. 5 heading west, the rolling hills that border the south side of the town of 316 people have always protected residents from nature's nastiest winds.

No tornado ever hurdled that ridge, folks said. So, they just assumed no wind, no matter how nasty, ever would.

"When I first moved here, they told me tornadoes never touch the place because of the Buffalo Ridge," said Lynette Lingen, a resident for the past four years. "I asked about tornadoes, but they told me you don't have to worry about them because of the ridge. When the winds hit it, they usually ride the ridge east or west. They never go north or south."

But the winds blew north Tuesday, and sucked up a good chunk of Chandler.

Two tornadoes swept through town in four hours, injuring more than 30 people, wiping away nearly three-fourths of the housing and businesses and forever shattering the town's confidence in the Buffalo Ridge.

Buffalo Ridge is one of the highest northwest-southeast ridges leading to the extensive upland plateau known as the Coteau des Prairies, and at that point is the divide between the Mississippi and Missouri river water sheds.

Rising to about 1,800 feet above sea level, Buffalo Ridge is 100 to 200 feet above the sur-

rounding valleys, and areas residents have long known that it can affect the weather.

Tuesday's devastation was so great that many residents recognized their homes only by furniture and ruins that had collapsed into their basements. Roofs were gone, as were cars. West of town, the landscape was littered with the carcasses of about 25 cattle that died in the storm.

In a town known for its faith (the water tower reads "Chandler, In God We Trust") residents said it was a true miracle that nobody died.

"God spared all of us," said Caroline VanderWoude, who scrambled beneath a table with her daughter-in-law and two granddaughters to escape winds that pulled her house off its foundation. VanderWoude's house was destroyed, along with two neighboring homes belonging to her sons.

Residents say it would have been worse had firefighters not sounded the town siren well before the first tornado touchdown, then raced around town hollering at residents to take shelter.

The siren, which is getting so much credit, was repaired three days before the tornado struck.

"We thought at first it was the 6 o'clock whistle, but no, it was 5 o'clock, it was a tornado," said Jeanette Karssen, who lived in an eight unit apartment building that was demolished. She and five other residents survived by taking shelter in a central room.

"We can't go door to door because there are no doors left," said City Clerk Al Vis. "We have to go basement to basement."

Vis, a member of the town's fire department for 23 years, rode south of town as a spotter, once word spread that a tornado had touched down near Leota, about 15 miles away. As Vis reached the top of the hill, he was stunned by what was coming at him.

"It was no funnel," Vis said. "It was about a half-mile wide and the whole thing was just black and hugging the ground. We radioed back to town and drove back as fast as we could.

"But by the time we started coming down the hill, it was gaining on us, so we had to get out of town. I had my foot to the pedal. But we could only go 20 or 25 miles an hour because this thing was sucking us back.

"All of a sudden, we shot out of it like a rocket. We'd gotten out of the draft. We drove to the outskirts of town and turned around. When we came back, we couldn't believe what we saw."

The town was in shambles. On Wednesday, it was much the same.

Huge grain bins were sliced in half, corn stored in one spilled into the street and neighboring yards, along with strips of sheet metal that had been torn from the bins.

Sheet metal was stuck in trees and wrapped around cars. The roof was gone from the high school, as were the windows and much of the brick facade.

The high winds toppled a 200-gallon tank of herbicide at an agriculture co-op, and emergency workers worried that some of the chemicals might seep into the ground and contaminate land or drinking water. But officials said late yesterday that a concrete dike surrounding the herbicide tanks successfully contained the chemical.

"I'm confident, we have things stabilized," said Paul Liemondt, a Minnesota Department of Agriculture official.

The roof of Trinity Lutheran Church was gone, too, forcing parishioners to the nearby Reformed Church for services yesterday morning. Visa said all but 10 of the town's homes were damaged more than half were severely damaged, and 25 were destroyed.

All but the foundation of Lynette Lingen's house was gone. So was Ken Brown's place across the street. The winds had blown the metal from the grain elevator into Lingen's house. Parts of her house blew toward Brown's house, then up the hill toward the school and the water tower. Much of the debris was spread across farm fields north of town, toward the town of Lake Wilson.

Some small items remained virtually untouched.

A Tennessee Ernie Ford album sat in the middle of Main Ave., looking clean and unscratched; and VanderWoude's kitchen cabinets built last year by her son, were intact.

Caroline VanderWoude and her daughter-in-law, Delaine VanderWoude, worked side-by-side throughout the day, searching the debris for photographs and other mementoes.

At one point, Delaine began to cry. She was one of the few in town who did. If Chandler residents were overwhelmed by what happened, they didn't show it. Few hugged or embraced. Fewer cried. Most displayed a resilience that many here say defines the community.

"It's a unique town in that way," Vis said, "People dig in and do what they have to do. If it needs to be fixed, they fix it."

Said the Rev. Bob Moritz, pastor at Trinity Lutheran, "You don't see any junkies sitting along the road in this town."

It's a town built around corn, bean, hog and dairy farmers who work the land and the 250-plus employees who work at Husken Meats, the largest employer in Murray County.

More than anything, churches hold the community together. There are three in Chandler—Trinity Lutheran, Christian Reformed, and Reformed. Worshipers at all three were at the Reformed Church yesterday, first to pray, then to help the Red Cross, which had set up an emergency shelter.

Some grabbed chain saws to help rid the town of brush that littered roads and yards; others grabbed hammers and began patching roofs and windows. Tractors pushed the debris into piles for workers to haul away.

The National Guard, Salvation Army and state Transportation Department had workers there, too, and by the end of the day, organizers said, there were too many workers to manage. The Mennonite Church of Mountain Lake was there, and the Murray County Pork Producers hosted a pork burger dinner at the Reformed Church to keep locals from going hungry. Rolls, candy, cookies, pizza and soda pop were spread across a table in the church lobby as dinner hour approached. Most in town showed.

All had stories to tell, and some even managed to smile.

"I think when it's all said and done, Chandler will pick itself up by the bootstraps and rebuild," Vis said. "They said 20 years ago when they took out the radar station here the Chandler was going to die. 'But it didn't. And I don't think the community will let this kill it, either.'"

## 2 DIE, 30 INJURED AS STORMS POUND MIDWEST AGAIN

Tornadoes and other severe weather pummeled the Midwest for a third straight day Wednesday.

Two people died, more than 30 were injured, at least 75 homes were destroyed and more than 622,000 customers lost electricity. A third death yesterday was linked to thunderstorms the night before from the same weather system.

Destruction was reported in Wisconsin, Michigan, Illinois and Indiana. The storm

system moved into western Ohio last night, knocking down trees and power lines and leaving thousands more in the dark.

"It's just devastating," said Rosalind Clausman, clerk of the tiny town of Dunn, Wis., near Madison. "It missed us, but we could see the funnel going about half-a-mile away, and it was just a real loud roar."

Sixty-eight homes in the township were blown away or damaged beyond repair, 32 were moderately damaged and 132 were lightly damaged, said township chairman Edmond Minihan. About 30 people in the area suffered minor injuries, said Capt. David Listug of the Dane County Sheriff's Department.

The same tornado caused damage in Oregon, Wis., where 10 to 15 houses were destroyed and about 30 more were damaged, said firefighter Gary Wackott.

Roofs were ripped off two housing units at the Oregon Correctional Center, slightly injuring three inmates, said Deputy Warden Sandy Sweney. Nearly every building on the property was damaged, several extensively, and inmates were transferred to another prison, Sweney said.

In Michigan, the National Weather Service reported many tornado sightings across the central and northern Lower Peninsula. Large hail and high winds lashed metropolitan Detroit at nightfall.

The storms, with wind up to 70 miles per hour, cut off power to about 310,000 customers in Michigan, said an area manager for Consumers Power Co. About 70,000 Detroit Edison Co. customers also lost power, a spokeswoman Kessler said.

A pilot was killed when high winds flipped over his plane while he tried to land at Troy-Oakland Airport north of Detroit, the Federal Aviation Administration said.

In Chicago, a 12-year-old girl was electrocuted when she touched a downed power line. Elsewhere in Illinois, high winds, possibly a tornado, destroyed one home and tore off several roofs in the rural town of Gilman but caused no injuries, said Officer Nita Dubble of the Iroquois County sheriff's office. Much of the county lost electricity.

About 211,000 customers were without power after the storms passed through the six-county Chicago area, Commonwealth Edison Co. said.

Severe thunderstorms also whipped northwest Indiana. The Porter County Sheriff's Department said a tornado hit near Boone Grove. A \*\*\* touched down near Chesterton and third struck in a rural area \*\*\* county, said Jerry Hauer director of the state Emergency Management Agency.

The storms knocked out power to at least 30,000 homes and businesses in northern Indiana, said a spokesman for Northern Indiana Public Service Co.

As the storms moved eastward into Ohio they knocked out power to about 4,600 North Western Electric Cooperative customers. And a spokesman for Toledo Edison said thousands more customers were without power west of Toledo. Tornado watches were in effect in parts of Ohio and Indiana this morning.

[From the Minnesota Department of Public Safety]

## STORM DAMAGE ESTIMATED AT \$50.5 MILLION

The Department of Public Safety Division of Emergency Management today estimated the damage caused by severe weather earlier this week in southern and southwestern Minnesota at \$50.5 million.

Jim Franklin, Director of the Division of Emergency Management emphasized this is a preliminary estimate which will be up-

dated as additional information becomes available. "This preliminary estimate does not include crop damage, livestock, or stored grain losses", said Franklin.

The damage assessment in each county is estimated as follows:

Yellow Medicine County, \$7 million.  
Ranville County, \$9.1 million.  
Wright County, \$10-12 million.  
Redwood County, \$15 million (\$10 million property/\$5 million utilities).  
Stearns County, \$0.5 million.  
Swift County, \$250,000.  
Nobles County, \$820,000.  
Brown County, \$100,000.  
Murray County, \$12 million.  
Lyon County, \$5-6 million.

Other damage reported:  
Worthington Electric Coop., \$100,000 to distribution lines.

Cooperative Power Assn., \$100,000 to high voltage lines.

Estimated total, \$50.5 million.

Damage assessment teams from the Federal Emergency Management Agency (FEMA) will be in Minnesota tomorrow to continue assessing the damage caused earlier this week.

Residents in areas affected by the storms are urged to contact the Emergency Management Director in their county and provide an estimate of the value of the damages or losses they sustained, or any other service needs they may have.

This will allow the counties to assemble their needs, and will in turn allow the state and federal government to better respond to those county needs.

Mr. WELLSTONE. Finally Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. BYRD. Has not the Senate already concurred en bloc in the amendments of the House numbered 2, 3, 7, 9, 11, 12, and 13?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. The only amendment remaining for concurrence by the Senate is amendment No. 1?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate so concur.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

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

Mr. RIEGLE. Mr. President, I am pleased that we have reached an agreement on the dire emergency supplemental legislation to provide urgently needed assistance not only to Los Angeles and Chicago, but also for summer jobs.

The supplemental appropriations conference report provides: the sum of \$495 million in emergency supplemental appropriations for small business loans and FEMA disaster assistance, \$500 million for the Job Training Partnership Act summer jobs for youth program, \$100 million of which will go to the 75 largest cities. Detroit will receive \$3.727 million; and an additional \$80 million for small business loans that must be paid for under the requirements of the budget agreement.

Unfortunately, an additional \$175 million for summer jobs, \$500 million for summer education programs, and \$250 million for the Weed and Seed Program that had been included in the Senate version of the supplemental and initially adopted by the conferees were omitted because the administration thought the version was too costly.

Mr. President, I feel this action was shortsighted. Even the Senate version of the bill would make only a small dent in a large problem. We must do more, not less, to address the problems facing young people in our inner cities, particularly the high level of unemployment. These problems have been neglected far too long. As I stated yesterday on the Senate floor, it is only right that if we can take up emergency aid for the former Soviet Republics, we can take up an emergency measure to help the people here in this country.

We need a comprehensive approach to the whole complex of problems that besiege our inner cities—lack of jobs, an undereducated and poorly trained work force, inadequate affordable housing, a crumbling infrastructure, insufficient access to health care, and neighborhoods ravaged by drugs and crime.

I intend to continue to work to keep these issues on the Senate's agenda this year. Today, the Senate Banking Committee approved a housing bill that addresses some of the critical problems facing our urban areas. I hope we will bring this measure to the floor in the near future. I will also be working as a member of the Senate Finance Committee to enhance enterprise zone legislation that will bring critical resources and programs to economically disadvantaged areas.

The housing bill that we reported out today includes many important provisions. In particular, it would create a new program to provide \$40 million for a new youth training program, YouthBuild. This program would provide grants to community-based groups to educate and train disadvantaged high school dropouts to construct and rehabilitate housing for low-income people.

YouthBuild will provide an innovative approach and additional resources to provide young people with good, skills-building jobs. It would empower disadvantaged youth to become self-sufficient while at the same time increasing the supply of affordable housing.

YouthBuild's unique, comprehensive approach links job training, education, and leadership development and targets the population most at risk in our inner cities—poor, undereducated kids between 16 and 24 years old. The program is modeled on existing programs in a dozen cities, which have received rave reviews from foundation heads and academics.

YouthBuild was profiled in a recent New York Times article as one of several programs that have grown up at the grassroots level to integrate undereducated inner-city youth into the economic mainstream. The Times called Youthbuild "a wellspring of human reclamation."

The housing bill also contains a provision to ensure that jobs and contracting opportunities generated by Federal housing and community development assistance go first to low income people, particularly public housing residents and residents of the neighborhoods of federally assisted activities.

This is one low-cost way to begin to address the chronic lack of economic opportunity in our inner-city neighborhoods. Housing rehabilitation and construction projects and other community development construction projects create over 120,000 permanent jobs in our cities every year.

Directing these jobs to the residents of the low-income neighborhoods where projects are located makes our housing and community development programs empowerment programs that can enable poor, inner-city residents to pull themselves into the economic mainstream.

We are at a very important crossroads in this country. Earlier this year, we saw what could happen—not just in Los Angeles—but in communities across this country, if we do not address these problems. The sense of frustration is growing. The people in our cities want the chance to improve their communities, but they lack the resources that create opportunities for improvement.

So, Mr. President, I will support this conference report as an important first step. But I urge my colleagues to work with me to take additional steps this year to address the critical problems facing our urban areas.

DOT EMERGENCY RELIEF FUNDING FOR  
HUMBOLDT COUNTY, CA

Mr. SEYMOUR. Mr. President, one provision in this supplemental appropriations bill is designed to ensure that the Department of Transportation has sufficient authority under the emergency relief program to repair roads damaged in the April 25, 1992, Humboldt County earthquake.

Last month, the Senate adopted an amendment I and Senator CRANSTON offered to conform current law under the Intermodal Surface Transportation Efficiency Act [ISTEA] with prior law. Under the law prior to enactment of

ISTEA, these same roads in Humboldt County would have been eligible for emergency relief funding assistance. The intent of this provision as adopted by the conferees will permit highway emergency relief funds to flow to earthquake damaged roads in Humboldt County as the Congress had intended.

There is concern, however, that this provision may be interpreted as technically insufficient, in terms of its effective date, thus leaving a 6-month period during which ER funds would not be available for use on certain highways in a disaster-stricken community. Clearly, the intent of the Senate and the conferees in adopting this provision was to make it retroactive to help communities like Humboldt County and to ensure continuity in the program. Is this the understanding of the chairman and the distinguished ranking member of the Environment and Public Works Committee?

Mr. BURDICK. I want to assure Senator SEYMOUR that the intent of this provision is exactly as he indicates. This provision is intended, and it should be interpreted by the Department of Transportation, to be retroactive, and remedy the problem facing Humboldt County. This is consistent with longstanding and established transportation policy.

Mr. CHAFEE. I rise briefly to echo the views of Senator BURDICK. It was our intent under ISTEA to make the emergency relief fund program conform to previous law. Notwithstanding the technical oversight in ISTEA, we did not intend for any disruption whatsoever in the program. The legislative intent behind this provision is consistent with that goal, and DOT should interpret it in this manner.

Mr. SEYMOUR. Mr. President, I thank Senators BURDICK and CHAFEE for their assistance in clarifying the legislative intent behind this particular provision.

Mr. DOLE. Mr. President, I would like to thank the Appropriations Committee for producing a conference report the President will be able to sign. By putting aside partisan differences and working with the President, the conference was able to fix the major problems with the Senate bill.

The conference report pares down the funding for the summer jobs programs to an amount that can be spent over the remaining weeks of summer. It also targets a portion of the funding to the areas in the most need—big cities.

The conference reports strikes funding for the Weed and Seed Program, Head Start, and chapter 1. It is my expectation that these worthwhile programs will now be dealt with in a major urban assistance package and the regular appropriations bills. This will allow the Congress to properly pay for these programs instead of waiving the budget caps and adding to the deficit.

I did not vote for the Senate bill, but I plan to fully support this conference report. This supplemental appropriations conference report is an example of what we can do when Congress and the President work together. I hope we can do more of this in the coming months.

Mr. WARNER. Mr. President, I am pleased that the Senate has approved this conference report giving emergency supplemental appropriations for disaster assistance to Los Angeles and Chicago. The sooner the States receive these necessary funds, the sooner we can rebuild the devastated areas.

During the past month, Governor Wilder and I traveled throughout the Commonwealth of Virginia meeting with a wide cross-section of individuals and having the opportunity to hear their views about the devastation. The key point that the Governor and I took away from those meetings was the importance of summer jobs for our youth. I am pleased to note that this conference agreement includes \$500 million for the Summer Youth Job Program, authorized under title II of the Job Training Partnership Act. \$100 million will be targeted to the Nation's 75 largest cities while the remaining \$400 million will be made available under the existing formula. In my judgment, American youth have proved the most vulnerable in our recent urban tragedies and I believe this funding sends to them our vote of confidence in their abilities. Mr. President, I request that a letter sharing my experiences with the President be inserted following my statement.

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

U.S. SENATE,  
June 3, 1992.

President BUSH,  
The White House,  
Washington, DC.

DEAR MR. PRESIDENT: In the wake of the recent tragic events in Los Angeles, I invited Governor Wilder to join me in touring five areas in Virginia to determine what Virginians felt could be done by state and federal government to address some of the serious problems facing our urban centers. Senator Robb, Rep. Sisisky, Rep. Payne and Rep. Moran joined in some of the meetings.

At each stop, the Governor and I were impressed by the willing, thoughtful comments received from urban and suburban leaders. The meetings included mayors, city managers and other staff members, councilmen, supervisors, police chiefs and volunteers in Northern Virginia, Tidewater, Richmond, Roanoke and Danville. These were open, constructive forums where we examined the problems they view as confronting their localities, and what role state and the federal government should, and should not, play in helping to provide solutions.

I must state how impressed I was by the depth of concern and sincerity Virginians feel for their own future and that of our nation. There exists a strong desire to help. Not surprisingly, however, many voiced significant disenchantment with the efforts over many years of "the government"—both federal and state, legislative and executive.

I am pleased to share with you now the principal points that emerged from our statewide tour.

Two critical areas of consensus were reached: (1) simply throwing more money at existing programs will not solve the problems; and, (2) it is imperative that we proceed on a sincere bipartisan basis.

There was a striking consistency in the views put forth at each stop. Everywhere we heard the same three words: hope, fairness, and flexibility. We must develop new ideas and new approaches that instill hope for a better tomorrow; fairness for all Americans, and flexibility for localities to share federal programs to meet their unique needs. While the federal government has a significant role to play in strengthening our cities, many speakers felt, and I agree, that government alone cannot solve the problems facing our cities and communities today.

A recurrent theme we heard was this: that private efforts are equally essential to improve the quality of American urban life. Any successful attempt to better our cities must include individual volunteers, the churches and the synagogues, and the many charitable organizations that contribute to strengthening the family and offering hope and fairness. Each of us must bolster our individual commitment to help those less fortunate. While the problems are serious, Virginians, I feel, are confident that the Administration, Congress, the business community and the American public, working together, are capable of meeting the challenge.

That challenge includes numerous areas of concern to Virginians: (1) crime, including illicit narcotics trafficking; (2) unemployment, job training and creation of summer jobs; (3) the education system and the need to expand personal opportunity by helping people achieve greater independence; (4) lack of housing and opportunities for home ownership, and the need to give people a sense of pride and a stake in their communities; (5) the need to encourage capital investment and long-term jobs in inner-city areas; (6) lack of child care, not only for preschoolers but for older children left at home before and after school; (7) expensive federal environmental mandates draining resources from other vital necessities; (8) access to health care; (9) American jobs being transferred abroad, and (10) welfare reform.

These concerns are not set forth in any particular order of priority. The order varies from community to community.

Clearly, some of these needs can be addressed on a short-term basis and others over the longer range.

With the summer months now upon us, the greatest urgency was placed on the problems of unemployment, job training resources and summer jobs for youth. Congress, with my strong support, already has passed emergency funding for these and other programs.

We were advised by local leaders that the following Federal programs are working and merit increased funds: (1) Head Start; (2) Community Development Block Grants; (3) the Job Corps; (4) Job Training Partnership Act; (5) the Women, Infants and Children (WIC) nutrition program; (6) Chapter I program for disadvantaged elementary and secondary school students; (7) Community Services Block Grants.

Administration initiatives applauded by Virginians included Weed and Seed, the HOPE housing project, and urban enterprise zones.

In addition, I am personally exploring a limited role for the military in the solution. As you know, Senator Boren and I recently

introduced S. 2373, the Community Works Progress Act. While I have reservations about some portions of the bill, I am committed to finding a role for military personnel and installations to play in providing important training and jobs for youth and displaced workers. I look forward to working with the Administration on the specifics of these proposals.

Please be assured of my continued commitment to helping the Administration identify new ways to provide aid and strengthen our nation's cities and local governments. As you led the way to the successful conclusion of the Cold War, so I hope you can lead in renewed efforts to lessen the hardships being experienced in our cities.

When you visited the Senate on May 5th and met with a group of Senators, you challenged us to make our own survey and report back to you. This I was privileged to do in partnership with Governor Wilder, who shares a deep concern for our people and a willingness to help. We will continue to work together.

I commend you for the urgency and sincerity you attach to getting a program through Congress.

I hope this correspondence will be of value to you as we work to meet this challenge.

Respectfully,

JOHN WARNER.

#### UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 483, H.R. 5260, the Unemployment Compensation Amendments of 1992.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation Amendments of 1992".

#### TITLE I—EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

##### SEC. 101. EXTENSION OF PROGRAM.

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "July 4, 1992" and inserting "March 6, 1993".

(b) WEEKS OF BENEFITS AVAILABLE DURING EXTENSION.—Subparagraph (A) of section 102(b)(2) of such Act is amended by striking clause (ii) and the flush paragraph at the end thereof and inserting the following:

"(ii) REDUCTION FOR WEEKS IN 7-PERCENT PERIOD.—In the case of weeks beginning in a 7-percent period—

"(I) clause (i) of this subparagraph shall be applied by substituting '15' for '33', and by substituting '10' for '26', and

"(II) subparagraph (A) of paragraph (1) shall be applied by substituting '60 percent' for '130 percent'.

"(iii) REDUCTION FOR WEEKS IN 6.8-PERCENT PERIOD.—In the case of weeks beginning in a 6.8-percent period—

"(I) clause (ii) of this subparagraph shall not apply.

"(II) clause (i) of this subparagraph shall be applied by substituting '13' for '33', and by substituting '7' for '26', and

"(III) subparagraph (A) of paragraph (1) shall be applied by substituting '50 percent' for '130 percent'.

"(iv) 7-PERCENT PERIOD; 6.8-PERCENT PERIOD.—For purposes of this subparagraph—

"(I) A 7-percent period means a period which begins with the second week after the first week for which the requirements of subclause (II) are met and a 6.8 percent period means a period which begins with the second week after the first week for which the requirements of subclause (III) are met.

"(II) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is at least 6.8 percent, but less than 7 percent.

"(III) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is less than 6.8 percent.

In no event shall a 7-percent period occur after a 6.8-percent period occurs and a 6.8-percent period, once begun, shall continue in effect for all weeks for which benefits are provided under this Act.

"(v) LIMITATIONS ON REDUCTIONS.—In the case of an individual who is receiving emergency unemployment compensation for the week which immediately precedes the first week for which a reduction applies under clause (ii) or (iii) of this subparagraph, such reduction shall not apply to such individual for the first week of such reduction or any week thereafter in a period of weeks for each of which the individual meets the eligibility requirements of this Act."

(c) MODIFICATION TO FINAL PHASE-OUT.—Paragraph (2) of section 102(f) of such Act is amended to read as follows:

"(2) TRANSITION.—In the case of an individual who is receiving emergency unemployment compensation for a week which includes March 6, 1993, emergency unemployment compensation shall continue to be payable to such individual for any week thereafter from the account from which he received compensation for the week which includes such termination date. No compensation shall be payable by reason of the preceding sentence for any week beginning after June 19, 1993."

(d) CONFORMING AMENDMENT.—

(1) Subparagraph (B) of section 102(b)(2) of such Act is amended by striking "subparagraph (A)(ii)" and inserting "clauses (ii) and (iii) of subparagraph (A)".

(2) Section 101(e) of such Act is amended—

(A) by striking "Notwithstanding" and inserting "(1) ELECTION BY STATES.—Notwithstanding",

(B) by adding at the end thereof the following new paragraph:

"(2) WEEKS OF BENEFITS DURING PHASE-OUT.—Notwithstanding subsection (b)(1)(B) or any other provision of law, if for any week beginning after March 6, 1993, an extended benefit

period is triggered on with respect to a State, individuals claiming benefits in such State for such week and any following week shall be eligible to receive compensation under this Act or extended compensation benefits under State law, whichever is greater.", and

(C) by striking the heading and inserting "ELECTION BY STATES; WEEKS OF BENEFITS DURING PHASE-OUT".

(e) EFFECTIVE DATE.—The amendments made by this section apply to weeks of unemployment beginning after March 6, 1993.

#### SEC. 102. MODIFICATION TO ELIGIBILITY REQUIREMENTS.

(a) INDIVIDUAL NOT INELIGIBLE BY REASON OF SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—Section 101 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN RIGHTS TO REGULAR COMPENSATION DISREGARDED.—If an individual exhausted his rights to regular compensation for any benefit year, such individual's eligibility to receive emergency unemployment compensation under this Act in respect of such benefit year shall be determined without regard to any rights to regular compensation for a subsequent benefit year if such individual does not file a claim for regular compensation for such subsequent benefit year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

#### SEC. 103. FINANCING PROVISIONS.

Section 104 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by adding at the end thereof the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS FOR EXTENSION OF PROGRAM.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated), to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as are necessary to make payments to States under this Act by reason of the amendments made by sections 101 and 102 of the Unemployment Compensation Amendments of 1992. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid."

#### SEC. 104. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Sections 501(b)(1) and (2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "July 4, 1992", and inserting "March 6, 1993".

(2) CONFORMING AMENDMENTS.—Section 501 of such Act is amended—

(A) in subsection (a), by striking "July 1992" and inserting "March 1993"; and

(B) in subsection (d)(2)—

(i) by striking the first sentence and inserting the following new sentence: "Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(ii), subparagraphs (B) and (C) of paragraph (1) of this subsection shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '50' for '130', and effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iii), subparagraphs (B) and (C) of paragraph (1) of this subsection shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '35' for '130'"; and

(ii) by striking "ending June 13, 1992" and all that follows through "apply" and inserting: "which precedes a period for which a reduction under the preceding sentence takes effect, such reduction shall not apply".

(b) TERMINATION OF BENEFITS.—Section 501(b)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by adding at the end thereof the following: "In the case of an individual who is receiving extended benefits by reason of this section on March 6, 1993, such benefits shall not continue to be payable to such individual after June 19, 1993."

#### TITLE II—MODIFICATIONS TO EXTENDED BENEFITS PROGRAM

##### SEC. 201. MODIFICATION OF TRIGGER PROVISIONS.

Section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraph:

"(3)(A) Effective with respect to compensation for weeks of unemployment beginning after March 6, 1993, the State may by law provide that for purposes of beginning or ending any extended benefit period under this section—

"(i) there is a State 'on' indicator for a week if—

"(1) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period referred to in subclause (I) equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) there is a State 'off' indicator for a week if either the requirements of subclause (I) or subclause (II) of clause (i) are not satisfied.

Notwithstanding the provision of any State law described in this subparagraph, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.

"(B) For purposes of this paragraph, determinations of the rate of total unemployment in any State for any period (and of any seasonal adjustment) shall be made by the Secretary."

##### SEC. 202. ELIGIBILITY REQUIREMENTS FOR UNEMPLOYMENT BENEFITS.

(a) WORK SEARCH RULES.—

(1) Section 202(a)(3)(E) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i)(1) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(II) the individual provides tangible evidence to the State agency that the individual has engaged in such an effort during such week; or

"(ii) the individual resides (or worked) in an area for which a waiver described in paragraph (7) is in effect for such week and the individual meets the requirements of such work-search rules as the State may impose."

(2) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any other provision of law, the Governor of a State may elect to waive the provisions of paragraph (3)(A)(ii) (relating to the requirement to be actively engaged in seeking work) with respect to any area of the State which the Governor determines to be an area of high unemployment for any week. For purposes of the preceding sentence, a waiver shall be made in accordance with regulations promulgated by the Secretary, except that with respect to any period beginning after the date of the enactment of this paragraph and before reg-

ulations take effect, such waiver shall be made in accordance with temporary guidelines published by the Secretary. The Secretary shall publish guidelines not later than July 4, 1992."

(b) **EARNINGS TEST.**—Paragraph (5) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking "which one of the foregoing methods" and inserting "which one or more of the foregoing methods".

(c) **EFFECTIVE DATE.**—Notwithstanding any other provision of law, the amendments made by this section shall apply for purposes of extended unemployment compensation and emergency unemployment compensation to weeks of unemployment beginning on or after the date of the enactment of this Act.

### TITLE III—PROVISIONS RELATING TO TAX INFORMATION

#### SEC. 301. INFORMATION REQUIRED WITH RESPECT TO TAXATION OF UNEMPLOYMENT BENEFITS.

(a) **INFORMATION ON UNEMPLOYMENT BENEFITS.**—

(1) **GENERAL RULE.**—The State agency in each State shall provide to an individual filing a claim for compensation under the State unemployment compensation law a written explanation of the Federal and State income taxation of unemployment benefits and of the requirements to make payments of estimated Federal and State income taxes.

(2) **STATE AGENCY.**—For purposes of this subsection, the term "State agency" has the meaning given such term by section 3306(e) of the Internal Revenue Code of 1986.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1992.

#### SEC. 302. MAILING OF CERTAIN INFORMATION PERMITTED.

(a) **GENERAL RULE.**—Section 302 of the Social Security Act (42 U.S.C. 502) is amended by adding at the end thereof the following new subsection:

"(c) No portion of the cost of mailing a statement under section 6050B(b) of the Internal Revenue Code of 1986 (relating to unemployment compensation) shall be treated as not being a cost for the proper and efficient administration of the State unemployment compensation law by reason of including with such statement information about the earned income credit provided by section 32 of the Internal Revenue Code of 1986. The preceding sentence shall not apply if the inclusion of such information increases the postage required to mail such statement."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

### TITLE IV—MODIFICATION TO REGULAR STATE UNEMPLOYMENT COMPENSATION PROGRAMS

#### SEC. 401. TREATMENT OF SHORT-TIME UNEMPLOYMENT COMPENSATION PROGRAMS.

(a) **AUTHORIZATION OF PROGRAMS.**—

(1) Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by adding at the end thereof the following new subparagraph:

"(E) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor."

(2) Subsection (f) of section 3306 of such Code is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(4) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor."

(3) Section 3306 of such Code is amended by adding at the end thereof the following new subsection:

"(t) **SHORT-TIME COMPENSATION.**—For purposes of this chapter, the term 'short-time compensation' means cash benefits payable to individuals under a plan approved by the Secretary of Labor under which—

"(1) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

"(2) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

"(3) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek; and

"(4) the employer plan is approved by the State agency and such plan provides for a reduction in the number of hours worked by employees in lieu of imposing temporary layoffs."

(4) Section 303(a)(5) of the Social Security Act (42 U.S.C. 503(a)(5)) is amended by inserting before ";" and" the following "; Provided further, That amounts may be withdrawn for the payment of short-time compensation as defined in section 3306(t) of the Internal Revenue Code of 1986".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

### TITLE V—REVENUE PROVISIONS

#### SEC. 500. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

##### Subtitle A—Alternative Taxable Years

#### SEC. 501. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) **LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.**—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) **TAXABLE YEAR MUST BE SAME AS REPORTING PERIOD.**—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) **PERIOD OF ELECTION.**—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) **PERIOD OF ELECTION.**—

"(A) **IN GENERAL.**—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) **CHANGE NOT TREATED AS TERMINATION.**—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) **EXCEPTION FOR TRUSTS.**—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) **EXCEPTION FOR CERTAIN STRUCTURES THAT INCLUDE TRUSTS.**—An entity shall not be

considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) **REGULATIONS.**—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

#### SEC. 502. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) **ADDITIONAL REQUIRED PAYMENT.**—

(1) **IN GENERAL.**—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) **REQUIRED PAYMENT.**—For purposes of this section—

"(1) **IN GENERAL.**—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) **ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.**—

"(A) **IN GENERAL.**—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) **NEW APPLICABLE ELECTION YEAR.**—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) **ADDITIONAL AMOUNT.**—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) **REQUIRED PAYMENT.**—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) **DUE DATE.**—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

“(2) **DUE DATE.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

“(B) **SPECIAL RULE WHERE NEW APPLICABLE ELECTION YEAR ADOPTED.**—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins.”

(3) **PENALTIES.**—

(A) **IN GENERAL.**—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

“(D) **FAILURE TO PAY ADDITIONAL AMOUNT.**—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

“(i) subparagraph (A) shall not apply, but

“(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year.”

(B) **CONFORMING AMENDMENT.**—Section 7519(f)(4)(A) is amended by striking “In” and inserting “Except as provided in subparagraph (D), in”.

(4) **REFUNDS.**—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

“(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or”.

(5) **CONFORMING AMENDMENTS.**—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking “subsection (b)(2)” and inserting “subsection (b)(1)(B)”, and

(ii) by striking “subsection (b)(1)” and inserting “subsection (b)(1)(A)”.

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) **OTHER DEFINITIONS AND SPECIAL RULES.**—

(1) **REFUND.**—Paragraph (3) of section 7519(c) (relating to date on which refund payable) is amended in the matter preceding subparagraph (A) by striking “on the later of” and inserting “by the later of”.

(2) **DEFERRAL RATIO.**—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: “Except as provided in regulations, the term ‘deferral ratio’ means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year.”

(3) **NET INCOME.**—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

“(D) **EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.**—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

“(i) the applicable payments taken into account in determining net income for the base year, over

“(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year.”

(4) **DEFERRAL PERIOD.**—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

“(1) **DEFERRAL PERIOD.**—Except as provided in regulations, the term ‘deferral period’ means, with respect to any taxable year of the entity, the months between—

“(A) the beginning of such year, and

“(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year.”

(5) **BASE YEAR.**—

(A) **IN GENERAL.**—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

“(A) **BASE YEAR.**—The term ‘base year’ means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year.”

(B) **CONFORMING AMENDMENT.**—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

“(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i).”

(c) **INTEREST.**—Section 7519(f)(3) (relating to interest) is amended to read as follows:

“(3) **INTEREST.**—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund.”

**SEC. 503. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.**

(a) **CARRYOVER OF NONDEDUCTIBLE AMOUNTS.**—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

“(b) **CARRYOVER OF NONDEDUCTIBLE AMOUNTS.**—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year.”

(b) **MINIMUM DISTRIBUTION REQUIREMENT.**—Paragraph (1) of section 280H(c) is amended to read as follows:

“(1) **IN GENERAL.**—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

“(A) 110 percent of the product of—

“(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

“(ii) the number of months in the deferral period of the taxable year, or

“(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.”

(c) **DISALLOWANCE OF NOL CARRYBACKS.**—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking “to (or from)” and inserting “from”.

(d) **CONFORMING AMENDMENT.**—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking “section 444(b)(4)” and inserting “section 7519(e)(1)”.

**SEC. 504. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1992.

#### Subtitle B—Pension Distributions

**SEC. 511. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.**

(a) **IN GENERAL.**—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

“(a) **TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.**—Except as otherwise provided in this section, any amount actually distributed to any

distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

“(b) **TAXABILITY OF BENEFICIARY OF NON-EXEMPT TRUST.**—

“(1) **CONTRIBUTIONS.**—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

“(2) **DISTRIBUTIONS.**—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

“(3) **GRANTOR TRUSTS.**—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

“(4) **FAILURE TO MEET REQUIREMENTS OF SECTION 410(b).**—

“(A) **HIGHLY COMPENSATED EMPLOYEES.**—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1) or (2) include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

“(B) **FAILURE TO MEET COVERAGE TESTS.**—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraphs (1) and (2) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

“(i) such taxable year, or

“(ii) any preceding period for which service was creditable to such employee under the plan.

“(C) **HIGHLY COMPENSATED EMPLOYEE.**—For purposes of this paragraph, the term ‘highly compensated employee’ has the meaning given such term by section 414(q).

“(c) **RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.**—

“(1) **EXCLUSION FROM INCOME.**—If—

“(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

“(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

“(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

“(2) **MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.**—In the case of any eligible rollover dis-

tribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includable in gross income (determined without regard to paragraph (1)).

“(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

“(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term ‘eligible rollover distribution’ means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust, except that such term shall not include—

“(A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made—

“(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

“(ii) for a specified period of 10 years or more, and

“(B) any distribution to the extent such distribution is required under section 401(a)(9).

“(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) resulting in any portion of a distribution being excluded from gross income under paragraph (1) shall be treated as a rollover contribution described in section 408(d)(3).

“(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

“(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

“(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

“(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money—

“(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

“(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis unless the taxpayer designates otherwise. Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

“(D) NONRECOGNITION OF GAIN OR LOSS.—No gain or loss shall be recognized on any sale described in subparagraph (A) to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1).

“(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

“(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

“(i) include any period during which the amount transferred to the employee is a frozen deposit, or

“(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

“(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term ‘frozen deposit’ means any deposit which may not be withdrawn because of—

“(i) the bankruptcy or insolvency of any financial institution, or

“(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State. A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

“(8) DEFINITIONS.—For purposes of this subsection—

“(A) QUALIFIED TRUST.—The term ‘qualified trust’ means an employees’ trust described in section 401(a) which is exempt from tax under section 501(a).

“(B) ELIGIBLE RETIREMENT PLAN.—The term ‘eligible retirement plan’ means—

“(i) an individual retirement account described in section 408(a),

“(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

“(iii) a qualified trust, and

“(iv) an annuity plan described in section 403(a).

“(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

“(10) DENIAL OF AVERAGING FOR SUBSEQUENT DISTRIBUTIONS.—If paragraph (1) applies to any distribution paid to any employee, paragraphs (1) and (3) of subsection (d) shall not apply to any distribution (paid after such distribution) of the balance to the credit of the employee under the plan under which the preceding distribution was made (or under any other plan which, under subsection (d)(4)(C), would be aggregated with such plan).

“(d) TAX ON LUMP SUM DISTRIBUTIONS.—

“(1) IMPOSITION OF SEPARATE TAX ON LUMP SUM DISTRIBUTIONS.—

“(A) SEPARATE TAX.—There is hereby imposed a tax (in the amount determined under subparagraph (B)) on a lump sum distribution.

“(B) AMOUNT OF TAX.—The amount of tax imposed by subparagraph (A) for any taxable year is an amount equal to 5 times the tax which would be imposed by subsection (c) of section 1 if the recipient were an individual referred to in such subsection and the taxable income were an amount equal to 1/5 of the excess of—

“(i) the total taxable amount of the lump sum distribution for the taxable year, over

“(ii) the minimum distribution allowance.

“(C) MINIMUM DISTRIBUTION ALLOWANCE.—For purposes of this paragraph, the minimum distribution allowance for any taxable year is an amount equal to—

“(i) the lesser of \$10,000 or one-half of the total taxable amount of the lump sum distribution for the taxable year, reduced (but not below zero) by

“(ii) 20 percent of the amount (if any) by which such total taxable amount exceeds \$20,000.

“(D) LIABILITY FOR TAX.—The recipient shall be liable for the tax imposed by this paragraph.

“(2) DISTRIBUTIONS OF ANNUITY CONTRACTS.—

“(A) IN GENERAL.—In the case of any recipient of a lump sum distribution for any taxable year, if the distribution (or any part thereof) is an annuity contract, the total taxable amount of the distribution shall be aggregated for purposes of computing the tax imposed by paragraph (1)(A), except that the amount of tax so computed shall be reduced (but not below zero)

by that portion of the tax on the aggregate total taxable amount which is attributable to annuity contracts.

“(B) BENEFICIARIES.—For purposes of this paragraph, a beneficiary of a trust to which a lump sum distribution is made shall be treated as the recipient of such distribution if the beneficiary is an employee (including an employee within the meaning of section 401(c)(1)) with respect to the plan under which the distribution is made or if the beneficiary is treated as the owner of such trust for purposes of subpart E of part I of subchapter J.

“(C) ANNUITY CONTRACTS.—For purposes of this paragraph, in the case of the distribution of an annuity contract, the taxable amount of such distribution shall be deemed to be the current actuarial value of the contract, determined on the date of such distribution.

“(D) TRUSTS.—In the case of a lump sum distribution with respect to any individual which is made only to 2 or more trusts, the tax imposed by paragraph (1)(A) shall be computed as if such distribution was made to a single trust, but the liability for such tax shall be apportioned among such trusts according to the relative amounts received by each.

“(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

“(3) ALLOWANCE OF DEDUCTION.—The total taxable amount of a lump sum distribution for any taxable year shall be allowed as a deduction from gross income for such taxable year, but only to the extent included in the taxpayer's gross income for such taxable year.

“(4) DEFINITIONS AND SPECIAL RULES.—

“(A) LUMP SUM DISTRIBUTION.—For purposes of this section and section 403, the term ‘lump sum distribution’ means the distribution or payment within 1 taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

“(i) on account of the employee's death,

“(ii) after the employee attains age 59½,

“(iii) on account of the employee's separation from the service, or

“(iv) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Clause (iii) of this subparagraph shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and clause (iv) shall be applied only with respect to an employee within the meaning of section 401(c)(1). A distribution of an annuity contract from a trust or annuity plan referred to in the first sentence of this subparagraph shall be treated as a lump sum distribution. For purposes of this subparagraph, a distribution to 2 or more trusts shall be treated as a distribution to 1 recipient. For purposes of this subsection, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

“(B) AVERAGING TO APPLY TO LUMP SUM DISTRIBUTION AFTER AGE 59½.—Paragraph (1) shall apply to a lump sum distribution with respect to an employee under subparagraph (A) only if—

“(i) such amount is received on or after the date on which the employee has attained age 59½, and

“(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated.

Not more than 1 election may be made under this subparagraph by any taxpayer with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to

an employee to 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the taxpayer.

“(C) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under subparagraph (A)—

“(i) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

“(ii) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

“(D) TOTAL TAXABLE AMOUNT.—For purposes of this section and section 403, the term ‘total taxable amount’ means, with respect to a lump sum distribution, the amount of such distribution which exceeds the sum of—

“(i) the amounts considered contributed by the employee (determined by applying section 72(f)), reduced by any amounts previously distributed which were not includible in gross income, and

“(ii) the net unrealized appreciation attributable to that part of the distribution which consists of the securities of the employer corporation so distributed.

“(E) COMMUNITY PROPERTY LAWS.—The provisions of this subsection, other than paragraph (3), shall be applied without regard to community property laws.

“(F) MINIMUM PERIOD OF SERVICE.—For purposes of this subsection, no amount distributed to an employee from or under a plan may be treated as a lump sum distribution under subparagraph (A) unless the employee has been a participant in the plan for 5 or more taxable years before the taxable year in which such amounts are distributed.

“(G) AMOUNTS SUBJECT TO PENALTY.—This subsection shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

“(H) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this subsection, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

“(I) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this subsection, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

“(J) LUMP SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump sum distribution, then, for purposes of this subsection, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump sum distribution. For purposes of this subparagraph, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

“(K) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which subsection (c) applies, paragraphs (1) and (3) shall not apply with respect to the distribution.

“(L) SECURITIES.—For purposes of this subsection, the terms ‘securities’ and ‘securities of the employer corporation’ have the respective meanings provided by subsection (e)(4)(E).

“(5) SPECIAL RULE WHERE PORTIONS OF LUMP SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Reform Act of 1984, paragraphs (1) and (3) of this subsection shall not apply to such portion.

“(6) TREATMENT OF POTENTIAL FUTURE VESTING.—

“(A) IN GENERAL.—For purposes of determining whether any distribution which becomes payable to the recipient on account of the employee's separation from service is a lump sum distribution, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is reemployed by the employer.

“(B) RECAPTURE IN CERTAIN CASES.—If—

“(i) an amount is treated as a lump sum distribution by reason of subparagraph (A),

“(ii) special lump sum treatment applies to such distribution,

“(iii) the employee is subsequently reemployed by the employer, and

“(iv) as a result of services performed after being so reemployed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in subparagraph (A), under regulations prescribed by the Secretary, the tax imposed by this chapter for the taxable year (in which the increase in vesting first occurs) shall be increased by the reduction in tax which resulted from the special lump sum treatment (and any election under paragraph (4)(B) shall not be taken into account for purposes of determining whether the employee may make another election under paragraph (4)(B)).

“(C) SPECIAL LUMP SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under the subsection by reason of an election under paragraph (4)(B).

“(D) VESTING.—For purposes of this paragraph, the term ‘vesting’ means the portion of the accrued benefits derived from employer contributions to which the participant has a non-forfeitable right.

“(7) COORDINATION WITH FOREIGN TAX CREDIT LIMITATIONS.—Subsections (a), (b), and (c) of section 904 shall be applied separately with respect to any lump sum distribution on which tax is imposed under paragraph (1), and the amount of such distribution shall be treated as the taxable income for purposes of such separate application.

“(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

“(1) ALTERNATE PAYEES.—

“(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

“(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

“(2) DISTRIBUTIONS BY UNITED STATES TO NON-RESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a non-

resident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

“(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

“(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term ‘basic pay’ shall have the meaning provided in section 8331(3) of title 5, United States Code.

“(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

“(4) NET UNREALIZED APPRECIATION.—

“(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of a distribution other than a lump sum distribution, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a distribution to which subsection (c) applies.

“(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of any lump sum distribution which includes securities of the employer corporation, there shall be excluded from gross income the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph apply to such distribution.

“(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

“(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph, the term ‘lump sum distribution’ has the meaning given such term by subsection (d)(4)(A) (without regard to subsection (d)(4)(F)).

“(E) DEFINITIONS RELATING TO SECURITIES.—For purposes of this paragraph—

“(i) SECURITIES.—The term ‘securities’ means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

“(ii) SECURITIES OF THE EMPLOYER.—The term ‘securities of the employer corporation’ includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 424) of the employer corporation.

“(5) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for

exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, within a reasonable period of time before making an eligible rollover distribution from an eligible retirement plan, provide a written explanation to the recipient—

"(A) of the provisions under which the recipient may have the distribution directly transferred to another eligible retirement plan,

"(B) of the provision which requires the withholding of tax on the distribution if it is not directly transferred to another eligible retirement plan,

"(C) of the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution, and

"(D) if applicable, of the provisions of subsections (d) and (e) of this section.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(3)(B)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "section 402(e)" and inserting "section 402(d)".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recomputed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended—

(A) by striking "a qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "I or more distributions within 1 taxable year to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan", and

(B) by adding at the end the following new sentence: "For purposes of this paragraph, rules similar to the rules of section 402(a)(6)(B) (as in effect before its repeal by section 211 of the Unemployment Compensation Amendments of 1992) shall apply."

(6) Clause (v) of section 401(a)(28)(B) (relating to coordination with distribution rules) is amended to read as follows:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether a subsequent distribution is a lump sum distribution under section 402(d)(4)(A) or in determining whether section 402(c)(10) applies."

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended—

(A) by striking "section 402(e)(4)" and inserting "section 402(d)(4)", and

(B) by striking "subparagraph (H)" and inserting "subparagraph (F)".

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking "subsection (e)(4)" and inserting "subsection (d)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)".

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)".

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or"

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of

benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—"

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of \$200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 3405(d)(13) is amended by striking "(b)(3)" and inserting "(b)(2)".

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended by striking "section 402(e)(4)(B)" and inserting "section 402(d)(4)(B)".

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(44) Section 411(d)(3) is amended by adding at the end the following new sentence: "For purposes of this paragraph, in the case of the complete discontinuance of contributions under a profit-sharing or stock bonus plan, such plan shall be treated as having terminated on the day on which the plan administrator notifies the Secretary (in accordance with regulations) of the discontinuance."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after December 31, 1992.

(2) SPECIAL RULE FOR PARTIAL DISTRIBUTIONS.—For purposes of section 402(a)(5)(D)(i)(II) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section), a distribution before January 1, 1993, which is made before or at the same time as a series of periodic payments shall not be treated as one of such series if it is not substantially equal in amount to other payments in such series.

**SEC. 512. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.**

(a) OPTIONAL TRANSFERS.—

(1) QUALIFIED PLANS.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) and determined without regard to sections 402(c) and 403(a)(4).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(2) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(3) ANNUITIES PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Paragraph (10) of section 403(b) (relating to distribution requirements) is amended by striking "section 401(a)(9)" and inserting "sections 401(a)(9) and 401(a)(31)".

(b) WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTIONS WHICH ARE NOT ROLLED OVER.—

(1) IN GENERAL.—Section 3405 (relating to special rules for pensions, annuities, and certain other deferred income) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) and by inserting after subsection (b) the following new subsection:

"(c) ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(1) IN GENERAL.—In the case of any designated distribution which is an eligible rollover distribution—

"(A) subsections (a) and (b) shall not apply, and

"(B) the payor of such distribution shall withhold from such distribution an amount equal to 20 percent of such distribution.

"(2) EXCEPTION.—Paragraph (1)(B) shall not apply to any distribution if the distributee elects under section 401(a)(31)(A) to have such distribution paid directly to an eligible retirement plan.

"(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A) (or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))."

(2) CONFORMING AMENDMENTS.—

(A) Section 3405(a)(1) is amended by striking "subsection (d)(2)" and inserting "subsection (e)(2)".

(B) Section 3405(b)(1) is amended by striking "subsection (d)(3)" and inserting "subsection (e)(3)".

(C) Section 3405(d)(1) (as redesignated by paragraph (1)) is amended by striking "subsection (d)(1)" and inserting "subsection (e)(1)".

(D) Sections 3402(o)(6) and 6047(d)(1) are each amended by striking "section 3405(d)(1)" and inserting "section 3405(e)(1)".

(E) Section 6047(d)(1)(A) is amended by striking "section 3405(d)(1)" and inserting "section 3405(e)(1)".

(F) Section 6652(h) is amended by striking "section 3405(d)(10)(B)" and inserting "section 3405(e)(10)(B)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 2, is amended by adding at the end the following new paragraph:

"(6) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(3) ANNUITY CONTRACTS PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Section 403(b)(10) is amended by adding at the end the following new sentence: "Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of the transfer."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1992.

**SEC. 513. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

**Subtitle C—Other Provisions**

**SEC. 521. CORPORATE ESTIMATED TAX PROVISIONS.**

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "91 percent";

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "91 PERCENT"; and

(3) by striking paragraph (3) and inserting the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after June 30, 1992, and before 1997—

"(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting '96 percent' for '91 percent' each place it appears, and

"(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting '24', '48', '72', and '96' for '22.75', '45.50', '68.25', and '91.00', respectively.

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

In the case of the following required installments:	The applicable percentage is:
1st .....	22.75
2nd .....	45.50
3rd .....	68.25
4th .....	91.00"

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "91 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1992.

**SEC. 522. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.**

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

**"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.**

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale,

"(C) any security acquired by a floor specialist (as defined in section 1236(d)(2)) in connec-

tion with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, and

"(D) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

Except as provided in regulations, subparagraph (D) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), (C), or (D) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

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

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity non-optional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Such term shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring

on or after the date of the enactment of this Act by the amount of such reductions.

**SEC. 523. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.**

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I am pleased and gratified that the Senate has now acted on the supplemental appropriations bill.

We will now proceed on the unemployment compensation bill, and it remains my hope as previously stated on several occasions that we will be able to complete action on this bill in the near future and on the Government-sponsored enterprise bill from the Banking Committee.

I am gratified that my colleagues have joined in supporting the supplemental appropriations bill and we have completed action on that.

I hope we can move expeditiously on the unemployment bill, and following that, take action on the GSE bill as well.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, may I inquire of the majority leader—I think we know of several amendments—could the majority leader perhaps tell us which ones we may proceed toward and perhaps we might try to obtain a time agreement on that. I am just suggesting that.

Mr. MITCHELL. Mr. President, I have not yet had an opportunity to meet with the sponsors of amendments, pursuant to our previous conversation. I hope to do that in the very next few minutes and then we will report back to the distinguished assistant Republican leader.

Mr. SIMPSON. I thank the majority leader.

Mr. MITCHELL. Mr. President, while we are awaiting the presence of the chairman of the Finance Committee, the manager of the bill, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. 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. SIMPSON. Mr. President, I ask unanimous consent that I might proceed as if in morning business for not to exceed 10 minutes.

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

#### INVESTIGATION OF CASPAR WEINBERGER

Mr. SIMPSON. Mr. President, I rise to speak with no small degree of frustration and disgust over the persecution—and that is the word I will use, it is certainly not independent prosecution—in the Iran-Contra matter.

This multi-million-dollar fishing expedition has now focused on Caspar Weinberger, a man who has throughout his entire life dedicated himself to unstinting and unselfish service to his country. He has an absolutely extraordinary record of service. And in this highly contentious political year we are seeing yet one more character attack on one of our country's most distinguished and able former Secretaries of Defense.

This is a remarkable man. I know him well. He and his wife Jane are superb citizens of our country. He is decent, strong, fair, loyal, and is bright as a dollar. He has a record of public life that has always been absolutely unsullied. And now this—a witch hunt at the witching hour. The witching hour happened to be the expiration of the statute of limitations on the special counsel proceeding.

I think the American people will ultimately see this seemingly unending investigation to be an incredibly expen-

sive and expansive abuse of power. I agree with what our fine distinguished Republican leader BOB DOLE said previously: "It is time we imposed term limits on these Special Prosecutors." I agree with that totally. This one has lasted too long, yielded precious little, and wasted millions of taxpayers' dollars.

It is my hunch the American people are plain tired of this endless charade. For over the past 6 years, Congress has spent at least \$31 million on this crusade.

Let us take a look at the track record, keep your eye on the rabbit. There have been two convictions, principally for under reporting earnings to the IRS. Those are the felony successes of this office.

On other charges among seven other defendants—I put that in quotation marks, "defendants"—the Special Prosecutor was able to obtain guilty pleas to misdemeanor charges netting the American people slightly over 300 hours of community service. That is a dazzling record—300 hours of community service for the seven other defendants.

By some estimates, the American taxpayers have now spent \$60 million to net this remarkable 300 hours' worth of community service, not to mention the benefit of keeping a political agenda alive in a political year and keeping a handful of lawyers exceedingly well paid. That figure of \$31 million is the Special Prosecutor's Office own estimate. It has been reported that the Federal Government actually spent up to twice that much—\$60 million—when you add in the attorney fees all around.

That works out to a taxpayer payment of \$200,000 for each hour of community service, which I think is a little bit disproportionate. Not even some of our finest corporate officers make that much in an hour.

Mr. President, it is estimated that the Special Prosecutor will now need another \$10 million to prosecute Cap Weinberger. That, Mr. President, is outrageous. I think it is time we demand that those overzealous attorneys get some real jobs and get on with their lives, wherever that may take them, away from the Federal breast.

Something else has really fascinated me. In Washington, DC, if I have been assessing things correctly in the last few days we have received about 7 metric tons of news coverage about Watergate, the 20th anniversary thereof. Who did what, when, how, where, at what time, at what location within the community with graphs to accompany the travail. It is all very interesting.

I thought what was most fascinating about this insular village on the Potomac is the headline from the Washington Post of Wednesday, June 17. In large type in the middle or near the middle of the page it said "Bush, Yeltsin Agree on Massive Nuclear Cuts.

All Multiple-Warhead ICBM's to Be Eliminated." The people of the world have been waiting for that for over 40 years.

Is that the main headline? No; it is not. You guessed it. The headline is this remarkable one, "Weinberger Indicted on Five Counts, Ex-Defense Secretary Charged With Lying in the Iran-Contra Affair." Then there is his picture. Is that not a twisted set of priorities? It is also, in my view, a political agenda which has been expressed in those pages.

I believe that the Post has some very capable journalists specifically including George Lardner, Jr., and Walter Pincus. I know Walter Pincus and his able and delightful wife. They are very special people.

As far as I can think back, I believe that we have been involved in this issue for the most extraordinary amount of time. Yet when I go out in the land and hold town meetings, nobody ever asks about this at all. Not one soul has asked me about the Iran-Contra affair.

I remember another headline in an earlier Washington Post when it fell fecklessly into the pit the last time. It said, "No Smoking Gun Found."

It almost had tear stains on the side of the column. No smoking gun was found.

Well, that is where we are with that peculiar emphasis and peculiar agenda regarding the Special Prosecutor on the Iran-Contra issue.

I think it really deserves a recess. I am sure the Post, being the responsible newspaper which it is, with able people operating it, will print the letters to the editor that come to them on the issue of putting the Weinberger headline prominently at the top of the masthead instead of one of the most important items of news that we have all been ready to receive for four decades now.

The Special Prosecutor in this case has a lousy track record. It is time to put this entire matter to an end. It simply is not cost efficient or effective. This Special Prosecutor's Office has become a taxpayer-supported cash cow for a few highly unsuccessful lawyers, and some successful ones. I think we owe a duty to the American people to end this frivolous waste of Federal money. Furthermore, we should review the entire independent counsel statutes, and see where we go from here.

We do not wait 5½ years until the clock is about to expire to drag a fine man across the coals just so someone will look as if they have not failed when in fact it is obvious they have.

It is a disgrace.

Thank you, Mr. President.

#### UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, today's unemployment compensation bill comes to the floor at a time when the hard, human evidence of recession requires us to respond. Last month, our Nation's unemployment rate reached 7.5 percent, the highest since August 1984. The number of long-term unemployed workers has swelled to nearly 2 million, almost double a year ago. In April, 364,000 workers exhausted regular State unemployment benefits—40 percent more than the 260,000 who exhausted benefits last November, when the Congress first approved the Emergency Unemployment Program. So despite some positive signs the economy is on a gentle upswing, the situation remains grim for 9.5 million unemployed Americans. And the need for this new legislation is clear.

The unemployment bill before the Senate today is a balanced measure deserving bipartisan support, for it continues the present Emergency Benefit Program scheduled to expire July 4. It offers effective yet moderate changes in rules for the Permanent Extended Benefits Program. And the \$5.4 billion cost over 5 years is paid by revenue measures that, for the most part, already have been passed by Congress and supported by the administration.

Let me describe the measure's major provisions.

First and foremost, the bill protects the more than 300,000 long-term unemployed workers who are exhausting their State benefits each month by extending the schedule of emergency benefits enacted last February. Therefore, workers in States suffering high unemployment will continue to receive 33 weeks of emergency benefits. Workers in less afflicted States will receive 26 weeks of benefits.

Some will urge us to reduce the cost of this bill by reducing these weeks of benefits, as the administration has proposed. Mr. President, I would respond by reminding Senators that May's 7.5 percent unemployment rate is substantially above last winter's rate of 7.1 percent, where unemployment stood when the Senate approved the 33 and 26 weeks of benefits by a vote of 94 to 2. We must not scale back benefits now that the unemployment rate has risen.

I agree we should phase down the number of benefit weeks as soon as we reasonably can, and the committee's bill does so. When the national unemployment rate falls below 7 percent for 2 consecutive months, the number of weeks of benefits automatically falls to 15 and 10, respectively, and when it falls below 6.8 percent, the weeks of benefits drop to 13 and 7. So the bill reflects actual not projected changes in unemployment rates. And if the unem-

ployment rate drops faster than CBO has estimated, the cost of the bill will, of course, be reduced accordingly.

This bill also makes a very significant improvement in the permanent Federal-State Extended Benefits [EB] Program.

Immediately upon expiration of the Temporary Emergency Program next March, States will have the option of using a new trigger that will substantially increase their ability to provide benefits under the EB Program. Under present law, the Extended Benefits Program is activated in a State by a trigger based on the insured unemployment rate. The optional trigger in this bill takes effect when a State's total unemployment rate is 6.5 percent—1 percent above the 5.5 percent CBO considers full employment.

This new trigger represents a major improvement over current law. The experience over the last year underscores a point I have made repeatedly on this floor, which is that the current trigger based upon the insured unemployment rate simply does not work. Last November, when we passed the Emergency Unemployment Compensation Program, not a single State was eligible for extended benefits even though our national unemployment rate was 6.9 percent. And if we didn't have an emergency program in place now, the longterm unemployed in only three States would be receiving extended benefits, even though the unemployment rate has soared to 7.5 percent.

Furthermore, Department of Labor actuaries estimate that by next spring only one State will qualify for extended benefits under the present trigger. Yet the Labor Department estimates the national unemployment rate will average 6.6 percent in the first quarter of 1993. If we don't fix this problem now, Mr. President, those figures suggest we almost certainly will face another emergency bill when we reconvene next January. And this is already the sixth unemployment bill the Senate has considered in less than a year.

Let's correct this problem in the Extended Benefits Program now instead of putting ourselves on a course that almost guarantees we will be back here early next year to act on yet another emergency bill.

Other significant benefit changes in the Finance Committee bill include:

Giving States waiver authority to follow State, rather than Federal, work search rules in regions of severe unemployment.

Giving States greater flexibility in determining if workers meet earnings criteria for the emergency and extended benefits programs.

Allowing some workers who take part-time or temporary work to requalify for emergency benefits instead of requiring them to file for lesser State benefits.

The unemployment benefits in this bill are paid for by five revenue provisions. Three of these provisions—market-to-market for securities dealers, taxable year of partnerships conditions, and the prohibition against double-dipping of FSLIC assistance payments—have been proposed or endorsed by the administration. All three have previously passed the Senate. A fourth provision, an increase in corporate estimated tax payments, has been used to fund previous extensions of unemployment benefits. At that time a similar proposal was supported by the administration.

Finally, the bill includes a provision to withhold estimated tax on lump-sum pension distributions and to facilitate rolling distributions into IRA's. Today, less than 20 percent of retirement distributions eligible for deposit in an IRA are rolled over in their entirety. Evidence suggests that large amounts of retirement savings are being spent prior to retirement. By making it easier to roll funds to IRA's and by forcing people to accommodate the tax consequences of not doing so, this bill encourages reinvesting retirement savings. This amendment also assures Americans who don't roll deposits to an IRA will not be surprised with a large tax payment and penalty on April 15.

I am encouraged, Mr. President, by the apparent consensus on the need to extend unemployment benefits. I believe it is essential to extend benefits promptly and in a manner that contributes to recovery for our economy and for the millions of Americans who feel the pain of recession. I hope my fellow Senators will support this measure when it comes to a vote tomorrow, so we can move quickly to conference with the House.

Mr. President, I ask unanimous consent that a technical explanation of the Senate Finance Committee's amendment to H.R. 776 be printed in the RECORD following my remarks.

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

TECHNICAL EXPLANATION OF THE SENATE FINANCE COMMITTEE AMENDMENT TO TITLE XIX OF H.R. 776 (COMPREHENSIVE NATIONAL ENERGY ACT)

(Committee on Finance, U.S. Senate, June 18, 1992)

#### I. LEGISLATIVE BACKGROUND

H.R. 776 ("Comprehensive National Energy Policy Act") was passed by the House of Representatives on May 27, 1992. The bill was referred to the Senate Committee on Finance on June 4, 1992, for consideration of the revenue-related provisions. On February 19, 1992, the Senate passed S. 2166 ("National Energy Security Act of 1992"), which did not include tax provisions. S. 2166 was debated by the Senate on February 5-7 and 18-19, 1992.<sup>1</sup>

The Subcommittee on Energy and Agricultural Taxation of the Committee on Finance

<sup>1</sup>Footnotes at end of article.

held hearings on June 13-14, 1991, on proposals relating to renewable energy and energy conservation tax incentives. The Subcommittee hearings included the following energy-related tax bills: (1) S. 26 (exclusion for certain employer-provided transportation); (2) S. 83 (exclusion for public utility payments for energy or water conservation measures); (3) S. 129 (exclusion for certain employer-provided transportation); (4) S. 141 (extension of business energy tax credits); (5) S. 201 (increase in gas guzzler excise tax and tax credit for purchase of fuel-efficient automobiles); (6) S. 326 (exclusion for public utility payments for energy conservation measures, tax credit for retrofit of residential oil heaters, and employer deduction for employer parking); (7) S. 466 (tax credit for production of qualified electricity and extension of business energy tax credits); (8) S. 661 (tax credit for production of qualified electricity extension of business energy tax credits, and tax credit for telecommuting); (9) S. 679 (exclusion for public utility payments for residential energy conservation measures); and (10) S. 731 (extension of business energy tax credits).

The Subcommittee on Medicare and Long-Term Care held a hearing on September 25, 1991, on retired miners' health benefits.

The Subcommittee on Taxation held a hearing on February 19, 1992, on the effects of the alternative minimum tax.

The Committee on Finance marked up the tax title of H.R. 776 (Title XIX) on June 16, 1992, and ordered a committee amendment to the bill ("the bill") favorably reported as a substitute for Title XIX.

#### II. EXPLANATION OF PROVISIONS

##### A. Energy Conservation and Production Incentives

##### 1. Exclusion for Employer-Provided Transportation Benefits (sec. 1911 of the bill and sec. 132 of the Code).

###### Present Law

Under Treasury regulations, transit passes, tokens, fare cards, vouchers, and cash reimbursements provided by an employer to defray an employee's commuting costs are excludable from the employee's income (for both income and payroll tax purposes) as a de minimis fringe benefit if the total value of the benefit does not exceed \$21. If the total value of the benefit exceeds \$21 per month, the full value of the benefit is includable in income.

Parking at or near the employer's business premises that is paid for by the employer is excludable from the gross income of the employee (for both income and payroll tax purposes) as a working condition fringe benefit, regardless of the value of the parking. This exclusion does not apply to any parking facility or space located on property owned or leased by the employee for residential purposes.

###### Reasons for Change

Present law favors the provision of fringe benefits in the form of employer-provided parking over the provision of fringe benefits in the form of employer-provided transit benefits. This disparity may discourage employers from providing transit benefits as opposed to parking benefits. The committee believes that a significant increase in the amount and type of employer-provided public transit commuting benefits that may be excluded from income, together with a limit on the exclusion for employer-provided parking, will create a more meaningful incentive for employers to support commuting by public transit than the present-law exclusion. The committee believes that increased use of

mass transit could provide substantial benefits to society, such as reduced traffic congestion and reduced environmental degradation.

###### Explanation of Provision

Under the bill, gross income and wages (for both income and payroll tax purposes) does not include qualified transportation fringe benefits. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment, (2) a transit pass, or (3) qualified parking. The maximum amount of qualified parking that is excludable from an employee's gross income and wages is \$145 per month (regardless of the total value of the parking). Other qualified transportation fringes are excludable from gross income to the extent that the aggregate value of the benefits does not exceed \$60 per month (regardless of the total value of the benefits). The \$60 and \$145 limits are indexed for inflation in \$5 increments.

A commuter highway vehicle is a highway vehicle the seating capacity of which is at least 6 adults (not including the driver) and at least 80 percent of the mileage use of which can reasonably be expected to be for purposes of transporting employees between their residences and their place of employment on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of the vehicle (not including the driver). Transportation furnished in a commuter highway vehicle operated by or for the employer is considered provided by the employer. Cash reimbursements made by an employer to an employee to cover the cost of commuting in a commuter highway vehicle also qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement.

A transit pass includes any pass, token, fare card, voucher, or similar item entitling a person to transportation on mass transit facilities (whether publicly or privately owned). Types of transit facilities that qualify for the exclusion include, for example, rail, bus, and ferry. Cash reimbursements made by an employer to an employee to cover the cost of purchasing a transit pass generally qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement. However, cash reimbursements do not qualify for the exclusion if vouchers (or similar items) that are exchangeable only for transit passes are readily available to the employer.

Qualified parking is parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool. However, the exclusion does not apply to any parking facility or space located on or near property used by the employee for residential purposes. Cash reimbursements made by an employer to an employee to cover the cost of qualified parking qualify for the exclusion, provided the reimbursements are made under a bona fide reimbursement arrangement.

###### Effective Date

The provision applies to benefits provided by the employer after December 31, 1992.

##### 2. Exclusion of Energy Conservation Subsidies Provided by Public Utilities (sec. 1912 of the bill and new sec. 136 of the Code)

###### Present Law

Section 8217(1) of the National Energy Conservation Policy Act provided that the value

of any subsidy provided by a utility to a residential customer for the purchase or installation of a residential energy conservation measure was excluded from gross income. That exclusion expired on June 30, 1989.

In Technical Advice Memorandum 8924002, the IRS ruled that a cash payment by a utility to a customer to encourage the installation of an alternative heating system by a third-party vendor was includable in the gross income of the customer. In the ruling, the IRS distinguished the taxable utility subsidy from a nontaxable automobile manufacturer rebate (which is treated as a reduction in the purchase price of the automobile).

Further, in Rev. Rul. 91-36, 1991-2 C.B. 17, the IRS held that if a customer of an electric utility company participates in an energy conservation program for which the customer receives a rate reduction or non-refundable credit on the customer's bill, the amount of the rate reduction or non-refundable credit is not included in the customer's gross income. In the ruling, the IRS reasoned that the rate reduction or non-refundable credit represented a reduction in the purchase price of electricity and, therefore, did not constitute taxable income.

Finally, in Rev. Rul. 78-170, 1978-2 C.B. 24, the IRS held that qualified low-income individuals could exclude from gross income the value of subsidies provided pursuant to State law to reduce the cost of winter energy consumption. In the ruling, the IRS reasoned that the subsidies were not subject to tax because they were in the nature of payments made for the promotion of the general welfare.

###### Reasons for Change

The committee believes that it is appropriate to provide tax-free treatment for the receipt of subsidies relating to energy conservation measures in order to encourage customers of public utilities to participate in energy conservation programs sponsored by the utilities.

###### Explanation of Provisions

###### In general

For taxable years beginning after 1992, the bill provides an exclusion from the gross income of a residential customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to a dwelling unit.

In addition, for taxable years beginning after 1993, the bill provides an exclusion from the gross income of a commercial or industrial customer of a public utility for 80 percent of the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit.

###### Definitions

The term "energy conservation measure" means an installation or modification of an installation which is primarily designed to reduce consumption of electricity or natural gas or improve the management of energy demand. Energy conservation measures provided with respect to property that is not a dwelling unit includes the purchase or installation of specially defined energy property. "Specially defined energy property" includes a recuperator, a heat wheel, a regenerator, a heat exchanger, a waste heat boiler, a heat pipe, an automatic energy control system, a turbulator, a preheater, a combustible gas recovery system, an economizer, modifications to alumina electrolytic cells, modifications to chlor-alkali electrolytic cells, and other property that the Secretary

of the Treasury may specify by regulations, the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

The term "public utility" means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. The term includes regulated public utilities, rural electric cooperatives, and utilities that are owned and operated by the Federal Government or a State or local government of any instrumentality or political subdivision thereof.

The term "dwelling unit" has the meaning given by section 280A(f)(1) of the Code. The value of any subsidy provided with respect to a building or structure that contains both dwelling units and units that are not dwelling units shall be properly allocated between the dwelling units and the units that are not dwelling units.

#### Other rules

The bill denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer. Thus, if a utility customer receives a subsidy from a utility to acquire energy-effective equipment, the customer's adjusted basis in the equipment will be reduced by the amount of the subsidy that is excluded from the customer's gross income.

The provision applies to the value of any subsidy provided by a public utility to a third party for the purchase or installation of an energy conservation measure with respect to a customer of the utility in the same manner as if the subsidy had been provided directly to the customer. If the provision applies to a subsidy received by a third party, the rule described in the paragraph above (i.e., the denial of double benefits for amounts excluded from income) will also apply to the expenditures of the third party. For example, if in a taxable year beginning after 1993, a public utility provides a subsidy to an independent contractor to produce energy-savings with respect to the utility's industrial customers, 80 percent of the amount of the subsidy will be excluded from the gross income of the contractor. The 80 percent exclusion applies in this example because had the subsidy been provided directly to the industrial customers, the customers would have excluded 80 percent of such amount from their gross incomes. In addition, the contractor will reduce the amount of any deduction (or in appropriate cases, reduce the adjusted basis of property) for expenditures incurred in providing the energy-savings to the customer by the amount excluded from gross income under the provision.

The provision applies to payments by a public utility to a taxpayer for the acquisition of State tax benefits granted to the taxpayer by the State pursuant to a State-sponsored energy conservation program.<sup>2</sup> For example, assume that under a State program, a State grants investment tax credits to industrial taxpayers that acquire and place in service certain energy-efficient property. The State program provides that a taxpayer may claim the tax credit on its State income tax return or it may sell the credit to a local public utility that may then claim the credit. The provision applies to the payment received by the taxpayer from the utility if the taxpayer sells the credit to utility. The pro-

vision does not apply if the taxpayer claims the credit on its State income tax return.

The provision does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

#### Effective Date

The provision is effective for amounts received after December 31, 1992.

3. Treatment of Clean-Fuel Vehicles and Certain Refueling Property (sec. 1913 of the bill and new secs. 30 and 179A of the Code).

#### Present Law

In determining taxable income for Federal income tax purposes, taxpayers are allowed deductions for the depreciation of property that is used in a trade or business or that is held for the production of income. The depreciation deductions for tangible property generally are determined under the accelerated cost recovery system as modified by the Tax Reform Act of 1986.

Under the accelerated cost recovery system, the depreciation deductions for automobiles and light general purpose trucks are determined by using a 5-year recovery period and the 200-percent declining balance method (with a switch to the straight-line method beginning with the taxable year that the straight-line method yields a higher depreciation deduction). The depreciation deductions for other tangible personal property generally are determined by using a recovery period that is based on the class life of the property and either the 150-percent declining balance method (for 15-year and 20-year property) or the 200-percent declining balance method (for most other tangible personal property).

A taxpayer may elect, subject to certain limitations, to deduct the cost of up to \$10,000 of qualifying property for the taxable year that the property is placed in service. The depreciable basis of the qualifying property is reduced by the amount of the deduction. For this purpose, qualifying property is generally defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.

In general, no deduction is allowed under present law for personal, living, or family expenses.

#### Reasons for Change

The committee believes that taxpayers should be encouraged to purchase (or convert existing gasoline-powered motor vehicles to) motor vehicles that are propelled by clean-burning fuels and to invest in property that is used to refuel such vehicles in order to reduce the atmospheric pollution caused by motor vehicles and reduce the dependence of the United States on imported petroleum and imported petroleum products.

#### Explanation of Provision

##### In general

The bill provides a deduction for a portion of the cost of certain motor vehicles that may be propelled by a clean-burning fuel. In addition, the bill provides a deduction of up to \$75,000 per location for the cost of certain property that is used in the storage of clean-burning fuel or the delivery of clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel. Finally, the bill provides an income tax credit equal to 15 percent of the cost of certain motor vehicles propelled by an electric motor.

##### Deduction for qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property

###### Qualified clean-fuel vehicle property

The bill allows a deduction for a portion of the cost of qualified clean-fuel vehicle prop-

erty for the taxable year that the property is placed in service. Qualified clean-fuel vehicle property is defined as: (1) a motor vehicle that is produced by an original equipment manufacturer and that is designed so that the vehicle may be propelled by a clean-burning fuel (an "original equipment manufacturer's vehicle"); and (2) any property that is installed on a motor vehicle which is propelled by a fuel that is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel (a "retrofitted vehicle"), but only if the property is an engine (or modification thereof) which may use the clean-burning fuel or only to the extent that the property may be used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.

In order for property to qualify as qualified clean-fuel vehicle property, the property must be acquired for use by the taxpayer (and not for resale) and the original use of the property must commence with the taxpayer. In addition, the property (or, in the case of a retrofitted vehicle, the motor vehicle of which the property is a part) must satisfy any applicable Federal or State emissions standards with respect to each fuel by which the vehicle is designed to be propelled. Finally, qualified clean-fuel vehicle property does not include an electric vehicle that qualifies for the 15-percent credit described below.

In the case of an original equipment manufacturer's vehicle,<sup>3</sup> the amount of the deduction is determined based on whether the motor vehicle may be propelled by (1) only a clean-burning fuel (a "dedicated clean-fuel vehicle"), or (2) both a clean-burning fuel and any other fuel (a "fuel-flexible vehicle" or "dual-fuel vehicle").

In the case of an original equipment manufacturer's vehicle that is a dedicated clean-fuel vehicle, the amount of the deduction equals the cost of the motor vehicle, but no more than cost limitation applicable to the vehicle as described below. In the case of an original equipment manufacturer's vehicle that is a fuel-flexible or dual-fuel vehicle, the amount of the deduction equals \$1,200, or, if greater, the incremental cost of permitting the use of the clean-burning fuel,<sup>4</sup> but no more than the cost limitation applicable to the vehicle as described below.

In the case of a retrofitted vehicle, the amount of the deduction equals (1) the cost of the engine (or modification thereof) that is installed on the motor vehicle and that permits the motor vehicle to be propelled by a clean-burning fuel, and (2) the cost of any other property that is installed on the motor vehicle for purposes of permitting the motor vehicle to be propelled by a clean-burning fuel but only to the extent that the property is used in the storage or delivery to the engine of the clean-burning fuel or the exhaust of gases from the combustion of the clean-burning fuel.<sup>5</sup> In no event, however, is the amount of the deduction to exceed the cost limitation applicable to the vehicle as described below.

The cost that may be taken into account in determining the amount of the deduction with respect to any motor vehicle is limited based on the type of the motor vehicle. In the case of a truck<sup>6</sup> or van with a gross vehicle weight rating that is greater than 26,000 pounds or a bus which has a seating capacity of at least 20 adults (not including the driver), the limitation is \$50,000. In the case of a truck or van with a gross vehicle weight rating that is greater than 10,000 but not great-

er than 26,000 pounds, the limitation is \$5,000. In the case of any other motor vehicle, the limitation is \$2,000.

The cost limitations are reduced for qualified clean-fuel vehicle property that is placed in service after December 31, 2001. The otherwise applicable limitations are reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No deduction is allowed with respect to qualified clean-fuel vehicle property that is placed in service after December 31, 2004.

#### *Qualified clean-fuel vehicle refueling property*

The bill allows a deduction for the cost of qualified clean-fuel vehicle refueling property for the taxable year that the property is placed in service. Qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is used for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by the fuel, but only if the storage or dispensing (as the case may be) of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.

In addition, qualified clean-fuel vehicle refueling property is defined to include any property (other than a building or its structural components) that is dedicated to the recharging of motor vehicles propelled by electricity but only if the property is located at the point where the motor vehicles are recharged. For this purpose, qualified clean-fuel vehicle refueling property generally includes any equipment that is used to provide electricity to the battery of a motor vehicle that is propelled by electricity (e.g., low-voltage recharging equipment, quick (high-voltage) charging equipment, or ancillary connection equipment such as inductive charging equipment) but does not include any property that is used to generate electricity (e.g., solar panels or windmills) and does not include the battery used in a motor vehicle propelled by electricity.

In order for property to qualify as qualified clean-fuel vehicle refueling property, the original use of the property must commence with the taxpayer and the property must be of a character that is subject to the allowance for depreciation (i.e., unlike qualified clean-fuel vehicle property, qualified clean-fuel vehicle refueling property is required to be used in a trade or business of the taxpayer).

The aggregate cost that may be taken into account in determining the amount of the deduction with respect to qualified clean-fuel vehicle refueling property that is placed in service at any location is not to exceed the excess (if any) of (1) \$75,000, over (2) the aggregate amount taken into account under the provision by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years. For this purpose, a person is treated as related to another person if the person bears a relationship to the other person that is specified in section 267(b) or section 707(b)(1).

#### *Definition of clean-burning fuel and motor vehicle*

Clean-burning fuel is defined as natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel if at least 85 percent of the fuel is methanol, ethanol, any other alcohol, ether, or any combination of the foregoing. A motor vehicle is defined as any vehicle with

at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

#### *Other rules*

The basis of any property with respect to which a deduction is allowed under this provision is reduced by the portion of the cost of the property that is taken into account in determining the amount of the deduction that is allowed with respect to the property. In addition, the Treasury Department is required to promulgate regulations that provide for the recapture of the benefit of the deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property if the property ceases to be property eligible for the deduction. For example, the committee anticipates that the regulations will require the benefit of the deduction for qualified clean-fuel vehicle property to be recaptured if at any time within three years after the date that the property is placed in service, the motor vehicle is modified so that it may no longer be propelled by a clean-burning fuel.

The deduction for qualified clean-fuel vehicle property or qualified clean-fuel vehicle refueling property is not allowed with respect to property that is used predominantly outside the United States or property that is used by governmental units or certain tax-exempt organizations. In addition, the deduction for such property is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.

The deduction for qualified clean-fuel vehicle property is not subject to the luxury automobile depreciation limitations of section 280F (unlike the deduction allowed under section 179).<sup>7</sup> In addition, the deduction for qualified clean-fuel vehicle property is allowed as an adjustment to gross income rather than as an itemized deduction. Consequently, the deduction is not subject to the 2-percent adjusted gross income floor that otherwise applies to miscellaneous itemized deductions or to the limitation on itemized deductions that applies to taxpayers with adjusted gross income in excess of a specified amount (\$105,250 for taxable years beginning in 1992).

#### *Income tax credit for qualified electric vehicles*

##### *In general*

The bill provides an income tax credit equal to 15 percent of the cost of a qualified electric vehicle for the taxable year that the vehicle is placed in service.<sup>8</sup> A qualified electric vehicle is defined as a motor vehicle (1) that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current; (2) the original use of which commences with the taxpayer; and (3) that is acquired for use by the taxpayer and not for resale. A motor vehicle is defined as any vehicle with at least four wheels that is manufactured primarily for use on public streets, roads, and highways (but not including a vehicle operated exclusively on a rail or rails).

The credit for qualified electric vehicles for any taxable year is not to exceed the excess (if any) of (1) the regular tax for the taxable year reduced by the credits allowable under Subpart A and sections 27, 28 and 29 of the Code, over (2) the tentative minimum tax for the taxable year.

##### *Other rules*

The basis of a qualified electric vehicle is reduced by the amount of the credit that is allowable with respect to the vehicle. In ad-

dition, the Treasury Department is required to promulgate regulations that provide for the recapture of the credit if the vehicle ceases to be a qualified electric vehicle. For example, the committee anticipates that the regulations will require the credit to be recaptured if at any time within three years after the date that the vehicle is placed in service, the vehicle is modified so that it is no longer a qualified electric vehicle.

The credit for a qualified electric vehicle is not allowed with respect to property that is used predominantly outside the United States or property that is used by governmental units or certain tax-exempt organizations. In addition, the credit is not allowed with respect to the portion of the cost of any property that is taken into account under section 179.<sup>9</sup>

#### *Effective Date*

The provision applies to property that is placed in service after June 30, 1993, and before January 1, 2005.

4. Income Tax Credit for Electricity Generated Using Certain Renewable Resources (sec. 1914 of the bill and new sec. 45 of the Code).

#### *Present Law*

An investment-type tax credit is allowed against income tax liability for investments in property producing energy from certain specified renewable sources. The nonrefundable credit, which is referred to as the business energy credit, equals 10 percent of the cost of qualified solar or geothermal energy property. Solar energy property that qualifies for this tax credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but in the case of electricity generated by geothermal power, only property used up to (but not including) the transmission stage.<sup>10</sup>

The business energy credit is a component of the general business credit. The general business credit may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of: (1) 25 percent of net regular tax liability above \$25,000; or (2) the tentative minimum tax. Any unused general business credit generally may be carried back to the three previous taxable years and carried forward to the subsequent 15 taxable years.

A production-type tax credit is allowed against income tax liability for the production of certain nonconventional fuels. For 1991, the credit amount is equal to \$5.35 per barrel of oil or BTU oil equivalent. (This credit amount is adjusted for inflation.) Qualified fuels must be produced for a well drilled, or facility placed in service, before January 1, 1993, and must be sold before January 1, 2003. Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressurized brine, Devonian shale, coal seams, a tight formation, or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks.

#### *Reasons for Change*

The committee believes that the development and utilization of certain renewable energy sources should be encouraged through the tax laws. A production-type credit is believed to target exactly the activity that the committee seeks to subsidize (the production of electricity using specified renewable en-

ergy sources). The credit is intended to enhance the development of technology to utilize the specified renewable energy sources and to promote competition between renewable energy sources and conventional energy sources.

#### Explanation of Provision

The bill provides for a production-type credit against income tax liability for electricity produced from either qualified wind energy or qualified "closed-loop biomass" facilities. The credit equals 1.5 cents (adjusted for inflation) per kilowatt hour of electricity produced from these qualified sources during the 10-year period after the facility is placed in service. In order to claim the credit, a taxpayer must sell the electricity to an unrelated party. The committee intends that a public utility which owns and operates a qualified facility be able to claim the credit to the extent that the utility ultimately sells the electricity generated to unrelated parties. This production credit is part of the general business credit, subject to the carryforward, carryback, and the limitation rules of the general business credit (except that the production credit from closed-loop biomass facilities may not be carried back to a taxable year ending before January 1, 1993, and the production credit from qualified wind energy facilities may not be carried back to a taxable year ending before January 1, 1994).

Closed-loop biomass is defined as the use of plant matter on a renewable basis as an energy source to generate electricity, where the plants are grown for the sole purpose of being used to generate electricity. Accordingly, the credit is not available for the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste) to generate electricity. Moreover, the credit is not available to a taxpayer who uses standing timber to produce electricity.

The credit is proportionately phased out over a three-cent per kilowatt hour range if the national average price of electricity from the renewable source sold in accordance with contracts entered into after December 31, 1989, exceeds a threshold price of 8 cents per kilowatt hour. (This threshold is adjusted for inflation.) Thus, the credit will not be available if the national average price of electricity from the renewable source is greater than three cents per kilowatt hour above the threshold price.

A facility which has received the business energy credit or the investment credit is not eligible for the production credit. In addition, the credit is reduced proportionately for any governmental grants or subsidized financing received (including the use of tax-exempt bonds).

#### Effective Date

The credit applies to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999, and to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999.

5. Repeal of Certain Minimum Tax Preferences Relating to Oil and Gas Production (sec. 1915 of the bill and secs. 56 and 57 of the Code).

#### Present Law

Taxpayers who pay or incur intangible drilling or development costs ("IDCs") in the development of domestic oil or gas properties may elect either to expense or capitalize these amounts. If an election to expense IDCs is made, the taxpayer deducts the

amount of the IDCs as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are not expensed, but are capitalized, they can be recovered through depletion or depreciation, as appropriate; or at the election of the taxpayer, they may be amortized over a 60-month period.

The difference between the amount of a taxpayer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period is an item of tax preference for the alternative minimum tax ("AMT") to the extent that this amount exceeds 65 percent of the taxpayer's net income from oil and gas properties for the taxable year (the "excess IDC preference"). In addition, for purposes of computing the adjusted current earnings ("ACE") adjustment to the corporate AMT, IDCs are capitalized and amortized over the 60-month period beginning with the month in which they are paid or incurred.

Independent producers and royalty owners generally are allowed a deduction for percentage depletion (generally equal to 15 percent of gross revenue) in computing their taxable income. A taxpayer's overall deduction for percentage depletion is limited to an amount that is equal to 65 percent of the taxpayer's pre-depletion taxable income for the taxable year. The amount by which the depletion deduction exceeds the adjusted basis of the property is an AMT preference (the "excess percentage depletion preference"). Corporations must use cost depletion in computing their ACE adjustment.

A taxpayer other than an integrated oil company is entitled to an "energy deduction" for certain IDC and depletion items. The energy deduction is the sum of 75 percent of the portion of the IDC preference<sup>11</sup> attributable to qualified exploratory costs and 15 percent of the remaining IDC preference plus 50 percent of the marginal production depletion preference.<sup>12</sup> The energy deduction may not reduce the taxpayer's alternative minimum taxable income by more than 40 percent.

#### Reasons for Change

The committee believes that it is appropriate to provide relief from the AMT preferences and adjustments to certain taxpayers with oil and gas operations. The committee believes the effectiveness of oil and gas incentives for domestic drilling and production is reduced to the extent that taxpayers in the oil and gas industry are subject to the AMT. Consequently, to increase the effectiveness of certain oil and gas incentives, the committee desires to make these incentives generally applicable to the AMT.

#### Explanation of Provision

For taxpayers other than integrated oil companies, the bill repeals (1) the excess IDC preference for IDCs related to oil and gas wells and (2) the excess percentage depletion preference for oil and gas. The repeal of the excess IDC preference may not result in the reduction of the amount of the taxpayer's alternative minimum taxable income by more than 40 percent (30 percent for taxable years beginning in 1993) of the amount that the taxpayer's alternative minimum taxable income would have been had the present-law excess IDC preference not been repealed.

In addition, for corporations other than integrated oil companies, the bill repeals the ACE adjustments<sup>13</sup> for (1) IDCs paid or incurred in taxable years beginning after December 31, 1992, with respect to oil and gas wells and (2) percentage depletion for oil and gas.

The bill also repeals the minimum tax energy deduction.

#### Effective Date

Except as provided above regarding the repeal of the ACE treatment of IDCs, the provision applies to taxable years beginning after December 31, 1992.

6. Increase Excise Tax on Certain Ozone-Depleting Chemicals (secs. 1916-1917 of the bill and secs. 4681-4682 of the Code).

#### Present Law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to the chemical. Certain chemicals are subject to a reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax amounts applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax amount applicable to initially listed chemicals is \$1.67 per pound for 1992, \$2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax amount applicable to newly listed chemicals is \$1.37 per pound for 1992, \$1.67 per pound for 1993, \$3.00 per pound for 1994, \$3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

#### Reasons for Change

On February 11, 1992, President Bush announced that, in response to recent scientific findings, the United States unilaterally will accelerate the phaseout of substances that deplete the Earth's ozone layer. The President announced that the production of major CFCs, halons, methyl chloroform, and carbon tetrachloride generally will be eliminated by December 31, 1995. The President noted that the tax on ozone-depleting chemicals has helped the United States achieve a more rapid reduction in use of such chemicals than that called for under the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol").

In light of the recent scientific evidence, the President's action, and in recognition of the importance of the tax on ozone-depleting chemicals as an economic incentive, the committee believes it is important to enhance the conservation effort and speed the search for safe substitutes by increasing the base rate of tax on ozone-depleting chemicals. The committee believes an increase in the base rate of tax will help market forces in finding substitutes. In addition, the committee is concerned that the market prices for ozone-depleting chemicals currently do not reflect many of the environmental and other social costs associated with their use. As a result, the quantities of these chemicals being produced and used may be greater than optimal. The committee believes the tax on ozone-depleting chemicals helps foster reduced use of ozone-depleting chemicals. However, the committee believes it is appropriate to retain the reduced rates of tax applicable to ozone-depleting chemicals used in foam insulation and halons through 1993.

The committee also is concerned that an increase in the price of ozone-depleting chemicals used as medical sterilants may have an undue effect in discouraging the use of these chemicals and could lead to an increase in staphylococci and other bacterial infections.

#### Explanation of Provision

Base tax amount.—The bill increases and conforms the base tax amount of both ini-

tially listed chemicals and newly listed chemicals. The bill increases the base tax amount of initially listed chemicals by \$0.18 per pound for 1992, by \$0.10 per pound for 1993, by \$1.00 per pound for 1994, and by \$1.45 per pound for 1995. The bill increases the base tax amount of newly listed chemicals by \$0.48 per pound for 1992, by \$1.08 per pound for 1993, by \$0.65 per pound for 1994, and by \$1.45 per pound for 1995. For each year after 1995, the increase in the base tax amount for both initially and newly listed chemicals is \$1.45 per pound. These increases in the base tax amounts are in addition to those currently scheduled to occur under present law, including the \$0.45 per pound per year increases for years after 1994 for initially listed chemicals and the \$0.45 per pound per year increases for years after 1995 for newly listed chemicals.

Medical sterilants.—The bill provides for a reduced rate of tax for 1992 (for sale or use on or after October 1, 1992) and 1993 for certain ozone-depleting chemicals used to sterilize medical devices. The tax applicable to such chemicals is determined by multiplying the otherwise applicable tax rate by the applicable percentage. The applicable percentage is 90.3 percent for sale or use in 1992 occurring on or after October 1, 1992 and 60.7 percent for calendar year 1993. A taxpayer who has paid tax on ozone-depleting chemicals used to sterilize medical devices at a rate higher than that required will receive a credit or refund (without interest) of such excess.

Rigid foam insulation and halons.—In addition, the bill reduces the applicable percentage used in the computation of the tax applied to chemicals used in rigid foam insulation in 1992 and 1993. The bill reduces the applicable percentage from 15 percent to 13.5 percent for 1992, and reduces the applicable percentage from 10 percent to 9.6 percent for 1993. Similarly, the bill reduces the applicable percentage applied to Halon-1211, Halon-1301, and Halon-2402 in 1992 and 1993. The following table contains the new applicable percentages.

APPLICABLE PERCENTAGE

	1992	1993
Halon-1211 .....	4.5	3.0
Halon-1301 .....	1.4	0.9
Halon-2402 .....	2.3	1.5

The applicable percentages for 1992 apply only to sale or use after the effective date. The effect of this provision is to continue present-law rates on these chemicals for 1992 and 1993.

#### Effective Date

The provision is effective for taxable chemicals sold (or used) on or after October 1, 1992. Floor stocks taxes are imposed on taxable chemicals held on the effective dates of changes in the base tax amount.

7. Business Energy Tax Credits for Solar, Geothermal and Ocean Thermal Property (sec. 1918 of the bill and sec. 48(a) of the Code).

#### Present Law

Nonrefundable business energy tax credits are allowed for 10 percent of the cost of qualified solar and geothermal energy property (Code sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only

up to (but not including) the electrical transmission stage.<sup>14</sup>

The business energy tax credits currently are scheduled to expire with respect to property placed in service after June 30, 1992.

The business energy tax credits are components of the general business credit (sec. 38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above \$25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

#### Reasons for Change

The committee believes it is important to provide tax-based support for the development of alternative energy sources. In this regard, the committee believes that making the credits for investments in solar and geothermal property permanent will provide potential investors in long-term projects an additional degree of certainty as to the availability of the credits that may have been lacking in the past.

The committee further believes that tax incentives should be provided to encourage the production of energy from ocean thermal sources. Thus, the committee believes it is appropriate to provide, as part of the business energy tax credits, a credit for qualified investments in ocean thermal property.

#### Explanation of Provision

Under the bill, the business credits for qualified investments in solar and geothermal property are made permanent. In addition, the bill adds a credit equal to 10 percent of the cost of qualified ocean thermal property placed in service by a taxpayer after June 30, 1992. For this purpose, qualified ocean thermal property is equipment which converts ocean thermal energy to usable energy. Qualified ocean thermal property is property located at either of two locations designated by the Secretary of Treasury after consultation with the Secretary of Energy.

#### Effective Date

The provision is effective after June 30, 1992.

8. Repeal of Investment Restrictions Applicable to Nuclear Decommissioning Funds (sec. 1919 of the bill and sec. 468A of the Code).

#### Present Law

A taxpayer that is required to decommission a nuclear power plant may elect to deduct certain contributions that are made to a nuclear decommissioning fund. A nuclear decommissioning fund is a segregated fund the assets of which are to be used exclusively to pay nuclear decommissioning costs, taxes on fund income, and certain administrative costs. The assets of a nuclear decommissioning fund that are not currently required for these purposes must be invested in (1) public debt securities of the United States, (2) obligations of a State or local government that are not in default as to principal or interest, or (3) time or demand deposits in a bank or an insured credit union located in the United States. These investment restrictions are the same restrictions which apply to Black Lung trusts that are established under section 501(c)(21) of the Code.

#### Reasons for Change

The committee believes that a nuclear decommissioning fund should be allowed to invest in any asset that is considered appro-

priate by the applicable public utility commission or other State regulatory body.

#### Explanation of Provision

The bill repeals the present-law investment restrictions that apply to nuclear decommissioning funds.

#### Effective Date

The provision applies to taxable years beginning after December 31, 1992.

9. Partial Excise Tax Exemption for Certain Gasoline Mixtures with Ethanol or other Alcohol (sec. 1920(a) of the bill and sec. 4081 of the Code)

#### Present Law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by motorboats (14.1 cents per gallon). A Federal excise tax also is imposed on diesel fuel used in highway transportation (20.1 cents per gallon).

A 5.4-cents-per-gallon excise tax exemption is allowed from the excise taxes on gasoline, diesel fuel, and special motor fuels for mixtures of any of these fuels with at least 10-percent ethanol. A 6-cents-per-gallon excise tax exemption is allowed for mixtures with at least 10-percent alcohol that is other than ethanol. Because blended fuels are generally 10 percent alcohol, a reduction of 5.4 or 6 cents per gallon of gasohol or other blend is equivalent to a subsidy of 54 or 60 cents per gallon of qualifying alcohol.

For purposes of the partial excise tax exemption, the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 190.

The partial excise tax exemption is scheduled to expire after September 30, 2000.

#### Reasons for Change

Oxygenated agents are required to be added to fuel to meet certain emission targets under the 1990 amendments to the Clean Air Act. The committee intends to provide taxpayers with greater flexibility to mix alcohol with gasoline to meet these mandated targets. The committee does not intend to increase the per-gallon tax subsidy rate for ethanol or other alcohol.

#### Explanation of Provision

The bill amends the partial excise tax exemption for gasoline that is mixed with ethanol or other alcohol to extend its application to 5.7- or 7.7-percent alcohol blends. The current 5.4- and 6-cents-per-gallon exemptions for alcohol mixtures is pro-rated to maintain the subsidy level of 54 or 60 cents per gallon, respectively, for ethanol or other alcohol that is mixed with gasoline.

#### Effective Date

The provision is effective for gasoline removed or entered after September 30, 1992.

10. Application of Alcohol Fuels Tax Credit Against Alternative Minimum Tax (sec. 1920(b) of the bill and sec. 38 of the Code).

#### Present Law

An income tax credit is provided for alcohol used in certain mixtures of alcohol and gasoline (e.g., gasohol), diesel fuel, or any other liquid fuel which is suitable for use in an internal combustion engine if the mixture is sold by the producer in a trade or business for use as a fuel or is so used by the producer (sec. 40). The credit also is permitted for alcohol (e.g., qualified methanol fuel) which is not in a mixture with gasoline, diesel, or other liquid fuel which is suitable for use in an internal combustion engine, provided that the alcohol is used by the taxpayer as a fuel in a trade or business or is sold by the tax-

payer at retail to a person and placed in the fuel tank of the purchaser's vehicle. The credit generally is equal to 60 cents for each gallon of alcohol (at least 190 proof) used by the taxpayer in production of a qualified mixture or as a fuel; the credit generally is 45 cents per gallon of 150 to 190 proof alcohol fuel.<sup>15</sup> The credit is scheduled to expire with respect to sales or uses after December 31, 2000.

In addition, a 10-cents-per-gallon income tax credit is allowed to eligible small ethanol producers. For this purpose, a small ethanol producer is any fuel ethanol producer with productive capacity to produce less than 30 million gallons of alcohol per year. This credit is limited to the first 15 million gallons of ethanol for use as a fuel produced per year by such a small producer.

The amount of any taxpayer's alcohol fuels tax credit is reduced to take into account any benefit received with respect to the alcohol under the special reduced excise tax rates for alcohol fuel mixtures of alcohol fuels. For purposes of the credit (other than with respect to the determination of the productive capacity of an ethanol producer), the term alcohol includes methanol and ethanol, but does not include alcohol produced from petroleum, natural gas, or coal (including peat), or alcohol with a proof less than 150.

The alcohol fuels tax credit is a component of the general business credit (sec. 38(b)(1)). The alcohol fuels tax credit, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above \$25,000 of (2) the tentative minimum tax. An unused general business credit generally may be carried back 3 years and carried forward 15 years.

#### Reasons for Change

The committee believes that the minimum tax liability limitation may conflict with the goal of the Clean Air Act which mandates the use of oxygenated fuel in so called non-attainment areas, and EPA and other governmental restrictions on various types of automobile emissions. This minimum tax limitation may result in taxpayers being unwilling to use alcohol in fuels or construct small ethanol plants. In this regard, the committee believes that it is appropriate to provide some level of relief to those taxpayers from the application of the alternative minimum tax. The committee is concerned, however, that taxpayers not be permitted to completely eliminate their alternative minimum tax liabilities as a result of such incentive provisions. Thus, the committee has placed a limitation on the maximum level of reduction of alternative minimum tax that may be realized as a result of this provision.

#### Explanation of Provision

The bill provides that taxpayers claiming the alcohol fuels tax credit may utilize that credit to offset a portion of their alternative minimum tax liability. Specifically, the bill allows the alcohol fuels credit to offset up to 50 percent of a taxpayer's pre-credit alternative minimum tax.<sup>16</sup> As under present law, any unused credit would be available for a 3-year carryback and a 15-year carryover.

To illustrate the operation of this provision of the bill, assume a taxpayer has 10 million of regular tax, \$8 million of tentative minimum tax, \$5 million of alcohol fuels credit, and \$3 million of other general business credits. \$6 million of the general business credit would be allowed for the taxable

year—\$2 million by reason of the general rule of section 38(c)(1) allowing the general business credit to offset the excess of the net income tax over the tentative minimum tax and \$4 million by reason of the provision added by the bill allowing the alcohol fuels credit to offset 50 percent of the tentative minimum tax. The above result would occur without regard to the taxable years in which the various credits arose (assuming the alcohol fuels credit arose in a taxable year beginning after September 30, 1992).

#### Effective Date

The provision is effective for taxable years beginning after September 30, 1992. In addition, the provision is limited to alcohol fuels credits actually generated in those years. That is, the provision does not allow an alcohol fuels credit generated in a taxable year beginning on or before September 30, 1992 and carried forward to a taxable year beginning after September 30, 1992 to offset alternative minimum tax in that later year. Similarly, the provision does not allow an alcohol fuels tax credit generated in a taxable year beginning after September 30, 1992 to be carried back and used to reduce alternative minimum tax in a taxable year beginning on or before September 30, 1992.

11. Determination of Independent Oil and Gas Producer (sec. 1921 of the bill and sec. 613A(c) of the Code)

#### Present Law

Under present law, persons owning economic interests in oil and gas producing properties may deduct an allowance for depletion in computing taxable income. Independent producers and royalty owners are permitted to claim the greater of cost or percentage depletion on the production of up to 1,000 barrels per day of crude oil and natural gas produced from domestic sources. The percentage depletion allowance for oil and gas is computed as a fixed percentage (i.e., 15 percent) of the taxpayer's gross income from the oil or gas property, subject to net income and taxable income limitations.

Also under present law, taxpayers are permitted the option to elect to deduct intangible drilling and development costs (IDCs) in the case of domestically located oil and gas wells (sec. 263(c)). For taxpayers other than independent oil and gas producers (i.e., integrated producers), however, 30 percent of the otherwise deductible amount of IDCs must be capitalized and recovered over a 60-month period.

Present law also provides a deduction from alternative minimum taxable income for a portion of a taxpayer's AMT preferences and adjustments related to IDCs and percentage depletion from marginal properties. This AMT energy deduction is available to independent producers, but not to integrated companies.

A producer of oil or natural gas is considered an independent producer unless that person (or a related person) also is engaged in a significant amount of either retailing or refining activity. A taxpayer meets the retailing exception (sec. 613A(d)(2)), and is thus not considered an independent producer, if the taxpayer directly, or through a related person, sells oil or natural gas (excluding bulk sales of such items to commercial or industrial users) or any product derived from oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense) through a retail outlet operated by the taxpayer (or a related person).<sup>17</sup> The retailer exception does not apply to a taxpayer with combined gross receipts from retail sales of oil, natural gas, or petroleum products for a taxable year of not more than \$5 million.

A taxpayer is treated as a refiner, and thus is excluded from independent producer status, if the taxpayer or a related person engages in the refining of crude oil and on any day during the taxable year the refinery runs of the taxpayer (and related persons) exceed 50,000 barrels.

For purposes of the retailer and refiner exceptions, a person is a related person with respect to the taxpayer if a significant ownership interest (i.e., 5 percent or more) in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person.

#### Reasons for Change

The committee believes that in setting parameters for determining whether a taxpayer qualifies as an independent oil and gas producer, Congress may have excluded certain taxpayers who should qualify for the tax incentives that are allowed to independent producers. For example, in determining whether a taxpayer is engaged in a significant level of retailing activity, the committee believes that taxpayers who only sell natural gas (or related products), the price of which is regulated by public service commissions, at the retail level should be treated as independent producers rather than integrated companies. The committee believes that only the retail sale of oil and oil-related products and the retail sale of natural gas (and related products) in an unregulated environment should be considered relevant in determining whether a taxpayer is an independent producer for these purposes.

Similarly, the committee believes that the requirement that a taxpayer be treated as an integrated company if it refines more than 50,000 barrels of oil on any day during the year may inadvertently exclude certain taxpayers from the benefits of percentage depletion and IDC deductions. It is the belief of the committee that a more equitable approach would be to allow a taxpayer to be treated as an independent producer unless it refines on the average more than 50,000 barrels a day during a taxable year.

#### Explanation of Provision

The bill amends the operation of both the retailer and refiner exceptions in determining whether a taxpayer is an independent oil and gas producer. With respect to the retailer exception, the bill permits gross receipts from retail sales of natural gas by a regulated public utility to be disregarded in determining whether a taxpayer is a retailer. For example, the bill treats a producer that has retail sales of natural gas by a regulated public utility during a taxable year of \$10 million, but has no other retail sales of natural gas or of oil or petroleum product, as an independent oil and gas producer since the taxpayer's regulated public utility retail sales of natural gas are disregarded and thus, its retail sales for the year do not exceed \$5 million.<sup>18</sup> As such, the taxpayer would be eligible to claim oil and gas percentage depletion deductions and fully deduct its IDCs for the taxable year.<sup>19</sup> For this purpose, a regulated public utility is as defined in section 7701(a)(33) of the Code, except that the company must generate at least one-half of its gross income for the taxable year from sources described in subparagraphs (A), (B), and (C) of that section.

Under the bill, for purposes of determining significant refining activity under the refining exception, the requirement that a refinery run in excess of 50,000 barrels occur on any day during the taxable year is eliminated. Instead, the bill requires that the tax-

payer's average daily refinery runs for the taxable year exceed 50,000 barrels in order not to treat the taxpayer as an independent producer under the refiner exception.

#### Effective Date

The provision is effective for taxable years beginning after December 31, 1992.

12. Tax-Exempt Bonds for Environmental Enhancements of Certain Governmental Hydroelectric Generating Facilities (sec. 1922 of the bill and sec. 142 of the Code).

#### Present Law

Interest on State and local government bonds generally is exempt from Federal regular individual and corporate income taxes. However, interest on "private activity bonds" is exempt only if the financed facilities are specified in the Internal Revenue Code (the "Code"). Private activity bonds generally are obligations issued by State and local governmental units acting as a conduit to provide financing for private parties.

A bond is a private activity bond if more than 10 percent of the proceeds are to be used in a trade or business of any person other than a State or local government and debt service on the bonds is directly or indirectly to be paid or secured by payments from such a person. Additionally, a bond is a private activity bond if more than five percent (\$5 million, if less) is to be used to make loans to persons other than States or local governments.

Interest on the following private activity bonds qualifies for tax-exemption:

- (1) Exempt-facility bonds;
- (2) Qualified mortgage and qualified veterans' mortgage bonds;
- (3) Qualified small-issue bonds;
- (4) Qualified student-loan bonds;
- (5) Qualified redevelopment bonds; and
- (6) Qualified 501(c)(3) bonds.

Exempt-facility bonds are bonds the proceeds of which are used to finance the following: airports, docks and wharves, mass commuting facilities or high-speed intercity rail facilities; facilities for the local furnishing of electricity or gas; local district heating or cooling facilities; and certain low-income rental housing projects.

Most private activity bonds are subject to annual State volume limitations equal to the greater of \$50 per resident of the State or \$150 million.

#### Reasons for Change

The committee believes that new environmental mandates for governmental hydroelectric facilities reflect a deepened concern for the effects of these facilities on their natural surroundings, and that it is appropriate to extend tax-exempt financing to assist in addressing these concerns notwithstanding possible private business use of the output of the hydroelectric facilities. Additionally, because many of the facilities generate electricity to be used in more than one State, the committee believes it appropriate to exempt these bonds from the State private activity bond volume limitation requirement applicable to most private activity bonds.

#### Explanation of Provision

The bill creates a new category of exempt-facility bonds: environmental enhancements of hydroelectric generating facilities. Bonds for these facilities are not subject to the State private activity bond volume limitations. Environmental enhancements financed with these bonds are limited to property the use of which is related to a Federally licensed hydroelectric facility which is owned and operated by a governmental unit. For purposes of this provision, a pumped storage generating facility is not treated as a hydroelectric generating facility.

All property financed with these bonds must be owned by a State or local governmental unit. Further, at least 95 percent of the net proceeds of each bond issue must be used to finance property which (a) promotes fisheries or other wildlife resources, or (b) is a recreational facility or other improvement required by Federal licensing terms and conditions for the operation of a hydroelectric generating facility described above. Examples of property that will be treated as promoting fisheries include property such as fish ladders, fish by-pass facilities and fish hatcheries.

Qualifying expenditures of these bond proceeds do not include expenditures related to a project of repair, maintenance, renewal, safety enhancement, replacement, or any improvement which increases, or allows an increase in, the capacity, efficiency, or productivity of existing generating equipment.

Finally, at least 80 percent of the net proceeds of each bond issue must be used to finance qualifying property for the promotion of fisheries or other wildlife resources.

#### Effective Date

The provision is effective for bonds issued after the date of its enactment.

#### B. Other Revenue-Raising Provisions

1. Deny Deduction for Club Dues (sec. 1931 of the bill and sec. 162 of the Code).

#### Present Law

No deduction is permitted for club dues unless the taxpayer establishes that his or her use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of the trade or business. Luncheon club dues are deductible to the same extent and subject to the same rules as business meals in a restaurant and are not subject to these special rules for club dues. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.<sup>20</sup>

#### Reasons for Change

Under present law, taxpayers can obtain a tax deduction for dues for a club (such as a country club) with respect to which a significant element of personal pleasure and enjoyment is present. The committee believes that it is inappropriate to permit a deduction for such expenditures. Denying all deductions for club dues also simplifies present law, in that a strict nondeductibility rule is easier to comply with than the present-law rule requiring an assessment of the primary purpose of the use of the club.

#### Explanation of Provision

Under the bill, no deduction is permitted for club dues. This rule applies to all types of clubs. Specific business expenses (e.g., meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

#### Effective Date

The provision is effective for club dues paid after the date of enactment.

2. Excise Tax on Certain Insurance Premiums Paid to Certain Foreign Persons (sec. 1932 of the bill and sec. 4371 of the Code).

#### Present Law

Under present law, an excise tax generally is imposed on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer to or for or in the name of a domestic corporation or partnership, or a U.S. resident individual with respect to risks wholly

or partly within the United States, or to or for or in the name of any foreign person engaged in business within the United States with respect to risks within the United States (sec. 4371). The tax does not apply, however, to any amount effectively connected with the conduct of a trade or business within the United States (unless such amount is exempt from the net-basis U.S. tax under a treaty) (sec. 4373(1)).

The tax is imposed at the following rates: (1) 4 percent of the premium paid on a casualty insurance policy or indemnity bond; (2) 1 percent of the premium paid on a policy of life, sickness, or accident insurance, or annuity contracts on the lives or hazards of the person of U.S. citizen or resident; and (3) 1 percent of the premium paid on a policy of reinsurance covering any of the contracts taxable under (1) or (2).

The tax is waived in United States tax treaties with the United Kingdom, France, Germany, Spain, Italy, Cyprus, India, and certain other countries. These treaty waivers generally include an anti-conduit rule denying the benefit of the exemption to premiums covering risks that are reinsured with a person not entitled to a similar treaty exemption. Notably, however, the U.K. treaty has no anti-conduit rule. However, present law imposes a tax both on any direct insurance transaction with a foreign insurer (not subject to U.S. income tax), and also on any reinsurance transaction with a foreign insurer, is the transaction involved the insurance or reinsurance of a U.S. risk. A policy of reinsurance issued by a foreign insurer covering U.S. risks is subject to the tax imposed on reinsurance policies, whether the direct insurer is a domestic or foreign insurer.<sup>21</sup>

The Code itself (sec. 4373) provides exemptions from the tax in the case of (1) any amount effectively connected with the conduct of a trade or business within the United States (unless such amount is exempt from the net-basis U.S. tax under a treaty), or (2) any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant, or check issued by the United States.

Section 4374 provides that the excise tax imposed by section 4371 shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes, or for whose use or benefit the same are made, signed, issued, or sold. Thus, the liability for the tax falls jointly on all the parties to the insurance or reinsurance transaction.

Under regulations, the tax must be remitted by the resident person who actually pays the premium to a foreign insurer, reinsurer, or nonresident agent, solicitor or broker (Treas. Reg. sec. 46.4374-1(a)). The Treasury has stated that where a treaty permits an exemption from tax to the extent that the foreign insurer or reinsurer does not reinsure the risks covered by the policy with a person that would not be entitled to an exemption from the tax on such policy, the person otherwise required to remit the tax may consider the policy exempt only if, prior to filing the return for the taxable period, such person has knowledge that there was in effect for such taxable period a certain type of closing agreement between the insurer or reinsurer and the IRS (Rev. Proc. 84-82, 1984-2 C.B. 779). Under the required closing agreement, the foreign insurer or reinsurer makes a secured promise to pay to the IRS any ex-

cise tax liability non-treaty-protected reinsurer.

#### *Reasons for Change*

The committee previously considered changes to the excise tax on insurance policies provided by foreign persons in 1984. Changes were also contemplated by the conferees to the Tax Reform Act of 1986. In March 1990 the Treasury Department issued its *Report to Congress on the Effect on U.S. Reinsurance Corporations of the Waiver by Treaty of the Excise Tax on Certain Reinsurance Premiums*, a study mandated under the 1986 Act in lieu of adopting statutory changes at that time. In light of the analysis provided in that report, the committee is concerned that the purposes of the excise tax are inadequately served by a reinsurance tax rate of only 1 percent, in a case where the primary policy reinsured is of a type that would bear a 4-percent excise tax rate under the statute, and where the foreign reinsurer takes advantage of a tax haven. In such a case, the committee is concerned that the present tax rate differentiation between direct insurance and reinsurance of U.S. casualty risks allows the proper level of excise tax to be avoided by careful structuring of insurance and reinsurance transactions.

The committee is also concerned that certain U.S. income tax treaties (i.e., those without an anti-conduit clause) are used to avoid excise tax on the reinsurance of U.S. risks in transactions between foreign insurers protected under such a treaty and third-country foreign insurers or reinsurers that are not so protected under a treaty between the United States and their country of residence. The Committee is concerned that such third-country reinsurers may under present law obtain a substantial part of the economic benefit of the treaty excise tax waiver. The committee believes it appropriate to enhance compliance with respect to taxes imposed on insurance and reinsurance issued by these third-country persons—taxes which the United States has the power to impose and collect under any U.S. income tax treaty.

#### *Explanation of Provision*

The bill raises to 4 percent the excise tax on certain premiums paid to foreign persons for reinsurance covering casualty insurance and indemnity bonds. Such reinsurance premiums are subject to only the existing 1-percent rate, however, if (1) the premiums are paid to a foreign insurer or reinsurer that is a resident of a foreign country, (2) the insurance income (including investment income) relating to the policy of reinsurance is subject to tax by a foreign country or countries at an effective rate that is substantial in relation to the tax imposed under the Code on similar premiums received by U.S. reinsurers, and (3) the insured risk is not reinsured (whether directly or through a series of transactions, which is intended to include for these purposes business relationships or practices having the same effect) by a resident of another foreign country who is not subject to a substantial tax (as defined in condition (2)) on the income. The committee intends that an effective rate of taxation equal to at least 50 percent of the applicable U.S. effective tax rate generally will be necessary for foreign taxation to be considered to be substantial in relation to U.S. taxation.

The bill authorizes the Treasury to issue regulations providing for such procedures as it deems appropriate to ensure that only those premiums actually entitled to the reduced 1-percent rate under the above rules are excused from the bill's 4-percent rate

tax. The committee anticipates, for example, that the availability of the reduced (1-percent) excise tax rate will be made subject to compliance requirements analogous to those that apply to waivers of the excise tax under U.S. tax treaties. Thus, the committee anticipates that the bill's anti-conduit condition for obtaining the 1-percent rate could be enforced by entering into closing agreements similar to those under present law. The committee intends that persons liable for the tax will bear the burden of providing that foreign taxes imposed on insurance income are such that premiums are entitled to be taxed at the reduced 1-percent rate.

In addition, the Treasury would be entitled under the bill to waive the above anti-conduit rule in such circumstances and subject to such conditions as it deems to be appropriate. The committee intends that this authority will apply in a situation where a foreign person establishes that it is subject to a substantial tax, but it is later determined that a risk reinsured by that person has been further reinsured by another person not subject to a substantial tax, and the Secretary is satisfied that, in light of all the facts and circumstances, reinsurance by the latter person was not contemplated or anticipated by the first person.

The bill specifies that, in applying rules for the statutory reduced excise tax rate or any treaty excise tax waiver, no person shall be relieved of the requirement to remit the excise tax to the IRS unless the parties to the transaction satisfy such requirements as the Secretary may prescribe to ensure collection of tax due on any reinsurance of the risk with respect to which the premium was paid. For example, this provision requires the Secretary to ensure that, when a premium on U.S. risk insurance is paid by a U.S. person to a foreign insurer (including a foreign insurer entitled to treaty benefits under a treaty waiving the excise tax, with or without a treaty anti-conduit clause), and that risk is covered by a policy of reinsurance issued by a foreign reinsurer not entitled to treaty benefits, or not entitled to the 1-percent reduced statutory rate, the U.S. person will satisfy such requirements as will enable the Treasury to collect the U.S. tax imposed on the reinsurance policy. The committee anticipates that the Secretary will apply the same or similar requirements as are currently applied under Rev. Proc. 84-82 to ensure compliance with anti-conduit clauses of waivers of the excise tax under U.S. tax treaties.

The committee understands that the obligation to remit tax is not affected by treaty provisions that may waive the foreign recipient's ultimate liability for the excise tax. This provision of the bill only collects a tax that the United States has the power to impose and collect under any U.S. income tax treaty and, thus, the committee believes that the bill is consistent with all existing U.S. treaty obligations, whether or not the treaty provides an explicit anti-conduit rule.

Taking into account the collection procedures described above, the bill is intended to yield to any existing tax treaties to which the United States is a party. The bill is intended to raise the excise tax rate on certain policies covered by the statute and not protected by treaty. By changing the excise tax rate, the committee does not intend to override prior treaties that preclude imposition of the tax.

#### *Effective Date*

The provision applies to premiums paid after the date of the bill's enactment, but only to the extent that they are allocable to reinsurance coverage for periods after December 31, 1992.

C. Health Benefits for Retired Coal Miners (secs. 1941-1943 of the bill and new secs. 9701-9704, 9711-9715, and 9721-9724 of the Code)

#### *Present Law*

The United Mine Workers of America (UMWA) health and retirement funds were established in 1974 pursuant to an agreement between the UMWA and the Bituminous Coal Operator's Association (BCOA) to provide pension and health benefits to retired coal miners. The funds have been maintained for this purpose through a series of collective bargaining agreements. The funds created in 1974 were a restructuring of the original benefit fund, which was established in 1946.

The funds consists of four different plans, each of which is funded through a separate trust. The 1950 Pension Plan provides retirement benefits to miners who retired on or before December 31, 1975, and their beneficiaries. The 1950 Benefit Plan provides health benefits for retired mine workers who receive pensions from the 1950 Pension Plan and their dependents. The 1974 Pension Plan provides retirement benefits to miners who retired after December 31, 1975, and their beneficiaries. The 1974 Benefit Plan provides health benefits to miners who retired after December 31, 1975. It also provides benefits to miners whose last employers are no longer in business or, in some cases, no longer signatory to the applicable bargaining agreement. These miners are generally referred to as "orphan" retirees.

#### *Reasons for Changes*

The committee believes it is appropriate to provide a statutory means of financing the benefits of certain retired coal miners.

#### *Explanation of Provisions*

Retiree health benefits.—The bill creates a Coal Industry Retiree Health Benefit Corporation (the Corporation), a government corporation, to provide retiree health benefits for certain retired mine workers (and their spouses and dependents)—generally retirees whose last employer is out of business or not currently paying for retiree health benefits.

Financing of health plan.—The Corporation's health plan is financed by a per-hour tax on certain coal production, a per-ton tax on imported coal, and a per-participant tax on certain former signatories to bargaining agreements who were the last employer of someone covered under the Corporation plan. The bill also (1) creates a new fund (the United Mine Workers of America (UMWA) 1991 Benefit Fund) to provide retiree health benefits to retirees of current signatories to the UMWA agreements, and (2) authorizes the tax-free transfer of excess assets from UMWA pension trusts to the Corporation and the 1991 Benefit Fund.

#### *Effective Date*

The provisions generally are effective on the date of enactment. The taxes imposed under the bill and the benefit payouts under the bill are effective on July 1, 1992.

#### III. BUDGET EFFECTS OF THE BILL

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the estimated budget effects of the bill (Title XIX) as reported by the Committee on Finance.

The budget effects of the bill (Title XIX) for fiscal years 1992-1997 are shown in the following table:

## ESTIMATED REVENUE EFFECTS OF TITLE XIX OF H.R. 776, AS REPORTED BY THE COMMITTEE ON FINANCE—FISCAL YEARS 1992–97

[In billions of dollars]

Item	Effective	1992	1993	1994	1995	1996	1997	1992–97
<b>Revenue-losing provisions:</b>								
1. Utility rebate exclusion for residential, commercial, and industrial customers	(1)		-0.012	-0.145	-0.231	-0.235	-0.240	-0.863
2. Allow a deduction for a portion of the cost of clean-burning motor vehicles and refueling property	7/1/93		-0.019	-0.055	-0.083	-0.118	-0.176	-0.451
3. a. Provide 1.5-cent-per-kilowatt-hour tax credit for wind energy <sup>2</sup>	1/1/94			-0.005	-0.012	-0.022	-0.028	-0.067
b. Provide 1.5-cent-per-kilowatt-hour tax credit for biomass energy from "closed loop" systems	1/1/93		-0.001	-0.003	-0.006	-0.009	-0.010	-0.029
4. For independent producers and royalty owners only, repeal percentage depletion preference and ACE adjustments for IDCs and percentage depletion; repeal IDC preference, limiting AMTI reduction to 30% in 1993 and 40% in 1994 and thereafter.	tyba 12/31/92		-0.172	-0.244	-0.222	-0.202	-0.183	-1.024
5. Permanent extension of business energy tax credits (solar, geothermal, and ocean thermal)	7/1/92	-0.011	-0.034	-0.053	-0.063	-0.067	-0.072	-0.300
6. Remove investment restrictions from nuclear decommissioning funds	1/1/93							
7. Tax-exempt bonds for environmental improvements to hydroelectric-generating facilities	bio/a DoE	(?)	(?)	(?)	-0.001	-0.001	-0.001	-0.003
8. a. Proportional excise tax exemptions for alcohol fuels containing 5.7% or 7.7% alcohol	7/1/92		-0.009	-0.014	-0.028	-0.043	-0.057	-0.151
b. Allow alcohol fuels tax credits to offset 50% of AMT with carryforward	tyba 9/30/92			-0.001	-0.002	-0.003	-0.004	-0.011
9. Retiree health benefits for coal miners: Outlays <sup>4</sup>	7/1/92	-0.045	-0.275	-0.282	-0.289	-0.295	-0.302	-1.488
10. a. Allow natural gas retailers to qualify as independent producers	tyba 12/31/92		-0.029	-0.042	-0.031	-0.020	-0.008	-0.130
b. Modify 50,000-barrel-per-day refinery run limitation on independent producers to apply on an average-per-day basis.	tyba 12/31/92		-0.008	-0.011	-0.010	-0.006	-0.003	-0.038
Subtotal, revenue-losing provisions			-0.056	-0.559	-0.855	-0.978	-1.021	-4.555
<b>Revenue-raising provisions:</b>								
1. Employer-provided transportation benefits <sup>5</sup>	1/1/93		0.062	0.058	0.035	0.022	0.018	0.195
2. Repeal club dues deduction	7/1/92	0.031	0.268	0.280	0.293	0.306	0.320	1.498
3. Increase excise tax on certain ozone-depleting chemicals <sup>6</sup>	10/1/92		0.057	0.199	0.295	0.253	0.180	0.984
4. Retiree health benefits for coal miners: Net receipts—								
a. Per-beneficiary premiums <sup>4</sup>	7/1/92	0.014	0.089	0.092	0.094	0.096	0.098	0.483
b. Gross labor tax/import	7/1/92	0.041	0.205	0.207	0.214	0.216	0.216	1.099
c. Indirect tax effects	7/1/92	-0.008	-0.018	-0.019	-0.017	-0.015	-0.012	-0.089
d. Payment from pension fund <sup>4</sup>	7/1/92	0.050						0.050
5. Increase excise tax on certain foreign reinsurance policies from 1% to 4%	1/1/93		0.075	0.110	0.100	0.090	0.080	0.455
Subtotal, revenue-raising provisions		0.128	0.738	0.927	1.014	0.968	0.900	4.675
Grand total		0.072	0.179	0.072	0.036	-0.053	-0.184	0.120

<sup>1</sup> Effective 1/1/93 for residential customers; 1/1/94 for commercial and industrial customers. For commercial and industrial customers, the exclusion is limited to 80 percent of the rebate amount.

<sup>2</sup> Reference price shall be determined with reference to energy sold under contracts entered into after 12/31/89.

<sup>3</sup> Loss of less than \$500,000.

<sup>4</sup> Estimates prepared by the Congressional Budget Office.

<sup>5</sup> Estimate (1) does not include an additional gain of \$84 million over the period of the Social Security Trust Fund; (2) assumes inflation indexing in \$5 increments, certain exclusion of cash reimbursements from transit provision, and \$145 parking cap.

<sup>6</sup> Increase base tax rate per pound for originally listed chemicals by \$0.18 for 1992, \$0.10 for 1993, \$1.00 for 1994, \$1.45 for 1995 and for each year thereafter. Increase base tax rate per pound for newly listed chemicals by \$0.48 for 1992, \$1.08 for 1993, \$0.65 for 1994, \$1.45 for 1995 and for each year thereafter. Exempt chemicals used as medical sterilants from increases for 1992 and 1993. Reduce applicable percentages for chemicals used in rigid foam insulation and for halons.

Note.—Details may not add to totals due to rounding.

Legend for "Effective" column: tyba=taxable years beginning after, bio/a DoE=Bonds issued on or after date of enactment.

#### IV. REGULATORY IMPACT AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

##### A. Regulatory Impact

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the bill as reported by the Committee on Finance (relating to Title XIX).

The bill provides tax incentives for energy conservation and production, and provides health care provisions for retired coal miners. To make the bill deficit neutral for fiscal years 1992 and 1993 and over the fiscal year 1992–1997 period, the bill includes an increase in the excise tax rate on ozone-depleting chemicals, disallows a deduction for club dues, increases the excise tax on certain foreign reinsurance policies, and provides revenue offsets from the coal industry for the coal miners' health care provisions.

##### B. Other Matters

###### Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote of the committee on the motion to report the committee amendment to the bill (relating to Title XIX). The bill, as amended, was ordered reported by voice vote.

###### Tax Expenditures

In compliance with Section 308(a)(2) of the Budget Act, the committee states that the bill as amended involves increased tax expenditures with respect to the income tax decrease provisions and a reduction in tax expenditures with respect to the denial of the deduction for club dues. (See revenue table in Part III of this report.)

#### FOOTNOTES

<sup>1</sup> S. 1220 was the predecessor bill to S. 2166. S. 1220 was reported by the Senate Committee on Energy and Natural Resources on June 5, 1991 (S. Rept. 102-72).

<sup>2</sup> In addition, it is understood that under present law, exclusions for subsidies for energy conservation measures provided to low-income individuals pursuant to State-sponsored programs may be available.

<sup>3</sup> An original equipment manufacturer's vehicle is to include any motor vehicle that is capable of being propelled by a clean-burning fuel prior to the original use of the vehicle. Any motor vehicle that is not capable of being propelled by a clean-burning fuel prior to the original use of the vehicle but is later modified so that it may be propelled by a clean-burning fuel is to be treated as a retrofitted vehicle.

<sup>4</sup> The incremental cost of permitting the use of a clean-burning fuel is the excess of the cost of the vehicle over what the cost of the vehicle would have been had the vehicle been propelled solely by the fuel that is not a clean-burning fuel. It is anticipated that the manufacturer or dealer will provide a certification of such incremental cost to the person that qualifies for the deduction.

<sup>5</sup> For this purpose, the cost of the original installation of the engine or any other such property is to be treated as part of the cost of the engine or such property.

<sup>6</sup> For purposes of the bill, a truck is to include a tractor that is used on public streets or highways to tow a vehicle such as a trailer or semitrailer.

<sup>7</sup> The depreciation deductions allowed with respect to any such property, however, continue to be subject to the limitations of section 280F.

<sup>8</sup> The credit is phased out for qualified electric vehicles placed in service after December 31, 2001. The otherwise allowable credit is reduced by: (1) 25 percent for property that is placed in service during 2002; (2) 50 percent for property that is placed in service during 2003; and (3) 75 percent for property that is placed in service during 2004. No credit is allowed with respect to a qualified electric vehicle that is placed in service after December 31, 2004.

<sup>9</sup> The credit is to equal 15 percent of the excess of (1) the cost of the motor vehicle, over (2) the cost of such motor vehicle that is taken into account under section 179.

<sup>10</sup> For purposes of the business energy credit, a geothermal energy deposit is defined as a domestic geothermal reservoir of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

<sup>11</sup> The IDC preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment.

<sup>12</sup> The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess depletion preference and the ACE depletion adjustment related to marginal property.

<sup>13</sup> Under the provision the adjustment described in sec. 56(g)(4)(C)(i) (with respect to the disallowance of deductions for items not deductible for earnings and profits purposes) will not apply to percentage depletion for oil and gas.

<sup>14</sup> For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

<sup>15</sup> In the case of any credit with respect to any alcohol which is ethanol, a rate of 54 cents per gallon applies instead of the 60-cent-per-gallon rate, and a rate of 40 cents per gallon applies instead of the 45-cent-per-gallon rate (sec. 40(h)).

<sup>16</sup> Other components of the general business credit would not be permitted to offset the alternative minimum tax under the bill.

<sup>17</sup> In addition, sales by the taxpayer to any person (1) obligated under an agreement or contract with the taxpayer to use a trademark, trade name, or service mark or name of the taxpayer in marketing the oil, natural gas, or product derived therefrom, or

(2) given authority, pursuant to an agreement or contract with the taxpayer (or related person) to occupy any retail outlet owned, leased, or controlled by the taxpayer, are treated as retail sales made by the taxpayer for this purpose.

<sup>18</sup>This example assumes that the taxpayer (or a related person) does not otherwise engage in significant levels of refining.

<sup>19</sup>In addition, the taxpayer would qualify for alternative minimum tax relief under section 1915 of the bill.

<sup>20</sup>Kenneth D. Smith, 24 TCM 899 (1965).

<sup>21</sup>See Rev. Rul. 58-612, 1958-2 C.B. 850; see also *American Bankers Insurance Co. of Florida v. United States*, 388 F.2d 304 (5th Cir. 1968).

Mr. SARBANES. Mr. President, I commend the very able chairman of the Senate Finance Committee for his leadership on this issue, not only on this bill, but earlier, as we tried to address the pressing problem—the plight, really—facing millions of Americans across the country.

I recall very well the role which the chairman played last summer, as we tried to come to grips with the fact that we were in a recession. We had people unemployed, something the national administration seemed—at that time at least—to recognize.

I very strongly support the legislation that has been brought forward by the Finance Committee. Obviously, we need to extend the unemployment program. The changes that have been made and the trigger are very important. It represents a significant improvement in the way that the system will work.

I just want to make two or three observations, and then I will yield the floor, because I know my distinguished colleague from Florida has an amendment he wishes to offer.

First of all, Mr. President, the unemployment rate last month, at 7½ percent, was the highest—the highest—the unemployment rate has been throughout this recessionary period. On the Thursday night before the unemployment rate was announced, the President held a press conference in which he said the economy was getting better and coming out of the recession, but the American people did not know it. The next morning, we get an unemployment figure reported at 7½ percent, the worst it has been throughout any of this downturn period.

The fact of the matter is that more people were unemployed, and the President did not know it. That is the fact of the matter. At 7½-percent unemployment, everyone says, well, it is a lagging indicator. It is not lagging for the people that are impacted; 7½ percent is 9½ million people unemployed.

When the recession began, we were at 6½ million unemployed. That is an addition of 3 million to the unemployed ranks, plus 6½ million working part time who want full-time employment, plus over another million who have lost or dropped out of the labor force.

So you are talking about 17 million people partially or fully affected by unemployment.

So I commend the chairman of the Finance Committee for acting quickly

on this legislation. I notice it covers railroad workers as well, which is, of course, a very important dimension of this problem.

I hope we will be able to act speedily on this legislation, go to conference, agree on the bill between the two Houses, and I very much hope that the President of the United States will sign it and that we will not go through our previous experience of having it vetoed by the President.

I thank the Senator for yielding.

Mr. BENTSEN. Mr. President, I want to acknowledge the leadership role that is played by the chairman of the Joint Economic Committee, as we have fought this issue several times before, and for the support the Senator was able to gain for it, and for his assistance, I am quite appreciative.

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

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

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 2433

(Purpose: To retain exemption for temporary foreign agricultural workers from unemployment tax)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2433.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

#### SEC. . EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS.

Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1986 is amended by striking "before January 1, 1993."

Mr. BENTSEN. Mr. President, I think this is a worthwhile amendment. I am a little concerned about the cost estimate on it. I would like to get, if I can, a unanimous-consent agreement that we conclude this within 30 minutes, and that we have a rollcall vote at 8:30.

Mr. GRAHAM. Mr. President, I would be amenable to a 30-minute time limitation.

Mr. BENTSEN. I request that it be equally divided, and I assume the manager of the bill will not utilize his full time. And I will yield additional time to the Senator from Florida, if that is necessary.

Mr. President, I ask unanimous consent that the time allotted to this amendment be 30 minutes, and I will be asking for the yeas and nays for a vote at 8:30, with no second-degree amendments.

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

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 were ordered.

Mr. BENTSEN. I suggest that the leadership on both sides advise the membership of a vote at 8:30.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Mr. President, the amendment that I am offering relates to a particular class of agricultural workers, referred to as the H-2A workers. These are workers from foreign countries who have met the test of performing jobs for which there are no American workers prepared or willing to accept.

Most of these workers are employed in various agricultural areas. They are employed in my State of Florida, as well as in States such as Washington, Montana, Wyoming, Virginia, North Carolina, West Virginia, New York, the New England States, and Idaho, in a variety of agricultural pursuits.

Mr. President, for many years these H-2A workers have been exempt from Federal unemployment taxation because they are not eligible to receive unemployment compensation in this country. They remain in this country only for the duration of their work assignment for that particular contractual period and then are returned to their home countries.

U.S. companies which hire H-2A workers from many countries, such as those from the West Indies, are contractually required to contribute to a Social Security program in the worker's home country. Thus many H-2A workers are already qualifying for benefits provided by U.S. employers.

As indicated, Mr. President, this particular exemption has existed for many years and has been extended on several occasions. I believe it now makes sense to make this exemption permanent. If conditions ever change so that it becomes appropriate to subject this employment to the Federal unemployment tax, Congress could repeal the exemption at that time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. 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. GRAHAM. 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. GRAHAM. Mr. President, we are debating an amendment which I had offered earlier. I indicated my intention to yield back all of my remaining time. I believe that was also the intention of the manager.

Therefore, Mr. President, I would like to use this time to comment on an amendment which I had anticipated offering this evening but which I shall not, after a conversation with the manager of the bill. And I appreciate his desire to focus amendments on those things that are germane to this bill, as is the amendment which is now pending germane.

Mr. BENTSEN. Mr. President, I yield such time as the Senator from Florida wants to discuss the other amendment.

The PRESIDING OFFICER. The Senator may proceed.

#### TRANSFER OF INTERNATIONAL AIR ROUTES

Mr. GRAHAM. Mr. President, the amendment that I was going to offer tonight—and I would like to use this time to briefly discuss it with the intention of bringing it back before the Senate at another time—would relate to the significant layoffs which have occurred within the aviation industry as a result of the transfer of international air routes. This has been a significant cause of unemployment and thus the necessity for a significant amount of the resources that we are about to appropriate, a requirement which I believe could have been significantly ameliorated had there been a different Federal policy toward employees of international airlines in the context of an air route transfer.

Mr. President, my concern is that many thousands of airline employees have been left, in the era of deregulation, without important safeguards. My fears in the past have now been realized. Thousands of Eastern Airlines employees, for instance, lost their jobs, retirees lost their health insurance, and the Government was forced to take over pension payments.

History is now repeating itself. The collapse of Pan American Airlines in December of last year leaves additional thousands of American employees and retirees in a similar position.

Mr. President, I make the distinction of "American" employees for a reason. Based on information I have received from numerous former Pan American and Eastern employees, what is occurring is that the former non-U.S. national employees of these airlines are keeping their jobs, whereas, American employees are being let go wholesale. And foreign individuals are being offered exclusive opportunities to interview for jobs previously held by Americans.

One gentleman that I met in Miami had worked for 30 years for Pan American, most recently in a significant position in the German-based Pan Amer-

ican maintenance shops. When Pan American went under and another airline began to fly the route, he lost his job. But German nationals working at the same station did not. Why? According to a special study by the Congressional Research Service, a predominance of foreign countries have statutory protections for their citizens when a business changes ownership.

Mr. President, I ask unanimous consent that the report of the Congressional Research Service be printed in the RECORD.

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

THE LIBRARY OF CONGRESS,  
Washington, DC, January 7, 1992.

To: Hon. Bob Graham, U.S. Senate.  
From: Kersi B. Shroff, Senior Legal Specialist.

Subject: Employment protection laws.

In response to your request of January 14, 1992, we have surveyed other countries for employment laws protecting airline employees on the transfer of their carrier or its routes to another owner. No laws specifically relating to airline employees have been located; however, the countries listed below provide general protection, in varying degrees, to all employees of businesses which are sold or transferred.

Argentina. A new owner of a business acquires the legal responsibilities of the original employer; but, in case of substantial changes in the business, the employees may be terminated with compensation.

Belgium.\* The employment relationship is transferred to the new employer who is also bound to observe the terms of any collective labor agreement. The new employer may terminate employment on grounds that economic, technical or organizational reasons entail changes in the work force.

Brazil. A change in ownership of an enterprise does not affect employment contracts.

Canada. Employment is deemed to continue upon the sale or merger of a business. Any collective bargaining agreement also survives the transfer.

Chile. Employment contracts are transferred to the new owner of a business, but if a similar job does not exist the employee may be terminated with compensation.

France.\* All employment contracts remain in effect as before the transfer of a business.

French-speaking African countries. Employment contracts are continued with the new owner of the business.

Germany.\* Employees may not be terminated on account of a transfer of business and can be dismissed only on grounds of economic conditions or reform of methods of production. Close scrutiny is provided by the courts to ensure the validity of dismissals and the observance of principles of social justice. Reinstatement of terminated employees is ordered by the courts in exceptional cases only.

Greece.\* Sale of a business does not terminate contracts of employment, and all the rights and obligations of the previous owner are transferred to the new employer. The new owner may terminate employment only on valid economic, technical or organizational grounds.

\*Member states of the European Community generally have common provisions on transfers on employment contracts. These are based on a Directive issued by the Council of Ministers.

Ireland.\* Rights and obligations under existing contracts of employment are transferred to the purchaser of a business. The new employer may terminate employment only on economic, technical or organizational grounds.

Israel. Employment contracts are terminated by transfer of ownership of a business; however, if the new owner decides to continue the employment of the employees, their legal rights based on seniority continue without interruption. A 1985 bill to allow for an automatic transfer of employees was unsuccessful.

Italy.\* There is no automatic termination of employment contracts at the transfer of a business, but legislation to implement the EC Directive still awaits approval.

Japan. In the absence of statutory protective provisions, it is the majority view among jurists that employment contracts survive the transfer of businesses. The opinion is partly based on the analogy of a law specifically safeguarding the employment of seamen.

The Netherlands.\* Individual employment relationships are transferred to the new owner of a business. The European Court of Justice has held that the transfer provisions are not applicable to bankruptcies.

Poland. Employment contracts of a business which is merged or sold are automatically transferred to the new owner. The present transition in the Polish economy is resulting in a number of mass dismissals. A 1989 law allows such employees the right to be re-hired when the employer begins to recruit new employees.

Sweden. Laws protecting employment provide that a transfer of a business must take the rights and obligations of all parties concerned into consideration. The transferee must follow the terms of all existing labor contracts.

Switzerland. Employment relations are assumed by the new owner only if an agreement to that effect is reached with the transferor.

Syria. The employment of existing labor is guaranteed on the sale or transfer of a business.

Taiwan. The new owner of a business has no obligation to hire the employees of the previous employer. However, if he does hire any employees, their seniority rights must be recognized.

Turkey. Employment contracts are not terminated on the transfer of a business. All existing employees' rights are protected.

United Kingdom.\* The common law rule that employment contracts are terminated on the transfer of a business has been replaced by the provisions in the EC Directive safeguarding employees. Case law has restricted the application of the exception allowing the termination of employments on economic, technical and organizational grounds.

A comparative summary and individual country reports are also attached.

#### LAWS PROTECTING EMPLOYEES ON THE TRANSFER OR SALE OF A BUSINESS—COMPARATIVE SUMMARY

It is common in many countries to protect the rights of employees of businesses that are sold or transferred. The chief feature of these provisions is the continuation or transfer of contracts of employment with the new owner. In some other countries, a similar result is achieved by means of collective bargaining agreements and other labor relations practices.

The result of both these approaches may be characterized as making the new owners

"step into the shoes of the old owners," but the transfer of employment in most cases is not a guarantee of the continuation of the employment. As the old owner could have terminated the employment for causes such as loss of business, etc., so can the new employer. The crux of the right provided is that the transfer itself cannot be a good cause for dismissing the employees of the business being acquired. There must be other valid reasons for the dismissals.

The European Community (EC) is an exponent of the automatic transference of contracts of employments to the new owner. As part of its social mandate for providing an improved standard of living for workers, in 1977 the Council of the EC formulated a Directive for safeguarding employees' rights in the event of a transfer of an undertaking.\* This Directive has been implemented in the national laws of most of the member states.

The continuity of employment ensured in the EC Directive is predicated on the continuation of the business by the new employer. It does not prohibit dismissals of employees "for economic, technical or organizational reasons entailing changes in the work force." These grounds are subject to careful scrutiny by the courts and their application has been restricted. However, there is no general right of re-employment for those dismissed on valid economic grounds.

Direct rights for the transfer of employment contracts are also granted in Argentina, Brazil, Canada, Chile, Switzerland, Syria, Turkey, and several countries in French-speaking Africa. In Argentina and Chile, if the business of the new employer is substantially changed or previous jobs are eliminated, the employees are entitled to indemnification upon dismissal. The Canada Labour Code also allows the continuation of the bargaining rights of transferred employees but does not provide any right of rehire for terminated employees. Syria guarantees the employment of those transferred to a new owner. Swedish employment protection laws and labor relations practices require the new owners of a business to follow the terms of the labor contract in force at the time of the transfer.

Japan does not provide for the automatic transfer of employment contracts. However, there is a related law that protects the employment rights of seamen after a change in the ownership of their ship. Based on the analogy of this Law and on general notions of the role of employees in an enterprise, the majority view among Japanese jurists is that a contract of employment is deemed to be transferred to the new owner. The new employer may then dismiss surplus employees.

Israeli law considers employment to be a matter of personal contract between parties. A 1985 measure to allow the automatic transfer of employment contracts has not yet been enacted.

(Prepared by Kersi B. Shroff, Senior Legal Specialist, American-British Law Division, Law Library of Congress, January 1992.)

Mr. GRAHAM. What is the American Government doing to assist its citizens?

The Secretary of Labor has provided some retraining money and today the Senate is planning to provide more unemployment benefits.

In a hearing of the Senate Aviation Subcommittee on April 30, 1992, the Department of Transportation claimed

that the airline industry is deregulated and, therefore, job protection provisions are inappropriate.

This is not the case. International route authorities are a public franchise granted to air carriers by the Federal Government.

The international airline industry remains highly regulated through bilateral treaties between our governments and those to which our carriers fly.

The very fact that the Department of Transportation must approve an international route transfer is evidence that this industry remains regulated.

But, Mr. President, the sad ending for Eastern Airlines employees does not have to be relived by Pan Am employees or other airline employees.

We must realize the cost to the individual and the cost to the taxpayer of doing nothing as we did in the Eastern case.

Since December 1991, 5,248 former Pan Am workers have filed for unemployment compensation in my State of Florida alone.

The estimated cost for those unemployment benefits to date is \$13.5 million.

Another \$7 million has been spent by the U.S. Department of Labor to retrain former Pan Am workers in Florida.

In New York State, 4,688 unemployment claims have been filed by former Pan Am workers.

The U.S. Department of Labor has contributed \$6 million for retraining these individuals.

Furthermore, the Pension Benefit Guaranty Corporation—itsself facing major financial liabilities which Congress must address—has been forced to take over the underfunded pension program for Pan Am retirees at a cost of \$900 million.

About \$700 million in liability has been absorbed by the PBGC for Eastern retirees.

Is this what Congress intended when it deregulated the airline industry in 1978?

I do not think so.

Let me quote from the Senate Commerce Committee Report which accompanied the 1978 Airline Deregulation Act:

The Committee believes that the Congress, on behalf of the American people, must insure that the benefits to the public which result from its decision to alter substantially the regulation of air transportation are not paid for by a minority—the airline employees and their families who have relied on the present system.

In addition to committee statements about protecting employees, the bill set up a program in the Department of Labor designed to provide some job protection for those displaced by deregulation.

Unfortunately, that program was never implemented.

Legislation I have introduced—and will be offering at a future date—seeks

to ensure protection for airline workers in the event of an international route transfer.

The amendment requires the Department of Transportation to evaluate how many jobs are necessary to run the international route which one carrier is seeking to take over from another.

A commensurate number of employees from the original carrier would then be guaranteed the first right to those jobs when the new carrier began hiring.

This puts teeth into the Department of Transportation's responsibility to ensure that a route transfer is in the best public interest.

According to statements made by the DOT, the Department will not take steps to ensure job protection in an international route transfer unless: First, the stability of the national air transportation system is threatened; or second, special circumstances exist that require protective provisions to encourage fair and equitable working conditions.

Despite the thousands of individuals unemployed as a result of recent airline bankruptcies, mergers, and takeovers, I do not see any sign that the DOT perceives much of a problem.

During the confirmation process for his new position as Secretary of Transportation, Andrew Card stated that the DOT does not even keep information on what is happening to employees when a route is transferred.

This means a carrier can bid on a route and pledge to take so many employees from the original carrier to sweeten the offer, but DOT has no way of knowing if they keep their word.

I wonder if the Secretary of Transportation has even talked to the Secretary of Labor regarding the cost to her agency of DOT's apparent disregard for employees in route transfers.

These jobs are not simply disappearing either.

There seems to be a disturbing trend toward bypassing mature workers with years of valuable experience for younger individuals that bring little liability in terms of salary and benefit demands.

What does that mean to the individuals who have devoted their entire career to the airline industry?

These people made America the leader in international flight.

Now they must find new jobs which provide comparable salaries, health insurance, and retirement benefits—not an easy task in today's economy, especially for the older worker.

What we are talking about, Mr. President, is simple.

The Department of Transportation must reevaluate its sense of responsibility to the individual—if not for simple compassion reasons, for economic reasons—to save the Government money.

Mr. President, at an appropriate time I will offer an amendment which will

\*A copy is appended.

provide that that protection will be provided to American workers in the case of an international air route transfer, as it is provided today for the nationals of virtually every other country in the world. The failure to have such a provision in our law is resulting in hundreds and thousands of American workers losing their jobs because the rules of the international air route transfer game are stacked against Americans. I hope the Senate will, at an early date, begin to provide us with a playing field which is level and which treats our experienced, mature airline workers fairly.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. 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. BENTSEN. Mr. President, I have looked at the amendment offered by the senior Senator from Florida. It is a part of the present law. He is talking about an extension of that, and it is in the House bill with which we will be going to conference. I see no objection to the amendment and would be supportive of it.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, in regard to this amendment, in reviewing the matter with those on this side of the aisle, I believe it is appropriate to go forward with it. At least that indication comes from members of the Finance Committee. Thus we have no objection to the amendment and are ready for the rollcall vote, which has been called.

Mr. MACK. Mr. President, this amendment is a concrete effort to bring fairness to our treatment of the farmers of Florida, Washington, Montana, Wyoming, Virginia, West Virginia, North Carolina, New York, Idaho, and New England who employ H-2A workers to do jobs for which there are now domestic workers available or willing.

Under the H-2A Program, approximately 24,000 Jamaican and Mexican workers come to America for a limited period of time, under bond, for specific tasks. H-2A workers are essential to the harvesting of sugarcane in Florida, since there are virtually no Americans who are willing and able to do the job. Their work is unique and seasonal. They remain here only long enough to perform their jobs, and then are required to return to their home countries. They are never eligible for unemployment compensation benefits in this country.

Presently, employers are exempted from paying unemployment compensation tax for these workers. While the House of Representatives has extended that exemption for 2 years, I urge my colleagues to make it permanent. And since the exemption has now existed for many years, there is no logical reason for maintaining it on only a short-term basis.

There is no danger that we are unwittingly creating a permanent windfall for these farmers. If, in the future, the H-2A Program should be abolished or materially changed so that the exemption is not appropriate, the exemption could simply be repealed at that time. Moreover, I understand that the revenue cost to the U.S. Treasury of continuing the exemption for wages paid to H-2A workers is quite minimal.

But as I said earlier, the issue here is fairness. Why should farmers have to pay unemployment compensation tax on workers who are specifically ineligible ever to collect benefits? Rather than hold our farmers hostage, demanding that the exemption be renewed every 2 years, let us do the right thing now and grant them permanent relief from this unfair tax.

#### AMENDMENT NO. 2433

The PRESIDING OFFICER. Under the previous order, the hour of 8:30 p.m. having arrived, the question is on agreeing to the Graham amendment No. 2433. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from North Carolina [Mr. SANFORD], the Senator from Colorado [Mr. WIRTH], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

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

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 124 Leg.]

#### YEAS—84

Adams	Bingaman	Brown
Akaka	Bond	Bryan
Baucus	Boren	Bumpers
Bentsen	Bradley	Burdick
Biden	Breaux	Burns

Byrd	Heflin	Nickles
Coats	Hollings	Nunn
Cochran	Inouye	Packwood
Cohen	Johnston	Pell
Conrad	Kasten	Pressler
Craig	Kennedy	Riegle
Cranston	Kerrey	Robb
Danforth	Kerry	Rockefeller
Daschle	Kohl	Roth
DeConcini	Lautenberg	Rudman
Dixon	Leahy	Sarbanes
Dodd	Levin	Sasser
Dole	Lieberman	Seymour
Domenici	Lott	Shelby
Exon	Lugar	Simpson
Fowler	Mack	Smith
Garn	McCain	Specter
Glenn	McConnell	Stevens
Gore	Metzenbaum	Thurmond
Gorton	Mikulski	Wallop
Graham	Mitchell	Warner
Grassley	Moynihan	Wellstone
Hatch	Murkowski	Wofford

#### NAYS—3

Ford	Reid	Simon
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#### NOT VOTING—13

Chafee	Hatfield	Sanford
D'Amato	Helms	Symms
Durenberger	Jeffords	Wirth
Gramm	Kassebaum	
Harkin	Pryor	

So the amendment (No. 2433) was agreed to.

Mr. BENTSEN. It would be helpful to the leadership and managers of the bill if the Members on both sides would advise us as to any amendments they might have. We would like to get an enumeration of those amendments and possibly agree to a time limitation. I defer to the majority leader for any comments in that regard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WOFFORD. Mr. President, I express my support for the Unemployment Compensation Amendments of 1992.

Just over a year ago, when I arrived in Washington, extending unemployment benefits was the very first issue I pressed in my party's caucus.

As Pennsylvania's secretary of labor and industry, I administered our State's unemployment compensation program. I am familiar with the strengths and shortcomings of the current system. Unfortunately, in times of economic hardship like today, the unemployment compensation system is under great stress and its shortcomings are magnified.

I have long believed and have fought to reform the regular unemployment compensation program. Earlier this year, I introduced the Unemployment Compensation, Reemployment, and Fairness Act of 1992, which offers several ideas to modernize the State unemployment compensation program.

My bill proposes improvements in the unemployment compensation system

which encourage job retention and early reemployment, promote procedural fairness for employers, and provide for authority to use benefit funds when they are needed.

I am delighted that this bill—the Unemployment Compensation Amendments of 1992—incorporates one of the touchstones in my reform bill—the adoption of short-time compensation programs—often known as work-sharing.

In my State, and in many other States, employers want to maintain their work force. Employers want to keep their fellow citizens working and their communities thriving.

Work-sharing has proven effective in fighting temporary unemployment. Work-sharing is a type of unemployment compensation. It keeps more people on the job by reducing the hours of employees rather than laying off some workers permanently.

For example, if a plant has a 20-percent reduction in sales it may decrease all workers' hours by 20 percent rather than totally laying off 20 percent of the workers. An employer will prepare a plan and continue to provide health and pension benefits to all employees while the State agency takes care of the paperwork. Workers will receive 80 percent of their normal weekly wages from their employer and 20 percent of their weekly unemployment benefits.

In 1982, Congress allowed States to test work-sharing programs. Seventeen States have implemented work-sharing programs and they have proven to be a viable alternative to temporary layoffs. However, specific Federal authorization expired in 1985 and these programs are operating without statutory authority. This bill clears the path for more States to consider adopting work-sharing programs.

Mr. President, as you know, I am deeply committed to improving the unemployment compensation system. When Franklin Roosevelt and Congress enacted the Social Security Act, they provided for an employment security structure that cushioned the economic impact of joblessness. In June of 1934, President Roosevelt told Congress that "Among our objectives, I place the security of men, women and children of the Nation's first." This legislation will help place that security first.

Over the coming months, I intend to discuss other ideas to promote employment, community service and training. For now, this bill will continue to help out-of-work Americans. I ask my colleagues to join me in supporting this measure.

Mr. PACKWOOD. Mr. President, going on the better part of a year ago, we sat here debating the fine points of the first extension of unemployment benefits. While this body deliberated, unemployed timber workers in my State of Oregon suffered. And families suffered, as workers tried to make ends

meet while searching in vain to find work. This recession has lasted longer than anyone anticipated, and it has left tracks on the backs of many workers in my State of Oregon and around the country.

I have supported every effort to extend unemployment benefits starting with the very first bill last year. The last round of emergency unemployment benefits we enacted will expire in less than 3 weeks. The pending bill will make these benefits, which are of vital importance to so many families, available through March of next year. I wholeheartedly support this effort and hope it will be signed into law.

Unfortunately, it looks like this bill will be vetoed by the President. I have been meeting with the leaders of the House and Senate, trying to see if something can be worked out so that benefits due unemployed Americans are not held hostage by the delay that a veto will cause. I truly hope we can avoid this delay.

Getting people back to work is my first priority. In the meantime, we must act quickly to continue to make emergency unemployment benefits available to see Americans through this extraordinarily difficult time. But time is running out. I believe we would be of far more help to unemployed workers across the Nation by passing a bill that the President can actually sign.

Mr. SPECTER. Mr. President, I am pleased to see the progress this evening on its unemployment compensation bill. It now appears that we may be able to near completion of the bill on Friday.

Speaking as a Senator from a major industrial State, the Commonwealth of Pennsylvania, where unemployment is very high, passage of the legislation will indeed be good news to the thousands of Pennsylvanians who are in need of extended unemployment benefits. I know this same situation prevails in many parts of the United States.

I think that it is especially beneficial to see this worked out at a time when there is so much public anxiety about the gridlock in Washington. Earlier today we completed action on the conference report for summer jobs which is another very important piece of legislation, something I had worked on. I had collaborated with many of the mayors in my own State of Pennsylvania and had met with mayors nationally on a meeting arranged by Mayor Rendell of the city of Philadelphia.

We are now on the verge to move toward final passage of this legislation extending unemployment benefits, which is very good news for millions of Americans who need those benefits. I think it especially good for Americans who have been watching Washington, DC, and wondering whether public officials are capable of fulfilling their con-

stitutional duties to act. In all, I think this is a very good sign indeed.

I thank the Chair and yield the floor.  
Mr. REID. As the chairman of the Finance Committee knows, Senators BOREN, SIMON, and I, and 13 other cosponsors, including the distinguished chairman himself, have introduced a bill called the Community Works Progress Act, S. 2373. I would like to ask the chairman for his committee to move expeditiously on this matter so that the Senate may take action to pass this important legislation.

Mr. BENTSEN. As a cosponsor of S. 2373, I agree that this legislation is important, and the Senator from Nevada has my assurances that the Finance Committee will consider any parts of the legislation that may be within the jurisdiction of the Finance Committee in an expeditious manner.

Mr. REID. I thank the distinguished chairman.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the only amendments remaining in order to the pending unemployment insurance bill be an amendment by Senator BOND regarding ex-servicemen and reservists on which there be 30 minutes for debate equally divided and controlled in the usual form, a substitute amendment by Senator DOLE, which will be the text of S. 2699, the Dole unemployment bill, on which there be—I will complete the request, and if the staff will check on the number of the bill—on which there will be 90 minutes equally divided and controlled in the usual form; that no second-degree amendments be in order, and that no motions to recommit be in order.

Mr. President, I ask that no action be taken on the request momentarily while we check the accuracy of the number of the pending bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I modify my previous request that the Dole substitute be described as based upon the text of S. 2699, but including other provisions.

The PRESIDING OFFICER. Is there an objection?

Without objection it is so ordered.

Mr. MITCHELL. Mr. President, this will enable us to complete action on

this bill tomorrow morning, following the disposition of these two amendments, which will take a maximum of 120 minutes, if all time is used. I have discussed the matter with the chairman of the Finance Committee, the manager of the bill, and the distinguished Republican leader, and we are prepared to act on both of these amendments and on final passage by voice vote, unless some Senator now expresses a demand for a rollcall vote.

If no Senator expresses such demand—

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I do not at this time express such a desire, but we have no time limit on final passage as yet. We just have the time on the amendments agreed to. In other words, we only have an agreement as to the amendments that are to be called up. We do not have a time limit on the passage. I would like to see the outcome on the amendments before I agree to anything on final passage.

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

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

Mr. MITCHELL. Mr. President, I further modify the request to include the following: That no points of order be in order either against the committee substitute or the bill, and before the Chair approves the request, if no objection is heard, I want to make clear and ask confirmation from the Chair that adoption of this agreement would not preclude a colloquy occurring between the time the listed amendments are disposed of and before final passage of the bill.

The PRESIDING OFFICER. The majority leader's understanding is correct.

Is there objection to the unanimous-consent request?

Mr. BYRD. Mr. President, I have no objection.

In other words, the consent as made would not preclude debate following the adoption or the rejection of either or both amendments?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

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

Mr. MITCHELL. Mr. President, since I first presented the request and stated our intention with respect to voting on the measure, no Senator, to my knowledge, on either side has expressed an interest or a demand that there be a recorded vote on either of the amend-

ments or on final passage tomorrow. I take that lack of affirmative expression to mean that we will proceed tomorrow to accomplish these by voice vote and complete action on the bill sometime tomorrow morning.

In that event, and acting upon that understanding, there will be no further rollcall votes this evening and there will be no rollcall votes tomorrow. I do expect that we will complete action, as I have stated, on this bill tomorrow.

Mr. BYRD. Mr. President, are we to anticipate that there may be an amendment dealing with the balanced budget offered to a bill tomorrow?

Mr. MITCHELL. Mr. President, if I may respond on that, I do not believe so. My intention is that we are now on this bill. We have an agreement limiting the amendments to this bill to those specified. It is not my intention to proceed on any other bill tomorrow upon completion of this bill.

Mr. BYRD. I just want to know how long I have to get ready to come to the fray. When will the Senate then be in again?

Mr. MITCHELL. Mr. President, I have not made a decision on that. I have not made a decision on Monday yet. I want to discuss that with the distinguished Republican leader and others, and I will announce the schedule for next week tomorrow.

Mr. BYRD. I take it then that we might expect a balanced budget amendment to be proposed around here, not by the leader, I do not believe, but on Monday or Tuesday or Wednesday. So I do have the Sabbath in which to prepare.

Mr. MITCHELL. The chairman does.

Mr. BYRD. That would be keeping it holy.

Mr. LEAHY. Prayerfully.

Mr. MITCHELL. It is my intention, as I previously stated several times today, upon completion of this measure tomorrow, to then turn to the Government-sponsored enterprises banking bill, and I hope we will be able to complete action on that early next week. That may lead to the amendment about which the Senator has inquired. But that is something that is not within my control.

Mr. BYRD. Mr. President, I thank the majority leader.

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

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

The Senator from California is recognized.

Mr. CRANSTON. I thank the Chair. (The remarks of Mr. CRANSTON pertaining to the introduction of S. 2876

are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate now go into morning business and that Senators be permitted to speak therein.

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

#### CORRECTION OF ENGROSSMENT— S. 1623

Mr. FORD. Mr. President, I ask unanimous consent that the engrossment of S. 1623, the Audio Home Recording Act of 1991, be corrected to include the following material, which I send to the desk.

The PRESIDING OFFICER. Without objection, the engrossment will be so modified.

#### HOUSE CONCURRENT RESOLUTION 331—AUTHORIZING THE USE OF CAPITOL GROUNDS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 331, a concurrent resolution to authorize the use of Capitol Grounds for the Greater Washington Soap Box Derby, just received from the House, that the concurrent resolution and preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 331) was considered and agreed to. The preamble was agreed to.

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 586. Christian R. Holmes IV, to be an Assistant Administrator of the Environmental Protection Agency;

Calendar 587. Christian R. Holmes IV, to be Chief Financial Officer, Environmental Protection Agency;

Calendar 646. Gen. Charles C. McDonald, to be lieutenant general;

Calendar 647. Gen. Ronald W. Yates, to be general;

Calendar 648. Lt. Gen. Clifford H. Rees, Jr., to be lieutenant general;

Calendar 649. Lt. Gen. John M. Shalikashvili, to be general;

Calendar 650. Maj. Gen. Barry R. McCaffrey, to be lieutenant general;

Calendar 651. Lt. Gen. Donald Snyder, to be lieutenant general;

Calendar 652. Lt. Gen. Charles J. Searock, Jr., to be lieutenant general; Calendar 653. Lt. Gen. David J. Teal, to be lieutenant general;

Calendar 654. Lt. Gen. Charles McCausland, to be lieutenant general;

Calendar 655. Lt. Gen. Charles A. May, Jr., to be lieutenant general;

Calendar 656. Maj. Gen. James L. Jamerson, to be lieutenant general;

Calendar 657. Maj. Gen. Arlen D. Jameson, to be lieutenant general;

Calendar 658. Lt. Gen. Henry J. Hatch, to be lieutenant general;

Calendar 659. Lt. Gen. Jerome B. Hilmes, to be lieutenant general;

Calendar 660. Lt. Gen. Frank F. Ledford, Jr., to be lieutenant general;

Calendar 661. Lt. Gen. John T. Myers, to be lieutenant general;

Calendar 662. Lt. Gen. Charles P. Oststott, to be lieutenant general;

Calendar 663. Lt. Gen. Billy M. Thomas, to be lieutenant general, and

Calendar 664. Lt. Gen. James W. Crysel, to be lieutenant general.

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

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

The nominations considered and confirmed en bloc are as follows:

#### ENVIRONMENTAL PROTECTION AGENCY

Christian R. Holmes IV, of California, to be an Assistant Administrator of the Environmental Protection Agency.

Christian R. Holmes IV, of California, to be Chief Financial Officer, Environmental Protection Agency.

#### IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list under the provisions of title 10, United States Code, section 1370:

##### To be general

Gen. Charles C. McDonald, [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

##### To be general

Gen. Ronald W. Yates, [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Clifford H. Rees, Jr., [xxx-xx-xxxx] U.S. Air Force.

#### IN THE ARMY

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

##### To be general

Lt. Gen. John M. Shalikashvili, [xxx-xx-xxxx] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

##### To be lieutenant general

Maj. Gen. Barry R. McCaffrey, [xxx-xx-xxxx] U.S. Army.

#### IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Donald Snyder, [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

##### To be lieutenant general

Lt. Gen. Charles J. Searock, Jr., [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. David J. Teal, [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Charles McCausland, [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Charles A. May, Jr., [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

##### To be lieutenant general

Maj. Gen. James L. Jamerson, [xxx-xx-xxxx] U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

##### To be lieutenant general

Maj. Gen. Arlen D. Jameson, [xxx-xx-xxxx] U.S. Air Force.

#### IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Henry J. Hatch, [xxx-xx-xxxx] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Jerome B. Hilmes, [xxx-xx-xxxx] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated

under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Frank F. Ledford, Jr., [xxx-xx-xxxx] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. John T. Myers, [xxx-xx-xxxx] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Charles P. Oststott, [xxx-xx-xxxx] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. Billy M. Thomas, [xxx-xx-xxxx] U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

##### To be lieutenant general

Lt. Gen. James W. Crysel, [xxx-xx-xxxx] U.S. Army.

#### NOMINATION OF LT. GEN. JOHN M.D. SHALIKASHVILI

Mr. WARNER. Mr. President, it is indeed an honor for me to speak on behalf of the President's nominee to become Supreme Allied Commander Europe, Headquarters Allied Powers Europe, and Commander in Chief U.S. European Command, Lt. Gen. John M.D. Shalikashvili.

Gen. Shalikashvili has been nominated to receive his fourth star and replace Gen. John Galvin, our current commander of forces in Europe. Gen. Galvin has performed in an outstanding manner during a time of cataclysmic and unprecedented change in the world and especially in Europe.

He has provided steady leadership and a reasoned voice during the time when we saw our most dangerous adversary and potential threat recede unbelievably from the scene. He has managed an extraordinary precipitous drawdown of U.S. forces in Europe, returning some 500 service members per day, along with their families, pets, and household goods. He has been a strong advocate and spokesman for our continued, meaningful engagement in Europe.

Gen. Galvin has earned our unquestioned gratitude for his dedicated and invaluable service to the Nation, and our sincere best wishes go to him and his family for a well-deserved retirement.

Fortunately not only for us, but for our allies as well, another superbly qualified leader has emerged from the Army's ranks to assume command of

allied forces in Europe. Gen. John Shalikashvili—and while that last name isn't as difficult to pronounce as it first appears, I'm informed that most of his close friends call him "Shali"—is scheduled to assume command of allied forces in Europe on June 24, 1992.

John Shalikashvili was born on June 27, 1936, in Warsaw, Poland. He holds a bachelor's degree in mechanical engineering from Bradley University and a master's degree in international affairs from George Washington University.

In August 1958, at the age of 22, Gen. Shalikashvili enlisted in the U.S. Army, undergoing basic training at Ft. Leonard Wood, MO. In January 1959, General Shalikashvili entered Officer Candidate School at Ft. Sill, OK and was commissioned a lieutenant of artillery in July of that year.

General Shalikashvili's career spans over 33 years of commissioned service characterized by a number of high level, challenging assignments. He may be best remembered for his superb performance as the commander of Operation Provide Comfort, where as the Deputy Commander in Chief, U.S. Army Europe, he was sent to take charge of our efforts to provide relief to the Kurds, who were fleeing northern Iraq.

The outstanding manner in which General Shalikashvili carried out this difficult, complex, and sensitive operation is a testament to his extraordinary capabilities and outstanding leadership. As a result of his efforts, the operation resulted in the return of hundreds of thousands of Kurdish refugees to northern Iraq.

I know that all my colleagues join me in wishing General Shalikashvili, his wife Joan, and his son Bryant, who is a student at Washington State University, the very best of success in this most challenging assignment in Europe. We will all depend on General Shalikashvili's judgment and leadership. He deserves our total support and I would like to take this opportunity to pledge him mine.

General Shalikashvili, good luck to you and best wishes in your challenging new assignment.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### MESSAGES FROM THE HOUSE

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet

urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 5 to the bill, and agrees thereto, and it recedes from its disagreement to the amendments of the Senate numbered 1, 2, 3, 7, 9, 11, 12 and 13 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 113. A concurrent resolution concerning the twenty-fifth anniversary of the reunification of Jerusalem.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3448. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated June 1, 1992; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Select Committee on Indian Affairs, and the Committee on Labor and Human Resources.

EC-3449. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the transfer of four naval vessels to the Government of Greece; to the Committee on Armed Services.

EC-3450. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the sixteenth report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC-3451. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Office of Technology Development for fiscal year 1991; to the Committee on Armed Services.

EC-3452. A communication from the President of the United States, transmitting, pursuant to law, notice of his appointment of the Chairman and the Vice Chairman of the United States International Trade Commission; to the Committee on Finance.

EC-3453. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to improve and make more efficient the provision of medical and health insurance information,

and for other purposes; to the Committee on Finance.

EC-3454. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, certification under the Horn of Africa Recovery and Food Security Act for Ethiopia; to the Committee on Foreign Relations.

EC-3455. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, notice of the provision of emergency counternarcotics assistance to Ecuador, Belize, Bolivia, Mexico, Jamaica and Colombia; to the Committee on Foreign Relations.

EC-3456. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Agriculture for the six month period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3457. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Justice, for the period ended March 31, 1992; to the Committee on Governmental Affairs.

EC-3458. A communication from the Chairman of the United States Sentencing Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1991; to the Committee on the Judiciary.

EC-3459. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to improve enforcement of the Employee Retirement Income Security Act of 1974, by adding requirements with respect to multiple employer welfare arrangements; to the Committee on Labor and Human Resources.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment:

S.J. Res. 221. A joint resolution providing for the appointment of Hanna Holborn Gray as a citizen regent of the Smithsonian Institution (Rept. No. 102-297).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S.J. Res. 275. A joint resolution providing for the appointment of Wesley Samuel Williams, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 102-298).

S.J. Res. 259. A joint resolution providing for the appointment of Barber B. Conable, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 102-299).

By Mr. BENTSEN, from the Committee on Finance, with amendments:

H.R. 776. A bill to provide for improved energy efficiency.

By Mr. FORD, from the Committee on Rules and Administration, without amendment and with a preamble:

S. Res. 273. A resolution to amend the Standing Rules of the Senate to provide guidance to Members of the Senate, and their employees, in discharging the representative function of Members with respect to communications from petitioners.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 317. An original resolution relating to the purchase of calendars.

S. Res. 318. An original resolution authorizing the Senate to participate in State and local government transit programs pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991.

By Mr. FORD, from the Committee on Rules and Administration, without amendment and with a preamble:

S. Con. Res. 112. A concurrent resolution to authorize printing of "Thomas Jefferson's Manual of Parliamentary Practice", as prepared by the Office of the Secretary of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

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

S. 2865. A bill to provide assistance for workers adversely affected by a nuclear testing moratorium; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. GORE, Mr. AKAKA, and Mr. BENTSEN):

S. 2866. A bill to establish a program, to be known as the "ADEPT" Program, for the provision of international assistance in the deployment of energy and energy-related environmental practices and technologies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 2867. A bill to prohibit the use of United States Government aircraft for political or personal travel, limit certain benefits for senior Government officers, and for other purposes; to the Committee on Governmental Affairs.

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

S. 2868. A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LIEBERMAN:

S. 2869. A bill to create the Supreme Court of the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RUDMAN (for himself, Mr. KENNEDY, Mr. COHEN, Mr. DODD, Mr. PACKWOOD, Mr. ADAMS, Mr. WELLSTONE, Mr. METZENBAUM, Mr. HATFIELD, and Mr. HARKIN):

S. 2870. A bill to authorize appropriations for the Legal Services Corporation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 2871. A bill to clarify enforcement provisions of the Federal Power Act concerning hydroelectric power licensing; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself, Mr. FOWLER, and Mr. MACK):

S. 2872. A bill to establish Dry Tortugas National Park in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. COATS, Mr. DASCHLE, Mr. LUGAR, Mr. NUNN, and Mr. DIXON):

S. 2873. A bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits; to the Committee on Finance.

By Mr. FORD (for himself, Ms. MIKULSKI, and Mr. SARBANES):

S. 2874. A bill to revise the deadline for the destruction of the United States' stockpile of old lethal chemical agents and munitions; to establish a commission to advise the President and Congress on alternative technologies appropriate for use in the disposal of lethal chemical agents and munitions; to encourage international cooperation on the disposal of lethal chemical agents and munitions; and for other purposes; to the Committee on Armed Services.

By Mr. LEAHY:

S. 2875. A bill to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 2876. A bill to amend the Federal Election Campaign Act of 1971 to make clear that for the purposes of that Act, a general election for the office of President or Vice President includes all proceedings up to and including the selection of the President and Vice President in the electoral college or the House of Representatives and Senate; to the Committee on Rules and Administration.

By Mr. COATS (for Mr. BAUCUS (for himself and Mr. COATS)):

S. 2877. A bill entitled the "Interstate Transportation on Municipal Waste Act of 1992"; read the first time.

By Mr. KERRY:

S.J. Res. 318. A joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day"; to the Committee on the Judiciary.

By Mrs. KASSEBAUM (for herself, Mr. ADAMS, Mr. AKAKA, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GORE, Mr. GORTON, Mr. HATCH, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUE, Mr. JEFFORDS, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SASSER, Mr. SEYMOUR, Mr. SIMON, Mr. SPECTER, Mr. SYMMS, and Mr. THURMOND):

S.J. Res. 319. A joint resolution to designate the second Sunday in October of 1992 as "National Children's Day"; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 316. A resolution in support of foreign controlled corporations (FCC's) paying their fair share of Federal income taxes; to the Committee on Finance.

By Mr. FORD:

S. Res. 317. An original resolution relating to the purchase of calendars; from the Committee on Rules and Administration; placed on the calendar.

S. Res. 318. An original resolution authorizing the Senate to participate in State and local government transit programs pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991; from the Committee on Rules and Administration; placed on the calendar.

By Mr. MOYNIHAN (for himself and Mr. PELL):

S. Res. 319. A resolution expressing the sense of the Senate concerning the illegality of kidnapping American citizens; to the Committee on Foreign Relations.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2865. A bill to provide assistance for workers adversely affected by a nuclear testing moratorium; to the Committee on Energy and Natural Resources.

ASSISTANCE FOR WORKERS AFFECTED BY NUCLEAR TESTING MORATORIUM

Mr. REID. Mr. President, approximately 50 Senators now have cosponsored a nuclear testing moratorium bill. I think the testing moratorium is for a lack of a better description a big mistake. It is a mistake in terms of the safety of our arsenal, the survivability of our weapons systems, and the security of this Nation.

The problem, Mr. President, in this world is not nuclear testing, it is nuclear weapons. We have too many of them, and there are too many of them today in the wrong hands. The number of Third World countries with nuclear capabilities seems to be growing daily, and we know within the past months the largest nuclear explosion in recent history was set off in China.

An editorial appeared recently in the Washington Post by Jim Hoagland arguing that since France and Russia have committed to a short-term moratorium, the United States should do the same. First, since when has France been a leader in the area of non-proliferation?

Second, though former President Gorbachev declared a 1-year testing moratorium, President Yeltsin has ordered his Ministry of Nuclear Energy and the military high command to ready the former Soviet test site at Novaya Zemlya for testing. The decree calls for tunnels to be prepared for a resumption of testing at the rate of two to four explosions a year.

Mr. Hoagland also argues that if the United States stops testing, Pakistan and others may follow suit. He has got to be kidding. If cutting off aid to Pakistan has not stopped their nuclear weapons program, setting an example certainly is not going to do much. The United States cannot afford such a symbolic gesture.

The underground test program at the Nevada test site serves several pur-

poses, each vital to maintaining and enhancing the credibility of our nuclear deterrent, which is still the cornerstone of our national security policy.

#### 1. STOCKPILE SAFETY AND RELIABILITY

One of the underlying tenets of nuclear deterrence is a high degree of confidence that nuclear weapon systems will operate reliably, and this confidence must be shared by all potential enemies.

Some proponents of a nuclear test ban say that the stockpile is already safe. We have had a number of examples in the past to show that more must be done in this area. For example, in May 1990, Defense Secretary Cheney acknowledged a safety problem with U.S. nuclear artillery shells in Europe. The defects had been found in hundreds of W79 short-range nuclear artillery shells based in Germany, Italy, and the Netherlands. These are shells that can deliver a 10-kiloton nuclear blast. The safety problems were confirmed through testing at the Nevada test site in 1988. Because the problems were identified through testing, they were fixed, and accidents were prevented.

And there have been a few accidents in which the high explosives in the weapons detonated, resulting in the dispersal of radioactive materials, but never a nuclear explosion. Underground tests are needed both to develop an improved data base on safety-related technology issues and to qualify any improved safety design modifications under consideration for our nuclear weapons systems.

#### 2. WEAPON SYSTEM SURVIVABILITY

Acquisition regulations for nuclear survivable systems require that nuclear survivability must be demonstrated through a combination of underground testing and aboveground simulation. Potential downsizing of nuclear arsenals and military forces in the United States and the former Soviet Union does not negate the need for nuclear survivable systems.

In fact, it can be argued that the nuclear survivability of the remaining weapon systems will be more important since we will have to do more with less. The Desert Storm experience should serve as a warning that future regional conflicts could involve nuclear-capable adversaries. What would have happened if Saddam Hussein had exploded a nuclear device over the battlefield? What would have happened to our tanks, aircraft, missiles, and other systems, many of which are computer driven? I am not sure that anybody really knows for sure. And we need to know.

#### 3. WEAPON EFFECTIVENESS

It is important to understand the effectiveness of our nuclear weapons in a targeting context, from the point of view of imparting the desired damage to a target while at the same time lim-

iting the undesirable collateral damage. There remains a wide range of issues pertaining to weapon effectiveness that have not been adequately addressed in previous tests. These issues could impact both the size and makeup of the future U.S. nuclear arsenal and could serve as the basis for modernizing our nuclear arsenal consistent with the new political world makeup.

#### 4. MAINTENANCE OF CAPABILITIES

As long as nuclear weapons remain on the world scene, the United States needs to maintain a competent cadre of nuclear weapons scientists. The nuclear weapons business is a highly specialized and relatively small community. If we stop nuclear testing for a year due to a moratorium, we will lose these experts. If we decide after that year to begin testing again, we will be lost in the scientific community. The Third World proliferators are dedicating their best and brightest scientists to this pursuit. It is incumbent on the United States to maintain its nuclear expertise.

#### 5. MODERNIZATION OF NUCLEAR WARHEADS

It is highly likely that the deterrence equation will change with the continuing emergency of Third World proliferators. New weapon designs may be required; for example, low-yield penetrators that are highly effective against buried leadership bunkers but minimize collateral damage. New designs must be qualified by underground testing if they are to have the desired deterrent value.

We need to test. It would be unsafe, impractical, and unwise not to, and it would send a signal of complacency to Third World countries currently developing the bomb.

Nevertheless, I am practical, and I see the handwriting on the wall. At least 51 Senators, and a majority of the House of Representatives, support this ill-advised moratorium. If the Senate of the United States is going to put many families out of work in my State, I think it is the responsibility of the Senate to be compassionate in how it puts these people out of work.

About 9,000 people are employed by the Department of Energy, associated Federal agencies, national laboratories, and support contractors in southern Nevada. Economic data also indicate that for each of these federally funded employees, an additional 1.2 employees, or about 10,800, are employed in the local economy in supporting services. These services range from construction work to the operation of supermarkets. Therefore, almost 20,000 people are employed in southern Nevada as a result of the Nevada test site's activities. This is more than 5 percent of the southern Nevada work force.

The Department of Energy is directly or indirectly responsible for about 7.5 percent of the total income for southern Nevada and 4.5 percent of the en-

tire State. Between procurement and salaries, DOE made an \$870 million contribution to Nevada's economy in 1990.

I am introducing a bill today, on behalf of myself and Senator BRYAN, requiring the Secretary of Labor to provide a program of readjustment allowances, job training, and job search and relocation allowances for workers displaced by this moratorium. In addition, the bill calls upon the Department of Energy to provide impact assistance to the communities adversely affected. And it requires that the Department of Energy study ways in which the Nevada test site may be utilized for purposes other than nuclear weapons testing.

This is the least we can do. And there is precedent for it; for example, the timberworkers in the Northwest received similar help when we cut back the harvest.

In these times of economic hardship, political instability, and nuclear proliferation, I am disturbed to see the United States considering the halting of its nuclear program.

Mr. President, I, like my colleagues, was tremendously impressed with the speech that President Yeltsin gave yesterday. It was a good speech. But that does not mean that we should put down our guard, recognizing how tenuous his leadership is in that country. I intend to do what I can to support those efforts by this Congress to bolster President Yeltsin.

But I do not think we should take precipitous action that will hurt the effectiveness, the security, and the stability of this country. I hope this moratorium does not become law. I hope that in fact if the Senate follows what has happened in the House of Representatives that the President will veto this legislation. If this legislation does pass, I hope that the Senate will adopt the legislation presented by me and my colleague to help the thousands of workers who will be without jobs as a result.

Mr. President, I ask how much time I have remaining.

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. REID. Mr. President, this legislation that is being introduced today covers a wide range of areas.

Not later than 90 days after the date of the enactment of this act, the Secretary of Labor shall, by regulation, establish for eligible terminated employees of the Nevada test site—

First, a program of readjustment allowances substantially similar to the trade readjustment allowance program under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), and

Second, a program for job training and related services substantially similar to the program under part II of subchapter B of chapter 2 of title II of such act (19 U.S.C. 2295 and 2296), and

Third, a program for job search and relocation allowances substantially similar to the program under part III of subchapter B of chapter 2 of title II of such Act (19 U.S.C. 2297 and 2298).

The Secretary is authorized under this legislation to enter into agreements with any State to assist in carrying out the programs under this subsection.

A significant number or proportion of the workers so employed by a contractor or the U.S. Government at the Nevada test site have become totally or partially separated, or are threatened to become totally or partially separated as a result of the nuclear test moratorium.

There is authorized to be appropriated for fiscal year 1993, and each of the next following 4 fiscal years, such sums as may be necessary, but not in excess of \$50,000,000 for any such fiscal year, to carry out the provisions of this section. Such sums shall remain available until expended.

An application for benefits under this section shall be filed after, on, or before the date that is 4 years after the date of enactment of this act.

#### IMPACT ASSISTANCE TO COMMUNITIES

The Department of Energy shall provide local impact assistance to communities that are affected by a nuclear test moratorium and coordinate the provision of such assistance with the Secretary of Labor.

First, programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

Second, programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990; and

Third, programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965.

There is authorized to be appropriated for fiscal year 1993 such sums as may be necessary, but not in excess of \$500,000,000 for any such fiscal year.

#### DIVERSIFICATION OF THE NEVADA TEST SITE

The Department of Energy shall conduct a study and make recommendations on ways in which the Nevada test site may be used for purposes other than nuclear weapons testing. In conducting this study, the Department of Energy shall consult with other Government agencies within the Federal Government, universities, State government agencies, private sector business, and others. No such study will consider the storage of nuclear waste. The study shall be completed no later than 1 year after the enactment of this act.

There are other provisions in the act. Mr. President, I ask my colleagues to review this. This is vital legislation not only to this country but to the people of the State of Nevada.

Mr. BRYAN. Mr. President, I rise today to address an issue of critical im-

portance as we adjust to the realities of the post-cold war era.

We must assure, during this time of great transition within our national defense structure, that the workers in our nuclear weapons production network do not themselves become forgotten victims of the victory to which they contributed so much.

These workers, both current and former, through their unselfish devotion to the national defense, contributed greatly during the cold war effort, and their contribution must be recognized by fair treatment.

I am particularly concerned about the future of the Nevada Test Site and its 9,000 dedicated employees.

Even among the defense nuclear facilities, the Nevada test site is unique.

Although the production of new nuclear weapons will end, the ability to test the stockpile of aging weapons will remain essential.

Although the frequency of required tests may decline, the unique testing infrastructure and facilities of the Nevada test site must be preserved.

The Nevada test site's fate will be different from that of other nuclear facilities, however.

The NTS is the only U.S. nuclear facility whose mission may be affected by a politically imposed moratorium.

The other body has already passed a 1 year ban on testing, and although I am hopeful that the Senate will approach the issue in a more reasoned fashion, it would be unfair to let the test site workers alone bear the burden of these changes in the international political winds.

The Nevada communities and their affected citizens cannot impose a 1-year moratorium on their financial obligations, nor should they be made to feel like pawns in a political game.

Therefore I believe that if a moratorium should be enacted, an immediate plan of assistance to affected employees and their communities must also be enacted, and the legislation introduced by my colleague, Senator REID, and I today, is designed to meet that need.

Workers for the Department of Energy's nuclear weapons facilities have been building nuclear weapons for nearly five decades.

Since 1951, the Nevada test site has been the centerpiece of our country's nuclear weapons testing program.

Sometimes it is easy to forget as memories of the cold war recede that the cold war was not only fought in foreign, covert enclaves, but also on this southwestern desert vista of dramatic escarpments and spectacular valleys.

The cold warriors were not only the nameless James Bonds of the intelligence services, but the miners, construction workers, technicians, soldiers, and scientists of the new nuclear era—united in a drive to preserve freedom and democracy, enthused by the

victory of World War II, confident in their government, and driven by the high-technology vision first glimpsed when the atomic age dawned at the Trinity site in New Mexico on July 16, 1945.

Some of our greatest technological resources have been devoted to design, production, and testing of our nuclear weapons, to insure that these weapons would be safe and reliable, and would perform as needed in combat.

But after more than 40 years of nuclear brinkmanship, the world has changed.

The arms race between the superpowers now runs in reverse as the dramatic new cuts in the strategic arsenals announced this week indicate.

Our greatest challenge now is not the cold war, but rather restructuring our economy for the competitive challenges in the next century as our defense needs decline.

However, as long as we maintain a nuclear stockpile, the capability to test our remaining weapons must be assured and we must continue those necessary tests.

The Nevada testing facility is a unique resource, and the Nation's investment in it must be protected even if the frequency of testing is reduced due to the smaller number of nuclear weapons in the stockpile and the absence of new warhead designs.

Some appropriate level of testing must be maintained in order to upgrade our current weapons stockpile to the highest standards of safety, and to maintain confidence in the existing stockpile as the weapons age and components are renewed and recycled.

Despite the collapse of the Soviet Union, and advances in arms control agreements with Boris Yeltsin's new Russian state, we should not be blind to reality.

A Communist dictatorship still remains in Beijing, and their nuclear program goes on unchecked by any treaty.

Countries as diverse as North Korea, India, and Libya all have nuclear weapons development programs.

The recent reports out of Iraq should be sobering to all of us, Saddam Hussein was dangerously close to having a nuclear weapon and may still be pursuing that goal.

As long as dictatorships are striving to acquire weapons of mass destruction, we must be vigilant.

Our nuclear deterrence, tested time and again in the Nevada desert, helped prevent the tensions between the Soviet Union and the West from erupting into a nuclear conflict.

Testing was part of that success, and we should not lightly discard such a proven capability.

However, the test site, like other DOE nuclear facilities, has environmental damage from years of above-ground and belowground testing and it should be a high priority for environmental restoration.

The existing test site work force is ideally suited for conversion to this new cleanup mission, and the vast research capabilities of the DOE laboratories should also be directed to finding innovative methods for restoring the environment at this and other DOE facilities.

Where possible, existing DOE employees should be retrained for these jobs; and job training assistance for those who look to entirely different careers must be guaranteed to all as well.

Because of its size and location, the test site is ideally suited to research in solar energy development, which I believe should have a very high priority in supplying our future energy needs.

Even a small portion of the test site, devoted to solar electric generation, could supply substantial energy resources.

But as the nuclear arsenal shrinks, the United States will no longer be in the business of producing new nuclear bombs and the existing production work force and infrastructure will shrink.

Some facilities, such as Rocky Flats, have simply served the country fully and will be retired.

Thousands of nuclear weapons-related jobs will vanish, and the economic impact on affected workers and their communities will be significant.

We have a national responsibility to acknowledge the debt owed to the nuclear production workers across the country, and I commend our colleagues, Senators WIRTH and GLENN for showing leadership in this area where the administration has been slow to react to the changing circumstances affecting the defense production complex.

I believe the legislation that Senator REID and I are introducing today is consistent with legislation generally applicable to the nuclear weapons production and design employees such as S. 2506, the Wirth-Glenn legislation, but because of the unique mission and nature of the Nevada test site, our legislation is specifically tailored to its needs and should be viewed as complementing, not substituting for, the approach to this issue already advanced by our colleagues.

I believe this new era offers unprecedented opportunities.

With adequate planning the transition to a restructured, smaller nuclear defense establishment can be managed to benefit the national interest, as well as address the concerns of affected employees and their communities.

As the need for new weapons production ends, the Nation can direct its full attention to cleaning up the environmental legacy of the cold war that unfortunately affects nearly every aspect of our defense nuclear facilities.

A crisis-driven atmosphere surrounded most of our nuclear production efforts, and sadly the environ-

mental consequences and cost of that era are only now being realized.

Many of the jobs that once were used to produce weapons components can and should now be converted to restoring the environment around those facilities.

The cleanup effort alone is expected to last for decades and by some estimates will cost over \$150 billion.

Although many communities and workers will be affected by our changing defense needs, the impacts on defense nuclear workers is somewhat unique.

Although we must adopt a comprehensive approach to the defense conversion, for defense nuclear workers we have a dual obligation: first to help with the immediate economic transition for workers and their communities; and, as importantly, to provide for the special medical needs of the nuclear work force, both past and present.

The defense nuclear workers have committed their lives to the defense of this country and some have suffered exposure to unique occupational risks.

The health of some workers has been compromised through exposure to plutonium, beryllium, and other toxic substances.

Many have been exposed to levels of radiation that may have long-term health implications.

For some, this prior occupational risk will compromise their ability to find employment in other fields, and may complicate the availability of health insurance.

The essentials of any such comprehensive legislation must provide: first, job training and assistance to displaced DOE production and nuclear testing workers, such as that triggered if a moratorium occurs under the legislation we introduce today; second, assistance to affected communities such as that also triggered by a moratorium under this legislation; third, recognition of the health care needs of all DOE nuclear workers, and collection of the necessary medical data; fourth, protection of our high-technology nuclear-technology base and redirection of the vast research capabilities to new civilian purposes, including environmental restoration and energy research and development.

I look forward to working with my colleagues to fashion legislation that accomplishes these goals. I thank you, Mr. President, and I yield the floor.

By Mr. DOMENICI (for himself, Mr. GORE, Mr. AKAKA, and Mr. BENTSEN):

S. 2866. A bill to establish a program to be known as the "ADEPT" Program, for the provision of international assistance in the deployment of energy and energy-related environmental practices and technologies, and for other purposes: to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY NATIONAL LABORATORY INTERNATIONAL ENERGY AND ENVIRONMENTAL TECHNOLOGY DEVELOPMENT ACT

Mr. DOMENICI. Mr. President, I am pleased to introduce legislation, along with Senator GORE, from Tennessee. This legislation is going to establish a program that will be called ADEPT. That stands for assisting deployment of energy and environmental practices and technologies. This bill is going to establish a program that directs and gives the national laboratories of the Department of Energy, 13 of them, authority to take the lead in applying their human and technical resources toward the goals espoused at the recent U.N. Conference on Environment and Development, the Earth summit, in Brazil.

Mr. President, shortly, I am going to send this bill to the desk on behalf of myself and Senator GORE. I merely want to state for the Senate how I feel about it and why I think we ought to adopt it and adopt it quickly.

First of all, there is no more important science institution in the world, believe it or not, than the Department of Energy. That Department, with its 13 laboratories—just to name a few of them, Argonne, Oak Ridge, Los Alamos, Livermore, Sandia, and others—those laboratories have more scientists, engineers, and technical support than any institution in the world, somewhere around 38,000 within those laboratories. They are the crown jewels, as my friend from Tennessee indicated this morning and as I have stated before and others besides the two Senators have said about these laboratories, the crown jewels of American science. They are the best because we assembled the very best for very high, high American purposes.

And, now, in a changing world, we want to make sure, with the adoption of this bill, that that great, versatile, diversified science and technology base represented by the Department of Energy national laboratories, is directed and authorized to focus their strength on energy efficiency environmental cleanup and other environmental technologies for the developing countries of the world. We speak frequently about sharing, about cooperating, about helping, and many times we are using those words to talk about what America should do to help the developing countries to increase their material well-being and to do so with the best most efficient and clean technology.

This, now, is more than verbiage. This is turning loose, with their ingenuity, their ability to organize, these talented laboratories and their people, who without question, have more scientific talent in the fields we are discussing—energy efficiency, environmental cleanup, environmentally conscious manufacturing, and other technologies which will fit within this notion. We are saying to them, go out and

find areas where your expertise, human and technological, can match up with a developing foreign country's needs. Think it through. Assemble the resources in a proposal type arrangement—resources can be private, governmental from the country that we are going to help, other governmental agencies of the U.S. Government seek out private business and educational institutions—and begin to work on a package that uses your expertise with the expertise of others to say to foreign countries, "We can help you move in these areas," and prove to the World that development does not have to denigrate, that development can be clean and efficient, and that energy can be clean and efficient. And we are going to ask our laboratories to take the lead.

So you can tell from the way I explain it that I believe this is a very important new mission. I believe that it will begin very shortly to be felt, to be seen, to be heard, to be touched. I believe we are going to see some successes that we can trace back to this day when with great pride as we began to help countries help themselves with our national laboratories taking the lead.

Now, some might ask, how much will it cost? We think this is not going to cost a lot in new money for the laboratories themselves. When we fully fund it in 1997, we would be at about \$30 million in my recollection, I say to my friend from Tennessee. But I do not think anybody should think that this is a small amount of money, as we look at the global needs they are in the billions of dollars for environmental and energy efficiency technology, I do not think anyone should think it is small. It is the catalyst money and, who knows, one of the projects worked on by one of our laboratories might even end up being a \$500 million program to finance energy in one of these countries. And we will have been there working with them, helping as scientific leaders. We might even have another agency of the Government financing part of it. AID may be in. We might have one of the international banks that we are part of financing it.

The ADEPT Program would coordinate activities at Department of Energy national laboratories with other initiatives to help poorer countries and emerging democracies develop in an environmentally sound manner. Countries participating in such technology cooperation projects would be asked to pay a share of the costs.

The scientists at our national laboratories and their international colleagues have been developing ideas to solve environmental problems for years—but there was no home for this type of project, either in DOE or in the Agency for International Development.

One project I have promoted for years, the Mexico City air quality ini-

tiative, is a good example: The Los Alamos National Laboratory had been approached by the Mexican Government about a potential collaborative program to analyze Mexico City's air pollution problems. PEMEX, a Mexican oil company, had offered to contribute half the cost—\$4.5 million over 3 years—for a joint project between the Mexican Petroleum Institute and Los Alamos scientists.

This project was a great idea. It took advantage of Los Alamos expertise in computer modeling and high tech sensors; Mexican industry was willing to pay half the cost, and it would help solve a severe environmental problem and would give important input to Mexican energy policy. However, there was no agency in the U.S. Federal Government that had the mission or funds to pay for the Los Alamos half of this project. Eventually, it was funded, but it was by sheer luck, and with far too much effort on two many people's part.

That is when I got the idea that programs like the Mexico City initiative needed to be developed and funded, so they didn't happen just by luck or by accident.

At a meeting of the Senate observer group to the U.N. Conference on Environment and Development, I brought up this idea and Senator GORE, the chairman of the group, agreed with me.

Let me discuss, briefly, why I am confident that this bill will succeed where other foreign aid or international technology transfer projects have failed.

Past attempts to transfer technology to developing countries have often failed because non-governmental entities are not consulted. From the Mexico City initiative for example, I know that joint research and development projects in which participants share the cost and have an equal stake in their outcomes are more successful. Not only do they succeed in the project country, but they can also create new and follow-on markets. For example, based on the Mexico City success, last week in Rio de Janeiro, the administration announced a similar joint project for Sao Paolo, which is a close second to Mexico City for the most polluted air in Latin America. Such projects can also generate jobs in the U.S. Los Alamos has now been approached by a company that is interested in manufacturing the air quality monitors adapted from military technology for the Mexico City project.

I also know that laboratories can learn to team with industry in the development of commercial technologies. But it takes some work—this year we finally began to see the results of the National Competitiveness Technology Transfer Act of 1989. At our national laboratories, hundreds of cooperative research and development agreements have been signed.

We have found that interagency coordination is needed to expedite such

joint projects. This bill sets up a mechanism to accelerate and simplify the interagency information transfer and approval.

This bill is not just foreign aid and it's not just technology transfer. Instead, it optimizes elements of both without creating a new bureaucracy.

This bill should not just be considered as only a national laboratory effort. This bill is designed to assist developing countries address the urgent global environmental problems. At the same time, it also promotes our U.S. competitiveness in this expanding world market. Some estimates suggest that this market may reach one-half trillion dollars each year.

I have heard some say that the United States lags behind Germany and Japan in environmental and energy efficiency technology. Well, maybe it's true that we might be getting behind in some, and I emphasize some, of these world markets—but U.S. abilities and skills in research and technology development are second to none.

I believe that the ideas in this ADEPT bill—the idea of using our international scientific network to work with other countries and co-develop technology adapted to their needs and goals—can get us in on the ground floor of these new markets.

While the funding is small, the Department of Energy will contribute a major share of its expertise. The scientists in the national laboratories are the key to the ADEPT program particularly those in the following 13 laboratories: the Los Alamos National Laboratory and the Sandia National Laboratories in New Mexico; the Oak Ridge National Laboratory in Tennessee; the Idaho National Engineering Laboratory; the Argonne National Laboratory in Illinois; the Brookhaven National Laboratory in New York; the Lawrence Berkeley National Laboratory and the Lawrence Livermore National Laboratory in California; the Pacific Northwest National Laboratory in Washington; the National Renewable Energy Laboratory in Colorado; and the Fossil Energy Laboratories in West Virginia, Pennsylvania, and Oklahoma.

Under the bill, the ADEPT management panel will have representatives from these national laboratories and from the Offices of Energy Research, Defense Programs, International and Domestic Policy, Conservation and Renewable Energy, Environment, Safety and Health, Environmental Restoration and Waste Management, and Fossil Energy.

Our universities will also be important ADEPT partners. I expect each of my colleagues can think of good examples of universities in his or her own State. Universities will be partners in almost every ADEPT project. The universities are the largest single element in the international scientific network and the ADEPT program could not work without them.

Other U.S. Government agencies, the Department of Commerce, the Environmental Protection Agency, the Agency for International Development and others will also be key partners. We will also have State and local government partners. Finally, ADEPT must have business partners. If the technology developed under ADEPT is to succeed in helping to solve global environmental problems, it must be commercialized.

As I said earlier, foreign technology transfer programs have failed in the past when the aid was not appropriately targeted. Our scientists will have the most success in working with their peers in those developing and transitional countries with sufficient scientific infrastructure to fully share research activities and project costs. This means most of Central and South American, Eastern European or Asian countries, or the independent states that have emerged from the former Eastern bloc which are making the transition to a market-based economy. The ADEPT program will allow their best scientists to work with the best scientist in our national laboratories and universities, and with the entrepreneurial genius of our U.S. industry.

Another past mistake is to only work with foreign governments. Under our bill, foreign partners also may include appropriate foreign businesses, foreign educational and also international—United Nations, World Bank, et cetera—institutions.

Finally, because I am a New Mexican, I believe I might have some special insight into both the global problem, environmentally sound development—such as that we are trying to promote on our own border with Mexico, and the global solution—advanced technologies such as those developed in our national laboratories.

The national laboratories of the Department of Energy have the kind of expertise, in the areas of energy efficiency, energy supply, and environmental research, urgently needed to promote technological cooperation to protect and improve the global environment. The laboratories will be an important component of the wealth of resources the United States can apply to the energy and environmental problems of the world. The ADEPT program will enhance and focus this resource to support sustainable development abroad while creating new opportunities and new markets for businesses here at home.

Mr. President, I urge the Senate to move rapidly on this important legislation, so that the national laboratories can more easily engage in the kind of technology cooperation envisioned by our negotiators in international environmental agreements. We in the Senate have voted to support the UNCED process in resolutions, but here is our chance to develop and support actions.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2866

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Laboratory International Energy and Environmental Technology Development Act".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) The intensification of global concern for energy and environmental issues and the growing recognition of the need for rapid development and application of science and technology in resolving environmental problems is evidenced by proceedings such as the United Nations Conference on the Environment and Development.

(2) The United States has the opportunity to participate in and encourage a new era of global technology cooperation.

(3) The national laboratories of the Department of Energy have demonstrated excellence in the areas of energy efficiency, energy supply, and environmental research, and the experience of the laboratories should be used to promote technology cooperation to protect and improve the global environment.

(4) There is a need for programs to develop and deploy applied technology (including manufacturing processes) and intellectual property (including scientific information, techniques, practices, and knowledge) related to the development of applied technology in areas related to energy production and use and environmental protection.

(5) Ventures that involve the development, adaptation, and transfer of technology to meet energy and environmental needs of developing countries could significantly alter long-term trends in energy consumption and environmental protection.

(6) Vital to the success of the ventures described in paragraph (5) is the early cooperation of the governments of developing countries and qualified foreign organizations.

#### SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADEPT PROGRAM.—The term "ADEPT Program" means the program to assist in the deployment of energy and environmental practices and technologies established under section 4.

(2) ADEPT PROGRAM PROJECT.—The term "ADEPT Program project" means any project or research project to adapt, develop and deploy practices, technologies, and programs, under the ADEPT Program.

(3) COOPERATING COUNTRY.—The term "cooperating country" means a developing or transitional country that has sufficient infrastructure to participate in, and benefit from, shared research and technology development.

(4) DEPARTMENT.—The term "Department" means the Department of Energy.

(5) EDUCATIONAL INSTITUTION.—The term "educational institution" means any institution of higher education, secondary school, elementary school, or any other nonprofit organization or professional association that carries out public educational activities.

(6) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has

the same meaning as is provided for the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(7) NATIONAL LABORATORIES.—The term "national laboratories" means the multiprogram national laboratories of the Department of Energy including—

- (A) the Los Alamos National Laboratory;
- (B) the Sandia National Laboratories;
- (C) the Oak Ridge National Laboratory;
- (D) the Idaho National Engineering Laboratory;
- (E) the Argonne National Laboratory;
- (F) the Brookhaven National Laboratory;
- (G) the Lawrence Berkeley National Laboratory;
- (H) the Lawrence Livermore National Laboratory;
- (I) the Pacific Northwest National Laboratory;
- (J) the National Renewable Energy Laboratory; and
- (K) the Fossil Energy National Laboratories.

(8) NONPROFIT.—The term "nonprofit", as applied to a school, agency, organization, professional association, or institution, means a school, agency, organization, professional association, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) QUALIFIED FOREIGN ORGANIZATION.—The term "qualified foreign organization" means any foreign university, foreign research institute, international organization, or such private foreign commercial enterprise as the Secretary may determine to be appropriate.

(10) SECONDARY SCHOOL.—The term "secondary school" means a school that provides secondary education as determined under State law except that the term does not include any education provided beyond grade 12.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(12) TRANSITIONAL COUNTRY.—The term "transitional country" means any country with an economy in transition from an economy that is not market-based to an economy that is market-based, including any country in Eastern Europe or Asia that was formerly part of the Union of Soviet Socialist Republics, or any other Warsaw Pact country, and which the United States recognizes.

#### SEC. 4. ESTABLISHMENT OF ADEPT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to be known as the "Assisting Deployment of Energy and Environmental Practices and Technologies Program" to assist in the development and deployment of energy and environmental practices and technologies. The Secretary, in cooperation with the private sector (in any case in which cooperation is feasible), shall promote international technology cooperation through the participation of the national laboratories. The Secretary is authorized to hire additional staff to carry out the ADEPT Program.

(b) PURPOSES.—The purposes of the ADEPT Program are to—

(1) increase the level of participation of national laboratories and the Department in the efforts of the United States to cooperate with foreign countries and qualified foreign organizations in addressing global energy and environmental issues;

(2) enhance the potential of national laboratories as a scientific, technical, and engineering resource in support of—

- (A) the security of the United States; and

(B) the economic priorities of the Federal Government related to energy, the environment, and technological progress;

(3) use the capabilities of the national laboratories in coordination with other Federal agencies, private businesses, industries, and educational institutions of the United States in order to ensure practical and cost-effective development and application of science and technology to support sustainable, environmentally sound industrialization, especially in cooperating countries; and

(4) ensure the successful adaptation of energy and environmental technologies and practices by—

(A) establishing a mechanism for the national laboratories to respond to the mutual needs of cooperating countries, qualified foreign organizations, and the United States; and

(B) emphasizing technologies and practices that may lead to the creation of new markets.

#### SEC. 5. ADEPT PROGRAM PROJECTS.

##### (a) ADEPT MANAGEMENT PANEL.—

(1) IN GENERAL.—The Secretary shall establish, within the Department, an ADEPT Management Panel to be comprised of the following individuals:

(A) Each Director (or a designee of the Director) of each national laboratory that participates in the ADEPT Program.

(B) The Director of the Office of Energy Research (or a designee of the Director).

(C) The Assistant Secretary for Defense Programs (or a designee of the Assistant Secretary).

(D) The Assistant Secretary for International and Domestic Policy (or a designee of the Assistant Secretary).

(E) The Assistant Secretary for Conservation and Renewable Energy (or a designee of the Assistant Secretary).

(F) The Assistant Secretary for Environment, Safety and Health (or a designee of the Assistant Secretary).

(G) The Assistant Secretary for Environmental Restoration (or a designee of the Assistant Secretary).

(H) The Assistant Secretary for Fossil Energy (or a designee of the Assistant Secretary).

(2) CHAIRMAN.—The Secretary shall serve as chairman of the ADEPT Management Panel.

(3) DUTIES.—The ADEPT Management Panel shall ensure that—

(A) the national laboratories receive sufficient resources to encourage the formation of ADEPT Project proposals;

(B) the participation of the national laboratories in the ADEPT Program involves—

(i) the full use of departmental and laboratory systems;

(ii) cooperation in developing and carrying out ADEPT Program projects; and

(iii) the coordination of the programs and offices of the Department in carrying out the ADEPT Program;

(C) available information within the Department relating to the environment and to energy and environmental issues in cooperating countries is integrated into the ADEPT Program; and

(D) the technology and information developed under the ADEPT Program, including the technological lessons learned from the ADEPT Program, are disseminated properly among the national laboratories and other Federal agencies, and to departments and agencies of State governments, private industry, educational institutions, non-governmental organizations, and the governments of cooperating countries.

(4) PROJECT ASSESSMENT AND SELECTION.—The ADEPT Management Panel shall provide the Secretary with a written assessment of each ADEPT Program project proposal, including a consideration of the risks, costs, and benefits of the proposed project, and shall make recommendations concerning—

(A) which projects should receive funding under the ADEPT Program; and

(B) a suggested level of funding for each ADEPT Program project.

(5) ASSISTANCE IN ESTABLISHMENT OF CLEARINGHOUSE.—The ADEPT Management Panel shall assist the Secretary in the establishment and implementation of the clearinghouse described in subsection (e).

(6) ASSISTANCE WITH OVERSIGHT AND SUPPORT.—The ADEPT Management Panel shall—

(A) develop procedures for selecting ADEPT Program projects and recommending funding for the projects pursuant to paragraph (4);

(B) assist the Secretary in the implementation of ADEPT Program projects; and

(C) assist in the oversight and support of the management of the ADEPT Program projects pursuant to this subsection.

(7) TECHNICAL ADVICE.—In carrying out the duties under this subsection, the ADEPT Management Panel may request such advice as the ADEPT Management Panel determines to be appropriate for making determinations pursuant to this Act.

(b) PROJECT MANAGEMENT.—The ADEPT Management Panel shall ensure that a project manager is appointed by the Secretary for each ADEPT Program project. Each project manager shall be an appropriate official of a national laboratory participating in the ADEPT Program project or a designee of the official.

(c) NEGOTIATIONS.—To the extent allowable by law, the Secretary shall authorize the members of the ADEPT Management Panel to enter into negotiations with the appropriate officials of cooperating countries and qualified foreign organizations to establish ADEPT Program projects.

##### (d) ADEPT PROJECTS.—

(1) IN GENERAL.—Each ADEPT Program project approved under this section shall provide for cooperative activities through the national laboratories. Each ADEPT Program project shall provide for shared research or other cooperative activities between a national laboratory and a cooperating country. The Secretary is authorized to enter into such contracts or agreements as are necessary to carry out the ADEPT Program.

(2) GUIDELINES.—The Secretary shall adopt and publish guidelines for developing and presenting proposals for ADEPT Program projects. Pursuant to the guidelines, the Secretary, in consultation with the ADEPT Management Panel, shall encourage the development of, and solicit and process ADEPT Program project proposals from—

(A) officials of cooperating countries, including appropriate scientists and planners;

(B) representatives of private industries;

(C) appropriate officials of Federal agencies, including appropriate officials of national laboratories;

(D) appropriate officials of State departments and agencies;

(E) representatives of educational institutions; and

(F) representatives of non-governmental organizations.

(3) CRITERIA.—A project proposal for an ADEPT Program project may be submitted for any project that will—

(A) support technology cooperation through projects such as—

(i) a technology information and shopping network;

(ii) an in-country energy efficiency center;

(iii) a contact program with potential cooperating entities;

(iv) a project establishing partner laboratory status between national laboratories and the research facilities of a cooperating country; and

(v) any other activity that meets the purposes described in section 4(b);

(B) provide, or facilitate access to, training of technicians of a cooperating country in the operation and maintenance of energy, energy efficiency, and environmental technology systems;

(C) expedite the adaptation of energy and environmental research and development of the Department to meet the needs of developing countries through cooperative activities between national laboratories and laboratories or other research facilities in cooperating countries; or

(D) provide for a study to assist any developing country or transitional country with—

(i) the conducting of a national inventory of carbon dioxide and other greenhouse gas emissions; and

(ii) the development of plans to control emissions pursuant to policies established by the President.

(4) COOPERATION.—For each ADEPT Program project proposal that relates to a foreign country, the Secretary shall inform the appropriate officials of the country as soon as is practicable after receipt of the proposal.

##### (5) COST-SHARING.—

(A) FEDERAL SHARE.—If feasible, the Secretary shall ensure that the Federal share of an ADEPT Program project does not exceed 50 percent of the total cost of the project.

(B) NON-FEDERAL SHARE.—The non-Federal share may be paid in cash or in in-kind contributions, and shall be paid by the non-Federal project participant in a manner determined by the Secretary.

(6) COOPERATION WITH OTHER FEDERAL AGENCIES.—To the extent allowable by law, the ADEPT Program shall be managed by the Secretary, independently of other foreign assistance programs carried out by the Federal Government, except that the Secretary may arrange for cooperative activities and cost-sharing through appropriate agreements and memoranda with—

(A) the Agency for International Development;

(B) the Environmental Protection Agency;

(C) the Department of Commerce; or

(D) any other Federal agency that the Secretary determines to be appropriate to carry out cooperative activities in conjunction with the ADEPT Program.

##### (7) INDUSTRY PARTNERSHIP.—

(A) IN GENERAL.—The Secretary may authorize an ADEPT Program project that establishes a cooperative agreement to which each of the following is a party:

(i) A cooperating country.

(ii) An industrial representative.

(iii) A national laboratory.

(B) TREATMENT.—A partnership that qualifies for preference under section 12(c)(4)(B) of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701a(c)(4)(B)) shall receive similar preference under the ADEPT Program.

(8) CONSULTATION WITH MANUFACTURERS.—The Secretary shall ensure that each ADEPT Program project that—

(A) involves adapting technology for cooperating countries to achieve energy efficiency and environmental goals; and

(B) requires coordination with manufacturers of energy and environmental technology, is carried out in a manner that ensures the coordination.

(9) **TECHNOLOGY DEMONSTRATION.**—The Secretary may authorize an ADEPT Program project that provides for the demonstration of technology that has the potential to achieve the energy and environmental goals described in section 4(b).

(10) **TECHNICAL REVIEW.**—

(A) **IN GENERAL.**—The Secretary may request the review of the technical or market potential of a proposed ADEPT Program project by a panel of recognized experts in the field of science or representatives of industry.

(B) **PAYMENT.**—The Secretary is authorized to compensate each member of the panel at a rate equal to the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day that the panel is engaged in the review.

(e) **CLEARINGHOUSE.**—

(1) **IN GENERAL.**—As part of the ADEPT Program, the Secretary shall establish a clearinghouse to provide information concerning energy and environmental technology alternatives to—

(A) the governments of developing and transitional countries;

(B) industries;

(C) educational institutions; and

(D) non-governmental organizations.

(2) **COOPERATION.**—In establishing the clearinghouse, the Secretary shall cooperate with the heads of other similar clearinghouses, and provide for ongoing cooperative activities with the clearinghouses.

(3) **PROPRIETARY INFORMATION.**—In establishing the clearinghouse, the Secretary shall take appropriate measures to ensure the protection of proprietary information.

(f) **INTERAGENCY WORKING GROUP.**—

(1) **ESTABLISHMENT.**—There is hereby established an Interagency Working Group to assist and advise the Secretary concerning—

(A) the priority of projects to be funded under the ADEPT Program; and

(B) the integration of information, including technical reviews, relating to energy, environment, and other areas that the group determines to be appropriate to serve the purposes described in section 4(b) with respect to cooperating countries.

(2) **MEMBERSHIP.**—The Interagency Working Group shall be comprised of the Secretary, who shall serve as the chairman, and representatives of—

(A) the Department of Commerce;

(B) the Environmental Protection Agency;

(C) the Agency for International Development;

(D) the Office of Science and Technology Policy;

(E) the National Security Council; and

(F) other Federal agencies that the Secretary considers to be appropriate.

(3) **ADEPT PROGRAM PROJECT APPROVAL.**—In making any decision whether to approve or disapprove an ADEPT Program project proposal, the Secretary shall take into consideration the advice of the ADEPT Management Panel and the Interagency Working Group.

#### SEC. 6. CONSOLIDATED PLAN.

(a) **IN GENERAL.**—The ADEPT Management Panel, in consultation with the Interagency Working Group, shall submit, at regular intervals (as determined by the Secretary), a

consolidated plan for the ADEPT Program for review and approval by the Secretary.

(b) **CONTENTS OF CONSOLIDATED PLAN.**—The consolidated plan described in subsection (a) shall include the following:

(1) A detailed description of the ADEPT Program projects carried out under this Act, including an analysis and compilation of research activities, results, and funding levels.

(2) A description of planned activities for the future.

(3) Recommendations for priorities for cooperative activities under this Act based on scientific, market, energy, environmental, and geographic considerations.

(4) Recommendations for necessary legislative or administrative changes.

(c) **REPORT TO CONGRESS.**—Upon approval of a consolidated plan under subsection (a), the Secretary shall submit a copy of the plan to the appropriate committees of Congress.

#### SEC. 7. RELATIONSHIP TO OTHER DEPARTMENT OF ENERGY PROGRAMS.

(a) **IN GENERAL.**—Except as provided in subsection (b), the implementation of the ADEPT Program may not affect the activities and funding of qualified cooperative projects of the Department of Energy in existence on the date of the enactment of this Act, including—

(1) the Mexico City air quality initiative at the Los Alamos National Laboratory;

(2) programs for solar technologies in Mexico at the Sandia National Laboratories;

(3) programs at the Oak Ridge National Laboratory (including chlorofluorocarbon emission-reducing refrigerators for India and biomass energy in China); and

(4) programs at the Lawrence Berkeley Laboratory (including the large-scale experiment for Bombay, India, for efficient lighting and the energy efficiency program for China).

(b) **SUPPLEMENTAL ACTIVITIES.**—Additional and supplemental activities may be carried out in conjunction with the ADEPT Program pursuant to the procedures described in this Act.

#### SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Energy to carry out this Act—

(1) \$14,000,000 for fiscal year 1993;

(2) \$18,000,000 for fiscal year 1994;

(3) \$22,000,000 for fiscal year 1995;

(4) \$27,000,000 for fiscal year 1996; and

(5) \$30,000,000 for fiscal year 1997.

Mr. DOMENICI. I yield the floor to my friend from Tennessee at this point. I want to thank him, before I yield, for his cooperation. We have worked very hard on this bill. Our staff has worked on it. We have some examples in our laboratories that led us to this, but now we make it the law of the land and a directive to the laboratories if and when we pass it. So I yield to my friend from Tennessee.

Mr. GORE. Mr. President, I express my heartfelt thanks to my colleague, the senior Senator from New Mexico, Senator DOMENICI. As he has just stated, our two staffs have worked long and hard in developing this legislation, as Senator DOMENICI and I have done in numerous meetings about their matter.

I share his enthusiasm which he has just so eloquently expressed. We face a global ecological crisis, Mr. President, which will require changes in the way our world does business. There are

many causes of this problem and there are many solutions, but one of the solutions will be the accelerated development of new technologies, new techniques, and new processes which accommodate and foster economic progress without concomitant environmental destruction.

When we confront this challenge of developing new technologies and processes, it is natural that we would think, first of all, of the talent, the resources, the capacities, the creativity, the imagination in America's national laboratories. Laboratories like Oak Ridge and Los Alamos, Argonne, Sandia, Livermore, and the others have already contributed so much to America's national security that now, when our national security faces a range of new threats, including threats to our environmental security and economic security, now, in the aftermath of the cold war, punctuated by that magnificent speech by Boris Yeltsin yesterday in this unique period, it is abundantly obvious that we need to give our national labs this new mission in order to unleash the creativity and talent and energy that is assembled at our national labs and focus it on this new endeavor.

Mr. President, I am very excited about this legislation and what it can mean. This bill will establish a program to be known as the ADEPT Program within the Department of Energy to promote the involvement of the national laboratories in the use and spread of technologies and practices and processes that address global environmental and energy issues at home and abroad.

Mr. President, as we do this, we should understand that countries around the world are eagerly seeking partnerships and cooperative efforts, not just with the United States, but with Europe and Japan as well. It is in our national security interests, our environmental interests and our economic interests, to play the leadership role in developing these partnerships. And our national laboratories have already acquired some expertise in how to go about this.

We were talking earlier this morning, Senator DOMENICI and I, about the wonderful efforts that Los Alamos has already made in Mexico, that Oak Ridge has made in China and in India. These are examples of some small start-up programs that we hope will help to provide a blueprint for a much larger and more ambitious effort, such as the one embodied in this legislation.

Twenty years ago many people assumed that new quality in business products could only come at the expense of profits. But some small start-up companies, and some Japanese firms as well, showed that by taking a different approach, asking different questions, moving upstream in the manufacturing process and redesigning the

process, we could have simultaneous improvements in quality and in productivity and profits.

As we confront this environmental challenge, we are again burdened with the assumptions, on the part of some, that increased environmental efficiency can only come at the expense of profits and productivity. But we know that new technologies, new breakthroughs, new scientific discoveries, new thinking, new breakthroughs, better design of the entire process can produce the same result that is now so familiar, as a result of the quality revolution.

We can have simultaneous improvements in environmental efficiency and productivity and profits. We can accommodate economic progress without environmental destruction. But we need innovation. We need new thinking. We need scientific and technological expertise, focused on this challenge.

The national labs have the talent and expertise that can be brought to bear. They are chomping at the bit. They are raring to go. They are eager to face this challenge. This legislation, the Domenici-Gore bill, will give the green light to this new mission for the national labs and provide the seed money that will be leveraged with funds from the global environmental facility, the World Bank, the United Nations Environment Program, the United Nations Development Program, the regional banks, the IMF, and other institutions centered on new efforts that have been carefully thought through in a creative way by the men and women at our national labs.

So, Mr. President, I am, as I hope you can tell easily, quite enthusiastic about this legislation, very honored to join with my colleague from New Mexico, and very hopeful and optimistic about the net results of this legislation.

This bill would establish a program, to be known as the ADEPT Program, within the Department of Energy to promote the involvement of national laboratories in the use and spread of technologies and practices that address global environmental and energy issues, both at home and abroad. The Assisting Deployment of Energy and Environmental Practices and Technologies Program would use the national laboratories in coordination with other Government agencies, private businesses, industries, and educational institutions to support sustainable, environmentally sound development both in the United States and abroad. The program will emphasize the development of environmentally sound technologies and practices suitable for the rapidly growing markets in developing countries and countries in transition. In effect, this program will allow the best and brightest minds employed at the national laboratories to

help lead the way in identifying the most sensible and profitable opportunities for American technology and industry.

To paraphrase a familiar maxim, "There is nothing as profitable as an idea whose time has come." Our chief competitors, Germany and Japan, have already launched aggressive initiatives similar to this one to stimulate the development of environmentally sound technologies and practices for use at home and abroad. They have already learned the lesson that what is good for the environment can be good for business too. Domestically, environmentally sound practices tend to result in improved cost-effectiveness, and improved competitiveness. Abroad, environmentally sound technologies are the ones most in demand. This demand stands only to be reinforced by the outcome of the recent Earth Summit in Rio de Janeiro—an international commitment to the principles of sustainable development.

We find ourselves today at a turning point in history. National and international priorities are in the midst of profound change. For the last 50 years, much of the work of our national laboratories was oriented toward the military threat perceived from our former enemy, the former Soviet Union. That perceived threat formed a central basis for the research we sponsored and the technologies we paid to have developed at the national laboratories. Today, not only has the Soviet Union collapsed, but communism itself lies in ruins. Defending ourselves and the rest of the free world from that threat can no longer constitute the central organizing principle for our actions. It is now possible for us to perceive the even greater threats that we have ignored until now—the threats to the global environment. The signals are everywhere, Mr. President—the hole in the ozone layer, the greenhouse effect, the loss of entire species due to environmental stresses. The global environment is under siege.

The time is upon us to reorganize the priorities of our major Federal initiatives, starting with the national laboratories, our greatest reservoir of intellectual strength. This bill is the first step in that reorganization. Let us take that first step, Mr. President. Let us demonstrate this act of leadership. American businesses and industry stand ready to follow our lead, but we must pave the way.

Mr. President, I ask unanimous consent to have a summary of the legislation printed in the RECORD at the conclusion of my remarks. I will conclude with a word of thanks, again, to my colleague from New Mexico.

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

SUMMARY OF PROPOSED DEPARTMENT OF ENERGY NATIONAL LABORATORY INTERNATIONAL ENERGY AND ENVIRONMENTAL TECHNOLOGY DEVELOPMENT ACT

Overview (Sections 1 & 2): This "Domenici-Gore" bill establishes the "Assisting Deployment of Energy and Environmental Practices and Technologies" program within the Department of Energy. The bill, which will be referred to the Senate Energy and Natural Resources Committee, authorizes and directs the DOE national laboratories to take the lead in addressing global environmental and energy issues. The program establishes a mechanism to coordinate the laboratories with other government agencies, private businesses, industries and educational institutions, to promote environmentally friendly technology development projects in "cooperating countries."

Section 3. Important definitions: "Cooperating countries" are developing and transitional countries with sufficient scientific infrastructure to share research activities and project costs, such as many countries in Latin America and the former Warsaw Pact; "National laboratory" means a DOE multipurpose laboratory, including the 11 listed; "Qualified foreign organization" means appropriate foreign businesses, foreign educational and international institutions.

Section 4. Summary of purposes: (1) to increase participation in and enhance the potential of the national laboratories in technology cooperation to benefit the global environment (2) to ensure adaptation of ADEPT technologies and creation of new markets by early involvement of and cost sharing with the private sector and foreign partners.

Section 5. How ADEPT projects are encouraged, proposed, reviewed and funded: The Secretary authorizes the national laboratories, in coordination with U.S. and cooperating country partners, to negotiate, develop and present proposals for ADEPT projects. The project proposals should involve the laboratories in developing cost-effective technology to solve environmental and energy related environmental problems in cooperating countries. Projects may also be cooperation supporting activities such as a clearinghouse, or technology demonstrations to provide information on energy and environmental technology alternatives to potential ADEPT partners in the U.S. and abroad. Officials of foreign countries—including appropriate scientists and planners—representatives from industry, educational institutions, non-governmental organizations or any governmental agency may also submit proposals. Small business proposals shall be given preference as in previous technology transfer legislation.

An intra-DOE Management Panel, an Interagency Working Group and non-governmental business and scientific reviewers will advise the Secretary on project assessment and approval. These groups will also help to coordinate projects within the government, with foreign nations and organizations and with U.S. business and educational institutions. The Management Panel, chaired by the Secretary's designee and composed of the national laboratory directors and appropriate DOE officials, will oversee and support the ADEPT program. This Panel will also, as necessary, implement policies to protect intellectual property rights. The Working Group, comprised of the Secretary's designee and representatives from the Department of Commerce, EPA, U.S. A.I.D., OSTP the NSC and other federal agencies the Secretary deems appropriate, is responsible

for ranking the project proposals and integrating information from their respective jurisdictions.

In any case feasible, the Secretary is to require 50 percent non-federal funding of ADEPT projects. This non-Federal share may come partially or wholly from any one of the following: foreign government or other qualified foreign organizations, including businesses and educational institutions or international organizations, U.S. business or educational institutions or non-Federal governmental agencies. The bill also encourages coordination and cost-sharing with other federal programs—but it requires that ADEPT programs be managed independently of foreign assistance programs.

Section 6. The Management Panel will prepare a "consolidated plan", with input from the Interagency Group, which evaluates the program and suggests additional legislative or administrative actions.

Section 7. Existing international technology cooperation projects which are qualified to be ADEPT projects may be funded under the ADEPT program.

Section 8. The program is authorized to be funded at \$14 million for FY 1993, \$18 million for FY 1994, \$22 million for FY 1995, \$27 million for FY 1996 and \$30 million for 1997.

Mr. DOMENICI. While Senator GORE is still on the floor, I ask, if he agrees—I did not mention and I do not think he mentioned that this legislation does not only cover underdeveloped countries but, also and we have purposely focused in on, what we call transitional countries. The countries that are being formed as a result of the fall of Communism, have a lot of expertise in science and technology. If their scientists and engineers team with our scientists to put the packages together to do environmental and energy research we will benefit, they will benefit, and the world will benefit.

I ask Senator GORE to comment a moment on that.

But I want to close by saying this could be an endeavor that produces a lot of jobs for Americans, because our technology and science is better than anyone's in the world. If the United States takes the lead in these type of projects and does it right, it will be American companies that are part of the team that the laboratories put together with their own resources and that they use as part of their catalytic effort.

Would the Senator agree?

Mr. GORE. Mr. President, if the Senator will yield, I agree wholeheartedly with both points. Yes, this is focused on the transitional economies as well as the developing countries of the world. And, yes, it is likely to create a great many new jobs in the United States, not least because it will be accompanied by a subtle shift in emphasis toward applied research as we take these new innovations in the laboratories and look at the practical, real-world problems to which they can be brought to bear immediately and urgently.

So, I agree on both counts. I, too, thank my colleagues on the floor for their forbearance.

By Mr. DECONCINI:

S. 2867. A bill to prohibit the use of U.S. Government aircraft for political or personal travel, limit certain benefits for senior Government officers, and for other purposes; to the Committee on Government Affairs.

SENIOR GOVERNMENT OFFICER BENEFIT  
LIMITATION ACT

Mr. DECONCINI. Mr. President, recently the American public has been bombarded by reports of abuses and extravagant spending by the Federal Government on the part of both the legislative and executive branches. Article after article in newspapers around the country have provided detailed account of the outlandish misuse of taxpayer money. People are rightfully outraged, and they are having a difficult time accepting that their tax dollars are providing cars and drivers and planes and health clubs for employees of the Federal Government. During a time in this country's history when vital social programs are going unfunded, when violence and drug-related crime is out of control, when the recession is forcing a great number of Americans to forgo necessities, it is out-and-out unacceptable to see Government officials operating as if taxpayers are willing and able to continue supporting their luxurious habits.

It is especially offensive to see expensive-to-operate military and agency-owned or leased aircraft used for personal and political purposes. Accordingly, today I am introducing legislation which will limit the travel on Government aircraft to official Government business only with the sole exception of the President and his immediate family. My bill would also exempt the Vice President and his immediate family if the cost for personal and political travel and operation and maintenance of the aircraft are fully reimbursed. The bill would, therefore, eliminate the use of Government aircraft by executive branch officials for official business when it is combined with personal or political purposes.

Additionally, every 3 months beginning October 1, 1992, agencies using Government aircraft would be required to certify that each traveler uses Government aircraft for official purposes only. For the same 3-month period, agencies must submit a report to the General Services Administration [GSA] on all uses of Government aircraft, including a list of travelers. The bill further requires that the Administrator of General Services certify that the use of these aircraft complies with Office of Management and Budget Circular A-126, which sets guidelines for use of Government aircraft. All of this information will then be made available to the public.

Mr. President, detailed reports on the travel practices of several high-level Government officials have shown us the outrageous costs incurred at public

expense for political and pleasure travel. It is unconscionable to expect the American people to foot the bill for ski vacations for Government officials and their families or for trips to the family dentist. I find it equally distressing that taxpayer dollars are financing campaign stumping and political fundraising trips all across the country by Government officials.

The accounts of Governor Sununu's excursions while Chief of Staff are a prime example of the need for the legislation I am introducing today. From April 1989 to April 1991, according to the General Accounting Office, Governor Sununu took 66 trips on military aircraft—35 of which were either strictly personal or political in nature, or mixed with official business. The cost of the 66 trips is estimated at over \$774,330. Under current White House policy, Governor Sununu was obligated to reimburse the Government only \$61,585 of this amount, the equivalent of a commercial coach fare plus a dollar, leaving over a half a million dollars on the taxpayers' tab. Just one of the Governor's trips—a ski trip to Vail, CO on an Air Force jet with three other passengers—according to an April 21, 1991 Washington Post article, cost the Government more than \$30,000 based on standard Air Force charges. The same article went on to say that a commercial flight to the same destination for a single passenger would have cost 90 percent less.

Mr. President, these are the types of expenses we are talking about on a governmentwide basis. I don't mean to pick on Governor Sununu. In his defense, policies regarding use of these aircraft were not clear at that time. Frankly, travel policies are still vague and ill-defined. This bill takes care of that problem by not only limiting the use of Government aircraft, but clarifying the conditions under which they may be used.

Mr. Skinner's travel record while Secretary of the Department of Transportation further confirms the fact that use of Government aircraft is out of control. According to a recent segment of "60 Minutes," Skinner made 150 trips at a cost of over \$1 million in his 3 years heading the Department of Transportation, often mixing official business with personal and political occasions. Among the "vital" business conducted by Mr. Skinner on these trips at taxpayer expense were several golf trips as well as numerous political speeches in his hometown of Chicago. I'm not so sure that the American people would agree with Mr. Skinner's explanation that it was official and necessary for him to receive pilot training in an FAA Cessna simulator at a cost of \$6,175, or to upgrade his skills in a Citation jet taxpayer-paid at \$1,111 an hour for 250 hours.

Cabinet members are also billing the taxpayer for political junkets added to

official business trips—a practice endorsed by the White House. According to a May 5, 1991, Los Angeles Times article, during the 1990 elections, “top Cabinet officers were strongly encouraged by Bush’s political advisers to arrange political appearances on behalf of Republican candidates whenever they visited a city at government expense.” The White House went so far as to provide a list of congressional districts that the officials were to visit to help Republican candidates. The Times reported that the Republican Party reimbursed the Government for a portion of the travel expenses, but this usually ended up being only a tiny fraction of the overall cost. The article cites Interior Secretary Manuel Lujan’s attendance at a political event while in Natchez, MS, for the dedication of a historical site. The total cost of his airfare was \$445, with the Republican National Committee picking up a mere \$47, or one-tenth the charge.

We know that there has been extensive abuse of military and Government-owned or leased civilian aircraft. We have documented evidence that this is so. The General Accounting Office conducted investigations on the misuse and mismanagement of Government aircraft in 1977, 1983, and again in 1989. Each time GAO found the policies to be vague with enormous loopholes opening the door for all kinds of abuses. The information has served as a repeated warning that the system is out of control and something must be done about it. Well, reforms have been slow in coming and now we are forced to face reports in the newspapers and on “60 Minutes” of the outlandish expenditures paid to ferry around Government officials. Trips of every nature, necessary and not, have been allowed and billed directly to the taxpayer. Mr. President, these practices cannot be allowed to continue.

The cost to operate and maintain our Government aircraft is staggering. The 1989 GAO report, “Government Civilian Aircraft: Central Management Reforms Are Encouraging but Require Extensive Oversight” found that the Government owns 1,200 civilian aircraft worth at least \$2 billion and costing about \$750 million a year to operate and maintain. Additionally, at least \$100 million is spent annually to lease or charter about 5,000 more aircraft. These figures do not even include military planes.

To gauge the cost of our military aircraft, GAO issued a second report in April of 1992, “Military Aircraft: Policies on Government Officials’ Use of 89th Military Airlift Wing Aircraft.” GAO found that 20 of the 22 planes of the 89th Wing are available on a Governmentwide basis for executive and legislative branch officials. The remaining two are Air Force One and Two and are for exclusive use by the President. The cost to operate the 89th

Wing, not accounting for aircraft depreciation, was at least \$150 million in 1991 alone. According to GAO, this amount includes pay for support personnel, fuel, and maintenance, but does not include the cost of wear and tear on the aircraft, acquiring new aircraft, or the construction of military facilities to house the aircraft. In addition, figures for the aircraft used by the President are not available due to security reasons. I can tell you that OMB estimates that Air Force One costs about \$26,000 an hour to operate, and the overall annual cost is in the millions of dollars. GAO reports that the military has another 390 operational support aircraft available for use by Government officials, and no cost estimate has been made on those planes.

For the military and civilian aircraft on which GAO has obtained information, the annual expenses exceed \$1 billion. This number probably falls far short of what is actually spent. It is impossible to speculate on the additional expenses incurred by the 390 military support aircraft used for passenger transport.

To repeat: On three separate occasions, the General Accounting Office has called for comprehensive reform of our use and management of Government aircraft. OMB responded to GAO’s 1983 recommendations with circular A-126, requiring agencies to study the cost effectiveness of acquiring and maintaining aircraft and to justify the cost of using these aircraft as opposed to commercial means for passenger travel. However, in its 1989 report, GAO found the OMB policies laid out in Circular 126 were ambiguous and easily manipulated. In May of this year, OMB released a revised and strengthened Circular A-126. Just 2 weeks ago, GAO testified before Senator SASSER’s Governmental Affairs Subcommittee on General Services, Federalism and the District of Columbia. GAO stated that the revised circular puts the policies in place but still lacks enforcement. Agencies comply if they feel like it, but there is still no one overseeing the process to make sure the regulations are carried out. This bill would, in effect, make adherence to Circular A-126 the law.

Additionally, GAO has consistently recommended that the General Services Administration [GSA] serve as the coordinating agency for collecting information and certifying the use of Government aircraft. GSA has taken steps to set up a framework for these activities but has done little else. There has been no strong effort to make sure that agencies submit information concerning the use of aircraft to GSA and there is no penalty for non-compliance. My legislation reinforces already established recommendations and commitments to have GSA oversee OMB policies. Agencies would have to provide a full report to GSA on the cer-

tification of every traveler on Government aircraft and all uses of these aircraft for official business. Such reports would be made available to the Congress and to the public ensuring that travel is valid and official.

Mr. President, I now want to turn to the other perks. There has been a virtual laundry list of perks making the headlines—chauffeur-driven limousines and free prescriptions among others. “There’s no such thing as a free lunch” simply doesn’t hold true for the U.S. Government. What I have discovered over the past several months is that even the Office of Management and Budget, whose job it is to review the budgets and activities of all executive branch agencies, is having a difficult time trying to identify the perks, calculate their costs, and explain the policies with respect to their use.

I chaired a hearing held before the Appropriations Subcommittee on Treasury, Postal Service, and General Government on April 8, 1992, where OMB Director Darman was the principal witness. We discussed Government travel, use of aircraft, health and fitness facilities, and executive dining rooms. Director Darman promised to provide the information requested by the committee to the best of his ability. Since the hearing, Mr. President, and despite the excellent cooperation from OMB, the information has been slow in coming, particularly from the Department of Defense, and the reliability of the data is questionable. One thing is clear—for many of these privileges there is no Governmentwide policy—the application of rules vary from agency to agency. So do the costs.

Mr. President, I want to take a few minutes to go over the current policies and costs and explain what my legislation will do.

Vehicles and drivers: Currently, 14 executive branch departments and agencies lease approximately 300 luxury vehicles specifically for the purpose of transporting Government executives from place to place, predominantly in the Washington, DC, area. The annual lease and fuel costs for these vehicles total \$1.2 million. In addition, the executive branch employs approximately 190 drivers for these vehicles at an annual cost of approximately \$4.5 million. The policy appears to be that aside from those individuals who are authorized portal-to-portal service, the cars are available to any high-level officials for attending meetings they define as official. The types of vehicles range from Lincoln Town Cars for chauffeuring Government bigwigs to Mercury Grand Marquis’ and Chevrolet Celebrities. Some agencies like DOD have 46 others like VA have 7. And the lease costs vary from agency to agency. My legislation would prohibit the use of appropriated funds for luxury vehicles and drivers, for any officials except assistant secretaries and

above, agency heads and their chief deputy. Portal-to-portal service authorized under 31 U.S.C. 1344 would not be affected.

**Health and fitness facilities:** There are 164 physical fitness facilities for use by Government employees located within GSA-controlled office space throughout the country. The annual cost to operate and maintain these facilities is \$15.8 million with \$2.6 million being contributed by participating employees. In non-GSA controlled space, there are 187 physical fitness facilities with annual costs of approximately \$4.4 million—and this amount does not include the costs for Department of Defense facilities. In addition, many agencies permit appropriated funds to be used to cover the costs of employee memberships in private health club facilities. In this category, there are approximately 13 executive branch agencies which permit Federal funds to be used to pay for memberships costing approximately \$1.6 million annually. Employees contribute only \$187,500 per year to offset those costs. And this list is not inclusive—Department of Defense information has not been made available.

Policies regarding fees for health club membership vary from agency to agency. For example, the White House has two health and fitness facilities. One, known as the White House Athletic Club, which is open to all Executive Office of the President employees, charges an initiation fee of \$35 and annual membership dues of \$208. The other, the senior staff fitness center, which is open to deputy assistants to the President and above, charges no fees. In related benefits, according to a General Accounting Office survey of 77 Federal agencies, 25 agencies permit employees to use administrative leave without loss of pay for exercise purposes. Some offer none, others up to 3 hours per week with pay. According to GAO, if 10 percent of all Federal employees were to use 2 hours of administrative leave per week for exercise, it would cost the Federal Government \$380 million annually. My legislation would prohibit the use of appropriated funds to pay for either the cost of operating or maintaining these facilities or membership fees for use of such facilities. For those Government agencies which require a physical fitness standard for the performance of certain jobs, that is, law enforcement and the military, exceptions will be made but only to cover the costs for those employees where fitness is a requirement of the job. In addition, no administrative leave will be permitted for employees for exercise purposes.

**Executive dining rooms and kitchens:** Presently, 11 of 17 executive branch departments and agencies have dining rooms or kitchens for the exclusive use of preparing and serving meals to certain senior Government executives.

Annual costs to operate and staff these facilities total \$4 million. Reportedly, the cost of food is fully reimbursed by the users. The Department of Defense has five such dining rooms with 95 staff and annual costs totaling \$2.8 million. This figure does not include the cost of the White House Mess. The Department of the Treasury has one dining room available to deputy assistant secretaries and above. It is staffed by five individuals with annual costs of \$137,900. Again, the cost of food is supposed to be fully reimbursed. Yet, I have a menu here for the Treasury Secretary's dining room which shows that it costs the Secretary \$4.75 for a meal consisting of lobster tail, clam chowder, salad bar and dessert. For executive dining rooms, kitchens, and associated staff, my bill would prohibit the use of appropriated funds for operating or maintaining those facilities or for the costs of food. Employee cafeterias will not be affected.

**Golf courses:** With the assistance of OMB and the research office at Golf Digest magazine, we were able to identify 280 golf courses owned and operated by the Department of Defense, the Veterans' Affairs Administration, the Department of Health and Human Services, and the Department of Transportation. Of this amount, 220 are 18-hole equivalent courses. Not only do these courses not return a profit to the General Treasury, the courses actually cost the American taxpayer \$6 million a year to operate. Currently the fees to use these courses vary from course to course and by individual rank. The public does not have access to any of these courses. My legislation will do three things for the taxpayer:

First, it will help reduce the serious shortage of public sector courses by opening all 220 of these facilities to the public.

Second, prohibit the use of appropriated funds to subsidize these courses.

Third, open the courses to the public and require that they be turned over to professional golf management companies to operate through concessionaire contracts. This action would return \$100 million a year in revenue to reduce the Federal budget deficit.

There are also approximately 40 additional DOD/VA courses located outside the United States which have been excluded from this legislation.

Mr. President, I have been and will continue to be, a strong supporter of our military. Nevertheless, the American people are demanding that we do away with special perks and these 220 golf courses are a special perk. In addition, if the Federal Government is going to hang on to these courses then let's utilize them in the best possible manner and reduce the Federal deficit in the process.

**Medical health units:** The Public Health Service operates approximately

175 health units staffed by fulltime nurses and doctors on a limited basis. The annual costs to operate these health units is approximately \$48 million. This does not include the costs for those medical services provided by non-Public Health Service personnel. For services which could range from comprehensive physical exams to EKG's and allergy shots, no fees are charged employees. My legislation would be a requirement that employees contribute to the costs of these services by paying a nominal access fee to be established by each agency under guidelines proscribed by the Department of Health and Human Services and the Office of Personnel Management.

**Political appointments:** Mr. President, I also have concerns about another practice which may not be classified as a "perk," but certainly has costly consequences. I am referring to the Presidential appointment of political or confidential positions throughout executive branch agencies. Since 1980, the number of Presidentially appointed positions known as schedule C's and noncareer Senior Executive Service [SES] positions has grown by 10 percent to 1,742 schedule C's and 761 noncareer SES's. GAO estimates that the annual salary and benefit costs of an average schedule C position is \$65,000 and for a noncareer SES position, \$133,000. Based on these figures I estimate that for the fiscal year ending September 30, 1991, these positions cost the Federal Government approximately \$214,443,000 per year. For Presidentially appointed positions, the bill requires a 5-percent reduction in these positions during fiscal year 1993; an additional 5-percent reduction during fiscal year 1994; and an additional 5-percent reduction during fiscal year 1995.

Mr. President, I was shocked at the full scope and costs of some of these executive branch perks. Let me underscore what I have already said: we have reached a point where these special privileges have gotten out of hand, and something must be done. The legislation I am introducing today will place long overdue restrictions on perks, eliminate some, and ultimately reduce the costs to the taxpayers. I do not believe the provisions in this bill will be onerous on Government executives or other employees of the executive branch. Instead, the measure will curb the potential for abuses and reduce Federal spending at a time when we are forcing Federal agencies to cut back on many of the important services they provide to the American public. The American public is outraged—and rightly so—by what they see as a Government out of touch with the American people, a Government run by perks and above the law officials. When Government tells the American public that we all must sacrifice for the national good, we in Government better

make 100 percent certain that we start in our own backyard.

Mr. President, I ask unanimous consent that the accompanying charts be printed in the RECORD, along with a copy of the bill.

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

S. 2867

*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 "Senior Government Officer Benefit Limitation Act of 1992".

#### SEC. 2. PROHIBITION OF PERSONAL OR POLITICAL USE OF UNITED STATES GOVERNMENT AIRCRAFT.

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, no aircraft which is owned or leased by the United States Government (including military aircraft) may be used for—

(A) any personal, political, or authorized special use travel; or

(B) any official travel which is mixed with personal or political activities.

(2) For purposes of this section the term "authorized special use" means use of a Government aircraft for the travel of an executive agency officer or employee, where the use of the Government aircraft is required because of bona fide communications or security needs of the agency or exceptional scheduling requirements.

(b) EXCEPTION.—Subsection (a) shall not apply to use of aircraft by—

(1) the President or his immediate family (subject to reimbursement as provided under law); or

(2) the Vice President or his immediate family if the full costs, including the costs of operating and maintaining such aircraft, for such travel are reimbursed to the United States Government.

(c) REPORTS ON USE.—(1) Each executive agency which maintains or uses Government owned or leased aircraft (including military aircraft) shall—

(A) require each traveler to certify that any travel on such aircraft is necessary for official purposes; and

(B) beginning on October 15, 1992, and on the fifteenth day of every third month thereafter, submit a report to the Administrator of the General Services Administration with regard to the preceding 3-month period that—

(1) certifies that the use of such aircraft complied with Office of Management and Budget Circular A-126 as modified by the provisions of this Act; and

(1) identifies each traveler on such aircraft.

(2) After the receipt of each report, the Administrator shall review each certification to ensure that the use of such aircraft complied with Office of Management and Budget Circular A-126 as modified. The Administrator shall make the information in any such report available to the public.

#### SEC. 3. GOLF COURSES.

(a) LIMITATION.—No funds appropriated or otherwise made available to any executive agency may be expended to equip, operate, or maintain any golf course owned or operated by an executive agency. Any such golf course shall be operated by concessionaire contract and open to use by the general public.

(b) EXCEPTION.—Subsection (a) shall not apply to any golf course located in a remote or isolated area.

#### SEC. 4. EXECUTIVE DINING FACILITIES.

No funds appropriated or otherwise made available to any executive agency may be expended to subsidize the costs to equip, operate, or maintain dining rooms or kitchen facilities for the exclusive use of senior Government officers or to purchase or prepare food for consumption by such officers. This section shall not apply to dining rooms, facilities, or food for—

(1) the exclusive use or consumption of the President of the United States or his immediate family; or

(2) use to carry out the official representational functions of the President or for those official activities conducted by executive branch departments or agencies for which representation funds have been authorized and appropriated.

#### SEC. 5. LUXURY VEHICLES FOR TRANSPORTING GOVERNMENT OFFICERS.

(a) LUXURY VEHICLES.—No funds appropriated or otherwise made available to any executive agency may be expended to acquire, through lease or purchase, luxury vehicles for the purpose of transporting senior Government officers, except for—

(1) a Government officer as authorized under section 1344 of title 31, United States Code;

(2) a Government officer who holds the office of Assistant Secretary or higher; or

(3) the head of any executive agency and the second highest ranking officer in such agency.

(b) DRIVERS.—No funds appropriated or otherwise made available to any executive agency may be expended to employ drivers for the exclusive use of transporting senior Government officers, except the officers described under subsection (a).

(c) PURCHASE OR LEASE OF LUXURY VEHICLES.—The General Services Administration, in consultation with the Office of Management and Budget shall prescribe regulations and uniform guidelines for the purchase or lease of luxury vehicles for or by the United States Government, that shall ensure the least cost to the United States Government. On October 1, 1993, and on October 1 of each year thereafter, the General Services Administration shall submit a report to the Congress on—

(1) executive agency compliance with such regulations;

(2) the number of all vehicles purchased or leased by each executive agency;

(3) the costs of vehicle purchases or leases;

(4) the type of each such vehicle and the purpose for which it is used; and

(5) the identification of Federal officers and employees who used such vehicles.

(d) DEFINITION.—For purposes of this section the term "luxury vehicle" means a class IV or V sedan (as classified under section 101-38.101-1 of title 41 of the Code of Federal Regulations as in effect on the date of the enactment of this Act) or other large sedan-type vehicle with above standard features.

#### SEC. 6. PHYSICAL FITNESS FACILITIES.

(a) COSTS AND FEES.—Subject to the provisions of subsection (c), all costs to equip, operate, and maintain physical fitness facilities for use by Federal employees shall be fully paid by the users of such facilities and no appropriated funds made available to any executive agency shall be expended for the costs of membership or other fees for the use of physical fitness facilities, including exercise equipment and classes.

(b) ADMINISTRATIVE LEAVE.—No executive agency may grant administrative leave to Federal employees for the purpose of physical fitness activities, except with regard to

a Federal employee described under subsection (c).

(c) EXCEPTION.—The provisions of subsections (a) and (b) shall not apply to any executive agency with regard to employees in positions which require such employees to meet physical fitness standards as a condition of employment. Funds for purposes described under subsection (a), may be expended only for the costs of maintaining the physical fitness of such employees.

(d) DEFINITION.—For purposes of this section the term "physical fitness facility" means any facility used for physical exercise that provides equipment and services for such use in addition to lockers and showers.

#### SEC. 7. MEDICAL SERVICES.

(a) FEES.—The head of each executive agency shall charge a nominal fee established under subsection (b) to any employee of such agency for access to medical services provided by the Public Health Service, the employing agency, any other Federal agency, or other medical service provider for which no charge is otherwise paid by such employee. Such fee shall be retained or paid to the agency providing such medical service to defray the costs of operating facilities for such service.

(b) ESTABLISHMENT OF FEES.—The Secretary of Health and Human Services, in consultation with the Office of Personnel Management shall establish the fees to be charged for access to medical services described under subsection (a).

#### SEC. 8. REDUCTION OF NONCAREER SENIOR EXECUTIVE SERVICE POSITIONS AND SCHEDULE C POSITIONS.

(a) LIMITATIONS.—The total number of Senior Executive Service positions in all executive agencies filled by noncareer appointees and the total number of positions in all executive agencies of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations, shall each be reduced—

(1) on no later than October 1, 1992, by 5 percent of the respective total numbers of such positions as existed on September 30, 1991;

(2) on no later than October 1, 1993, by an additional 5 percent of the respective total numbers of such positions as existed on September 30, 1991; and

(3) on no later than October 1, 1994, and thereafter, by an additional 5 percent of the respective total numbers of such positions as existed on September 30, 1991.

(b) CONFORMING AMENDMENTS.—Sections 3133 and 3134 of title 5, United States Code, are amended by adding at the end of each section the following new subsection:

"(f) This section is subject to the limitations of section 8 of the Senior Government Officer Benefit Limitation Act of 1992."

#### SEC. 9. DEFINITIONS.

For purposes of this Act the term—

(1) "executive agency" has the same meaning as such is defined under section 105 of title 5, United States Code, and includes the Executive Office of the President; and

(2) "senior Government officer" means any person—

(A) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code;

(B) employed in a position in an executive agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;

(C) employed in an executive agency in a position that is not referred to under para-

graph (1) (other than a position that is subject to pay adjustment under section 1009 of title 37, United States Code) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5304 of title 5, United States Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level V of the Executive Schedule; or

(D) appointed by the President to a position under section 105(a)(2) (A) or (B) of title 3, United States Code, or by the Vice President to a position under section 106(a)(1) (A) or (B) of title 3, United States Code.

#### SEC. 10. REPORT.

(a) IN GENERAL.—No later than September 30, 1993, and on September 30 of each year thereafter the Office of Management and Budget shall submit a report to the Congress on the compliance of the executive branch of Government with the provisions of this Act.

(b) SENIOR POSITION REDUCTIONS.—No later than September 30, 1992, and again on September 30, 1993, the Office of Management

and Budget shall submit a report to the Congress on the compliance of the executive branch of Government with the provisions of section 8 of this Act.

#### SEC. 11. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall be effective on and after October 1, 1992.

(b) EXCEPTION.—The President, the Office of Management and Budget, and the Office of Personnel Management shall take such necessary actions on and after the date of the enactment of this Act to carry out the provisions of sections 8(1) and 10(b) of this Act.

#### DOD/VA GOLF COURSES: POTENTIAL REVENUE PRODUCERS OF 220 18-HOLE EQUIVALENTS

Based on following rates: Green fees, 18-holes, \$15.00; Cart Rentals, \$10.00; Management fee, \$75,000.00; Annual Maintenance, \$350,000.00.

If a course generated 35,000 rounds/net total income: \$250,000.

If a course generated 55,000 rounds/net total income: \$750,000.

Actual examples: Andrews AFB, MD, 90,000 rounds (36 holes); Ft. Rucker, AL, 65,000 rounds (18 holes); Ft. Belvoir, VA, 90,000 rounds (27 holes).

Total DOD/VA 18-Hole equivalents in the United States: 220 times 45,000 rounds/net income \$500,000 equals possible revenue to the U.S. Treasury of \$110 million.

Source: Golf Digest magazine.

#### SECRETARY OF THE TREASURY'S EXECUTIVE DINING ROOM MENU

April 17, 1992

Breakfast: fresh fruit, English muffins, Danish rolls, toast, various fruit juices, cereals, yogurt, coffee, tea, milk. Price: \$2.00.

Lunch: clam chowder, broiled lobster tail, butter/lemon dip, oven roasted Red Bliss Potatoes, buttered fresh asparagus, complete salad bar, poached pear with chocolate and raspberry sauce. Price: \$4.75.

This year the taxpayer will eat \$126,048 of the Secretary's tab.

Source: The Department of Treasury.

#### EXECUTIVE DINING FACILITIES—FISCAL YEAR 1992

Department-agency	Executive mess/dining facility	Staff size (FTEs)	Salary costs	Space/utilities rent costs	Miscellaneous costs	Total annual cost to Government
Agriculture	No	(1)	(1)	0	0	0
Commerce	Yes	2	\$58,505	\$37,523	\$1,000	\$97,028
DOD/OSD	Yes	23	460,288	42,489	0	502,777
DOD/ICS	Yes	11	217,606	41,046	0	258,652
DOD/Army	Yes	18	343,536	59,635	0	403,171
DOD/Navy	Yes	26	937,000	77,328	0	1,014,328
DOD/Air Force	Yes	17	542,728	49,034	0	591,762
Education	No <sup>2</sup>	1	32,423	0	450	32,873
Energy	No <sup>2</sup>	1	34,835	5,425	0	40,260
HHS	Yes	2	57,500	45,298	0	102,798
HUD	No	(1)	0	0	0	0
Interior	Yes	0.5	13,508	40,416	1,584	55,508
Justice	Yes	1	36,399	20,524	1,000	57,923
Labor	Yes	2	59,990	39,445	540	99,975
State	Yes	Contract	0	61,054	0	61,054
DOT-OST	Yes	5	138,000	58,605	15,000	211,605
DOT-Coast Guard	Yes	2	65,000	38,756	0	103,756
Treasury	Yes	5	122,548	0	3,500	126,048
Veterans <sup>3</sup>	Yes	Contract	0	50,464	2,970	53,434
EPA	No	(1)	0	0	0	0
GSA	No	(1)	0	0	0	0
NASA	Yes	3	77,158	46,204	5,600	128,962
Totals		119.5	3,197,024	713,246	31,644	3,941,914

<sup>1</sup> Not applicable.

<sup>2</sup> The Departments of Education and Energy have a kitchen and steward on staff who will prepare and serve meals to Secretary, Deputy Secretary and senior staff as required, but do not have a separate dining facility.

<sup>3</sup> The VA Executive Dining Room (EDR) has been operating for less than one year in VA's temporary central office building. It is financed by non-appropriated funds (a self-financing revolving fund that supports cafeterias and hospital gift shops throughout the VA system). The Secretary has decided to replace the EDR with a take-out/cafe/tertia open to all VA employees.

Source: Department and agency staff. OMB did not have sufficient time to verify these data.

#### TAXPAYER SUPPORTED EXECUTIVE LIMO/CHAUFFEUR SERVICE

[Total departmental cost of executive transportation \$5.7 million]

	No. of cars	Annual cost of cars	No. of drivers	Annual cost of drivers	Total
Justice	29	\$441,799	11	\$261,328	\$703,127
Transportation	22	85,080	7	185,469	270,549
Veterans Affairs	7	32,808	10	262,095	294,903
Commerce	18	73,950			73,950
Agriculture	10	43,283	11	255,064	298,347
Education	14	58,400	11	274,343	332,743
Energy	19	133,818	16	380,208	514,026
HHS	9	42,250	8	201,508	243,758
Interior	11	26,400	2	58,352	84,752
Labor	6	27,108	5	134,374	161,482
State	18	177,027	14	331,000	508,027
Treasury	20	72,864	20	446,037	518,901
Defense	87	641,745	30	731,715	1,400,000
Totals	270	2,000,000	145	3,600,000	5,700,000

Source: OMB.

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

S. 2868. A bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes:

to the Committee on Labor and Human Resources.

#### DAVIS-BACON REPEAL ACT

• Mr. CRAIG. Mr. President, Last week, the other body narrowly failed to pass the balanced budget amendment to the Constitution. Opponents repeated the mantra, "All we need is the

political will, not a constitutional amendment, to balance the budget."

Today, I am introducing a bill that will challenge our colleagues to put their deficit reduction where their mouth is, to see if they have the political will to support, one at a time, the kinds of policy changes that will be absolutely necessary to take us to a balanced budget.

I am pleased to be introducing a bill to repeal the outdated, obsolete, and counter-productive Davis-Bacon Act of 1931. In doing so, I am introducing the Senate companion to bipartisan legislation introduced by our colleagues in the other body, CHARLIE STENHOLM of Texas. H.R. 1755 has 78 cosponsors, a number I hope we can match or exceed in this body. When I was a Member in the other body, I consistently co-sponsored and supported efforts to repeal, provide exemptions from, or reform Davis-Bacon, and I look forward to carrying those efforts forward in the Senate.

Mr. President, it is true, as has often been said in this election year, that there is no line-item in the Federal budget titled "Waste, Fraud, and Abuse." In some small measure, that is because there is no line item labelled, "Davis-Bacon costs".

Davis-Bacon wastes more than \$1.5 billion a year of taxpayers' money. That's \$1.5 billion that could be used to reduce the deficit. Or, under a budget system of spending caps like the current system, that's \$1.5 billion that the Budget Committee and the Appropriations Committee could use for more low-income and public housing, homeless shelters, community development projects, renovating historic buildings, and other projects that we could fund, if that \$1.5 billion wasn't wasted because of Davis-Bacon.

Davis-Bacon fraudulently has been sold as protecting local contractors and local labor markets from unfair competition from itinerant contractors who would disrupt local economies and local labor standards. In fact, Davis-Bacon reserves the \$50 billion market of Federal contracting—and much more once you factor in State, locally, and privately matched funds—for a small club of large, contractors. This small club of privileged contractors has learned how to milk the Federal contracting system by following Davis-Bacon projects all around the country and benefit from a set of rules and a bureaucratic process that shut the local competition out of the bidding process.

Davis-Bacon abuses the Federal Government's procurement process by discouraging small and minority-owned construction firms from bidding on Federal projects. In so doing, Davis-Bacon closes the door of job opportunity on those entry-level workers who are most in need of help up to the first rung of the economic ladder, by shutting out those employers which, experience shows, are the most likely to bring them into the work force and teach them skills.

The Davis-Bacon Act applies to virtually all construction, alteration, repair, renovation, rehabilitation, and reconstruction that receives any amount—in some cases, even very small matching amounts—of Federal

funding. It applies to approximately \$50 billion of Federal spending for these purposes, or about a fifth of all construction activity in America. It even applies to tiny contracts for painting and decorating as much as to heavy and highway construction.

In short, this piece of policy pork may be relatively obscure outside of the beltway, but it is one of the most pervasive and pernicious influences in Federal contracting.

Mr. President, repealing Davis-Bacon is a simple issue of economy, efficiency, and competition in Government contracting. It's time to remove this relic of the Great Depression to the legislative museum in which it belongs.

I would ask unanimous consent to include in the RECORD, at this point, a background statement on Davis-Bacon and the text of my bill.

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

S. 2868

*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 "Davis-Bacon Repeal Act".

**SEC. 2. DAVIS-BACON ACT OF 1931 REPEALED.**

The Act of March 3, 1931, entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes" (40 U.S.C. 276a-276a-5), commonly referred to as the Davis-Bacon Act, is repealed.

**SEC. 3. EFFECTIVE DATE.**

The provisions of this Act shall take effect 30 days after the date of enactment of this Act but shall not affect any contract in existence on that date or made pursuant to invitations for bids outstanding on that date.

**STATEMENT OF THE AUTHORS OF THE DAVIS-BACON REPEAL ACT**

The Davis-Bacon Act of 1931 requires that the minimum wage rates paid to each separate classification of worker on federally-financed construction, repair, and alteration contracts be those determined to be locally "prevailing" by the Department of Labor. Often these rates are significantly higher than the actual averages for the locality. The last major amendments to the Act were enacted in 1935.

This was a Depression-era response to reports that unscrupulous, fly-by-night contractors were hauling gangs of "itinerant, cheap, bootleg labor" around the country to under cut local firms on federal public works projects, at a time when there was little other new construction. The Act has come to work counter to its original purpose. Several studies have found that instead of preserving jobs for local contractors, the Act actually makes it more likely that non-local firms will work on public projects. In a study for the Wharton School, Armond Thiebolt found that local contractors perform a higher percentage of private contracts than they do Davis-Bacon jobs. The Act predated virtually all of today's basic worker protections, including the minimum wage, right to bargain collectively, and special construction industry rules.

**OBSELETE WORK RULES IMPOSED ON CONTRACTORS BY DAVIS-BACON**

DOL rarely has issued wage determinations for a rate lower than that for a skilled journeyman, regardless of the task to be performed. The same unskilled worker must be classified as a journeyman carpenter to carry lumber one day and reclassified—with all the attendant paperwork—as a journeyman plumber to carry or hold pipe the next day. Thus, labor is allocated inefficiently, costs rise, and semi-skilled workers are denied entry-level jobs. Davis-Bacon has been left behind by the evolution of a more flexible workplace over the last half-century. The utilization of helpers was virtually nonexistent in 1931, but has become a widespread practice in private construction, but NOT on federal jobs. Today, about 75 percent of the construction industry uses helpers for semi-skilled and unskilled tasks to assist on a variety of skilled tasks on private contracts.

The helper classification has been upheld in the federal courts as consistent with longstanding Congressional intent that Davis-Bacon reflect, rather than disrupt, locally prevailing practices. "Helpers" would be defined as semi-skilled workers assisting, and under the direction of, skilled journeymen. However, a rider in H.R. 1281, the Dire Emergency Supplemental of 1991 forbid the Department of Labor from implementing regulations which would have allowed the limited use of helpers on federal and federally-assisted contracts.

Allowing the use of helpers would open up job opportunities to those most in need of help up the first rungs of the economic ladder: Minority, women, disadvantaged, displaced, and entry- and training-level workers.

**ANTI-COMPETITIVE EFFECTS OF DAVIS-BACON**

The Act discourages many small and minority-owned firms from even bidding on federal work, resulting in a loss of competition that further drives up costs. The anti-small business bias that has developed in the operation of Davis-Bacon becomes especially unconscionable in light of the fact that firms with 9 or fewer people make up about 80% of all construction industry employers.

**PAPERWORK REQUIREMENTS**

The Copeland Act of 1934 requires that employers on Davis-Bacon contracts submit certified payroll records to the Department of Labor or contracting agency every week. Approximately 11 million payroll reports are submitted annually to contracting agencies, at an estimated cost of 5.5 million hours of industry employee time. An estimated 5.5% of all of DOL's paperwork is generated by Copeland and Davis-Bacon. Copeland requirements for collecting, inspecting, and storing these reports extends to the various contracting agencies. Paperwork costs to contractors, passed on to the taxpayers, have been estimated at \$100 million a year by DOL and \$50 million by CBO.

The current flood of paperwork discourages small firms, which would have to hire additional clerical personnel and/or invest in new equipment, from bothering to bid even on small subcontracts. The requirement that payroll reports be submitted weekly is especially burdensome to small contractors with a bi-weekly payroll.

**BUDGET IMPACT OF DAVIS-BACON**

CBO estimates that Davis-Bacon increases total federal construction costs by 3.3% (3.7% prior to regulatory changes proposed in 1982 and approved by the courts in 1985). CBO estimates that the Davis-Bacon Act adds the following "cost premium" to government construction:

SAVINGS FROM CBO BASELINE  
(In millions of dollars)

	1993	1994	1995	1996	1997	Cumulative 5-yr
Spending au- thority .....	1,746	1,810	1,817	1,872	1,936	9,180
Outlays .....	377	1,049	1,421	1,612	1,751	6,210

The Department of Defense has estimated its Davis-Bacon-induced cost premium at 5%. GAO's estimates are similar to CBO's. Most estimates place this cost inflation in the 3%-10% range. While total cost estimates reflect an average premium, the impact on individual projects varies dramatically. The impact on some community development projects has been estimated by local officials as high as 20%-50%. An Oregon State University study found Davis-Bacon to inflate costs in rural areas by 26% to 38%. It should be noted that these figures are increases to total construction costs, not just labor costs. Labor costs generally account for well under 50% of total construction costs.

Current budget constraints on all federally financed construction and repair, whether for military construction and family housing, low-income housing, veterans' mortgage guarantees, highways, or community development grants, require that we procure the most and highest quality work for the lowest reasonable cost.

#### ECONOMIC EFFECT OF DAVIS-BACON

The construction industry has been hit particularly hard by the current recession. Nearly 600,000 jobs have been lost in the construction industry since July, 1990. Davis-Bacon further weakens employment in the construction sector of our economy by increasing costs. A 1980 study by the American Enterprise Institute found that Davis-Bacon "increases frictional unemployment in the construction trades" by reinforcing artificial wage differentials. CBO's 1983 study agreed that Davis-Bacon reduced employment in federally funded construction projects. The CBO study also suggested that Davis-Bacon may have an inflationary impact because the higher wages on federal projects could spill over to private construction as private contractors raise wages to maintain their work force to compete with federal construction.●

By Mr. LIEBERMAN:

S. 2869. A bill to create the Supreme Court of the District of Columbia; to the Committee on Governmental Affairs.

#### DISTRICT OF COLUMBIA JUDICIAL REORGANIZATION ACT

● Mr. LIEBERMAN. Mr. President, I rise today to introduce the District of Columbia Judicial Reorganization Act of 1992. I am introducing this bill at the request of the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia.

This bill has two titles. The first title creates a supreme court for the District of Columbia, to be the highest court in the District. This court would have an entirely discretionary jurisdiction, and would be the body principally charged with establishing uniform legal interpretations clarifying D.C. law. The second title adds two more judges to the superior court to handle that court's expanding caseload, and

directs the Executive Office of the District of Columbia Courts to conduct a study of the feasibility and desirability of creating a night court.

The proposal to create a supreme court for the District of Columbia, thereby giving a three-tiered court system similar to most States, has been around for several years. In 1990, the House of Representatives passed a version of this proposal, but it died in the Senate. Creating a three-tiered judicial system has the support of the chief judges of the D.C. Court of Appeals and Superior Court, the Mayor, the corporation counsel, and the Bar Association of the District of Columbia.

Appellate courts have two generally recognized functions: Error correction and law clarification. Proponents of moving to a three-tiered system argue that because the caseload has grown dramatically, the D.C. Court of Appeals can no longer perform both functions adequately. Because virtually all cases in the D.C. Court of Appeals are being heard on appeal for the first time as of right, the error correction function dominates the court's work. The caseload of the D.C. Court of Appeals has tripled since its creation in 1970, and it now has as many new filings each year as the entire Connecticut appellate court system. Indeed, the District of Columbia Court of Appeals has a larger appellate case load than the appellate systems of 21 other States, including 9 with 3-tiered judicial systems. Despite efforts to speed consideration of routine cases, the D.C. Court of Appeals sits en banc no more than 10 times per year.

This is one of those issues that has been studied to death. Five separate studies have examined whether the District needs a supreme court with discretionary jurisdiction. Four of those five studies, the most recent of which was an exhaustive report completed in 1989, by a special committee of the D.C. Bar, concluded that a three-tiered judicial system was necessary. While the fifth study, a 1982 study by the District of Columbia Court System Study Committee of the District of Columbia Bar, recommended adding temporary judges to the court of appeals as an alternative, the respected chairman of that committee, Mr. Charles A. Horsky, has subsequently stated that his committee's conclusions were based on caseload assumptions that proved incorrect—they were too low—and he has endorsed the creation of a three-tiered court system.

With such broad support and the benefit of a substantial amount of previous study, it is time for the Senate to begin deliberating this issue. Clearly there are issues that still need to be resolved. At present, for example, the bill provides for seven Supreme Court justices. Reducing that number to five would certainly be less costly, but it also may increase the risk that, due to

recusals, the court may become too small to function properly. We also need to examine more closely the amount of authorization that should be provided under this legislation.

I realize also, Mr. President, that the Department of Justice has taken the position that creating a Supreme Court is unnecessary and that the appellate process and caseload can be streamlined through other means. My mind is not closed, Mr. President, for it is not my goal to create a new tier of court just to do so. If the appellate process and the time available to the court of appeals for law clarification work can be improved without creating a Supreme Court, then we should do so. But the chief judges, Mayor, corporation counsel, and local bar associations have made a compelling prima facie case that a Supreme Court is needed.

This bill does not include the provisions on judicial magistrates that are contained in the version of this bill now being considered by the House of Representatives Committee on the District of Columbia. I am not rejecting these magistrate provisions at this time. However, the proper scope and shape of these provisions is not sufficiently clear at this time to include them in this bill at the time of introduction. They can always be added later during committee deliberations.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2869

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "District of Columbia Judicial Reorganization Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

#### TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

Sec. 101. Establishment of Supreme Court of the District of Columbia.

Sec. 102. Transition provisions.

Sec. 103. Conforming and other amendments.

Sec. 104. Authorization of appropriations.

Sec. 105. Effective date.

#### TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

Sec. 201. Designation of chief judge.

Sec. 202. Composition of Superior Court of the District of Columbia.

Sec. 203. Study of feasibility of establishing District of Columbia Night Court.

Sec. 204. Effective date.

#### TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

#### SECTION 101. ESTABLISHMENT OF SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Title 11 of the District of Columbia Code is amended by adding after chapter 5 the following new chapter 6:

"CHAPTER 6. SUPREME COURT OF THE DISTRICT OF COLUMBIA.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"Sec.

"11-601. Establishment; court of record; seal.

"11-602. Composition.

"11-603. Justices; service; compensation.

"11-604. Oath of justices.

"11-605. Term; hearings; quorum.

"11-606. Absence, disability, or disqualification of justices; vacancies.

"11-607. Assignment of justices and judges to and from other courts of the District of Columbia.

"11-608. Clerks and secretaries for justices.

"11-609. Reports.

"SUBCHAPTER II. JURISDICTION.

"11-621. Certification to the Supreme Court of the District of Columbia.

"11-622. Review by the Supreme Court of the District of Columbia.

"11-623. Certification of questions of law.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS.

"11-641. Contempt powers.

"11-642. Oaths, affirmations, and acknowledgments.

"11-643. Rules of court.

"11-644. Judicial conference.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"§ 11-601. Establishment; court of record; seal.

"(a) The Supreme Court of the District of Columbia (hereafter in this chapter referred to as 'the court') is hereby established as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11-602. Composition.

"The court shall consist of a chief justice and 6 associate justices.

"§ 11-603. Justices; service; compensation.

"(a) The chief justice and the justices of the court shall serve in accordance with chapter 15 of this title.

"(b) Justices of the court shall be compensated at 90 percent of the rate prescribed by law for justices of the United States Supreme Court. The chief justice shall receive \$3,000 per year in addition to the salary of other justices of the court.

"§ 11-604. Oath of justices.

"Each justice, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11-605. Term; hearings; quorum.

"(a) The court shall sit in one term each year for such period as it may determine.

"(b) The court shall sit in banc to hear and determine cases and controversies, except that the court may sit in divisions of 3 justices to hear and determine cases and controversies certified for review under section 11-621 if the court determines that subsection (b)(2) of such section is the exclusive basis for such certification. The court in banc for a hearing shall consist of the justices of the court in regular active service.

"(c) A majority of the justices serving shall constitute a quorum.

"(d) A rehearing before the court may be ordered by a majority of the justices of the court in regular active service. The court in banc for a rehearing shall consist of the justices of the court in regular active service.

"§ 11-606. Absence, disability, or disqualification of justices; vacancies.

"(a) When the chief justice of the court is absent or disabled, the duties of the chief

justice shall devolve upon and be performed by such associate justice as the chief justice may designate in writing. In the event that the chief justice is (1) disqualified or suspended, or (2) unable or fails to make such a designation, such duties shall devolve upon and be performed by the associate justices of the court according to the seniority of their original commissions.

"(b) A chief justice whose term as chief justice has expired shall continue to serve until redesignated or until a successor has been designated. When there is a vacancy in the position of chief justice the position shall be filled temporarily as provided in the second sentence of subsection (a).

"§ 11-607. Assignment of justices and judges to and from other courts of the District of Columbia.

"(a) Upon presentation of a certificate of necessity by the chief judge of the District of Columbia Court of Appeals, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia or one or more judges of the Superior Court of the District of Columbia to serve on the District of Columbia Court of Appeals or a division thereof whenever the business of the District of Columbia Court of Appeals so requires. Such designations or assignments shall be in conformity with the rules or orders of the District of Columbia Court of Appeals.

"(b) Upon presentation of a certificate of necessity by the chief judge of the Superior Court of the District of Columbia, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia or one or more judges of the District of Columbia Court of Appeals to serve as a judge of the Superior Court of the District of Columbia.

"§ 11-608. Clerks and secretaries for justices.

"Each justice may appoint and remove a personal secretary. The chief justice may appoint and remove not more than three personal law clerks, and each associate justice may appoint and remove not more than two personal law clerks. In addition, the chief justice may appoint and remove law clerks for the court and law clerks and secretaries for the senior justices. The law clerks appointed for the court shall serve as directed by the chief justice.

"§ 11-609. Reports.

"Each justice shall submit to the chief justice such reports and data as the chief justice may request.

"SUBCHAPTER II. JURISDICTION.

"§ 11-621. Certification to the Supreme Court of the District of Columbia.

"(a) In any case or class of cases in which an appeal has been taken to or filed with the District of Columbia Court of Appeals, the Supreme Court of the District of Columbia, by order of the Supreme Court sua sponte, or, in its discretion, on motion of the District of Columbia Court of Appeals or of any party, may certify the case or class of cases for review by the Supreme Court before it has been determined by the District of Columbia Court of Appeals. The effect of such certification shall be to transfer jurisdiction over the case or class of cases to the Supreme Court of the District of Columbia for all purposes.

"(b) Such certification may be made only if not less than 3 of the justices of the Supreme Court of the District of Columbia determine that—

"(1) the case or class of cases involves a question that is novel or difficult or is of importance in the general public interest or the administration of justice; or

"(2) the case or class of cases was pending in the District of Columbia Court of Appeals on the effective date of this section and, because the justices of the Supreme Court of the District of Columbia were familiar with the case or class of cases while serving as judges of the District of Columbia Court of Appeals, the sound and efficient administration of justice dictates that the case or class of cases be certified for review by the Supreme Court of the District of Columbia.

"§ 11-622. Review by the Supreme Court of the District of Columbia.

"(a) Any party aggrieved by a final decision of the District of Columbia Court of Appeals may petition the Supreme Court of the District of Columbia for an appeal. Such a petition may be granted and appeal be heard by the Supreme Court of the District of Columbia only upon the affirmative vote of not less than 3 of the justices that the matter involves a question that is novel or difficult, is the subject of conflicting authorities within the jurisdiction, or is of importance in the general public interest or the administration of justice. The granting of such petitions for appeal shall be in the discretion of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall not be required to state reasons for denial of petitions for appeal.

"(b) On hearing an appeal in any case or controversy, the Supreme Court of the District of Columbia shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11-623. Certification of questions of law.

"(a) The Supreme Court of the District of Columbia may answer a question of law of the District of Columbia certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if—

"(1) such question of law may be determinative of the case pending in such a court; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon such court's motion or upon the motion of any party to the case.

"(c) A certification order under this section shall—

"(1) describe the question of law to be answered;

"(2) contain a statement of all facts relevant to the question certified and the nature of the controversy in which the questions arose; and

"(3) upon the request of the Supreme Court of the District of Columbia contain the original or copies of the record of the case in question or of any portion of such record as the Supreme Court of the District of Columbia considers necessary to determine the questions of law which are the subject of the motion.

"(d) Fees and costs shall be the same as in appeals docketed before the Supreme Court of the District of Columbia and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(e) The written opinion of the Supreme Court of the District of Columbia stating the

law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(f) The Supreme Court of the District of Columbia, on its own motion, the motion of the District of Columbia Court of Appeals, or the motion of any party to a case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals, may order certification of a question of law of another State to the highest court of such State if, in the view of the Supreme Court of the District of Columbia—

"(1) such question of law may be determinative of the case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the appellate courts of the State to which the order of certification is directed.

"(g) The Supreme Court of the District of Columbia may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS.

**"§ 11-641. Contempt powers.**

"In addition to the powers conferred by section 402 of title 18, United States Code, the Supreme Court of the District of Columbia, or a justice thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

**"§ 11-642. Oaths, affirmations, and acknowledgments.**

"Each justice of the Supreme Court of the District of Columbia and each employee of the court authorized by the chief justice may administer oaths and affirmations and take acknowledgments.

**"§ 11-643. Rules of court.**

"The Supreme Court of the District of Columbia shall conduct its business in accordance with such rules and procedures as the court shall adopt.

**"§ 11-644. Judicial conference.**

"The chief justice of the Supreme Court of the District of Columbia shall summon annually the justices and active judges of the District of Columbia courts to a conference at a time and place that the chief justice designates, for the purpose of advising as to means of improving the administration of justice within the District of Columbia. The chief justice shall preside at such conference which shall be known as the Judicial Conference of the District of Columbia. Each justice and judge summoned, unless excused by the chief justice of the Supreme Court of the District of Columbia, shall attend throughout the conference. The Supreme Court of the District of Columbia shall provide by its rules for representation of and active participation by members of the unified District of Columbia Bar and other persons active in the legal profession at such conference."

**SEC. 102. TRANSITION PROVISIONS.**

(a) ELEVATION OF JUDGES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS JUSTICES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) Except as provided in paragraph (2), beginning on the effective date of this title the chief judge of the District of Columbia Court of Appeals shall serve the remainder of the term to which he or she was appointed as the chief justice of the Supreme Court of the District of Columbia and the associate judges of the District of Columbia Court of Appeals shall serve the remainder of the respective terms to which they were appointed

as associate justices of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall conform to the numerical requirements of section 11-602 of the D.C. Code through attrition. Vacancies in the offices of chief judge and associate judge of the District of Columbia Court of Appeals shall be filled in accordance with chapter 15 of title 11 of the D.C. Code.

(2) Any judge of the District of Columbia Court of Appeals may serve the remainder of the term to which he or she was appointed as a judge of that court by providing written notice to the chief judge of the District of Columbia Court of Appeals not less than 30 days after the date of the enactment of this Act.

**(b) TRANSITION PERIOD FOR THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—**

(1) A committee consisting of the chief judge of the District of Columbia Court of Appeals together with 2 other judges of such court and the chief judge of the Superior Court of the District of Columbia together with 2 other judges of such court shall be responsible for the administration of the period of transition prior to the establishment of the Supreme Court of the District of Columbia, including the hiring of necessary staff, the preparation of facilities, and the purchase of necessary equipment and supplies.

(2) Not more than 120 days after the date of the enactment of this Act, the committee referred to in paragraph (1) shall submit to the Committee on Governmental Affairs of the Senate and the Committee on the District of Columbia of the House of Representatives a transition report, consistent with this Act, regarding the establishment of the Supreme Court of the District of Columbia and the filling of vacancies in the District of Columbia Court of Appeals resulting from the elevation of the judges of such court to positions on the Supreme Court of the District of Columbia pursuant to subsection (a).

(3) This subsection shall take effect on the date of the enactment of this Act.

**SEC. 103. CONFORMING AND OTHER AMENDMENTS.**

(a) AMENDMENTS TO THE HOME RULE ACT.—

(1) Section 431(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in the first sentence by inserting "Supreme Court of the District of Columbia," after "vested in the"; and

(B) by adding after the fourth sentence the following: "The Supreme Court of the District of Columbia has jurisdiction of appeals from the District of Columbia Court of Appeals and of cases certified to the Supreme Court under section 11-621(a), District of Columbia Code."

(2) Section 431 of such Act is further amended in subsections (b), (c), and (g)—

(A) by inserting "chief justice or" before "chief judge" each place it appears;

(B) by inserting "justice or" before "judge" each place it appears;

(C) by inserting "justices or" before "judges" each place it appears; and

(D) by inserting "chief justice's or" before "chief judge's" each place it appears.

(3) Section 432 of such Act is amended—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(C) in subsection (a)(1) by striking "law or which would be a felony in the District" and inserting "law or the laws of the District of Columbia".

(4) Section 433 of such Act is amended—

(A) in the heading by inserting "JUSTICES AND" before "JUDGES";

(B) by inserting "justices and" before "judges" each place it appears; and

(C) by inserting "justice or" before "judge" each place it appears.

(5) Section 434 of such Act is amended in subsections (b)(3) and (d)—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by inserting "justices or" before "judges" each place it appears; and

(C) by inserting "justice's or" before "judge's" each place it appears.

(b) AMENDMENTS TO CHAPTER 1 OF TITLE 11, D.C. CODE.—

(1) Section 11-101(2), D.C. Code, is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by adding before subparagraph (B) (as so redesignated) the following:

"(A) The Supreme Court of the District of Columbia."

(2) Section 11-102, D.C. Code, is amended to read as follows:

**"§ 11-102. Status of Supreme Court of the District of Columbia.**

"The highest court of the District of Columbia is the Supreme Court of the District of Columbia. Final judgments and orders of the Supreme Court of the District of Columbia and of the District of Columbia Court of Appeals where review is denied by the Supreme Court of the District of Columbia are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28, United States Code."

(3) The item relating to section 11-102 of the table of contents of chapter 1 of title 11, D.C. Code, is amended to read as follows:

"11-102. Status of Supreme Court of the District of Columbia."

(c) AMENDMENTS TO CHAPTER 7 OF TITLE 11, D.C. CODE.—

(1) Chapter 7 of title 11, D.C. Code, is amended by striking sections 11-707, 11-723, and 11-744 and by striking the items relating to such sections in the table of contents of such chapter.

(2) Section 11-703(b), D.C. Code, is amended by striking "\$500" and inserting "\$2,500".

(3) Section 11-708, D.C. Code, is amended by striking "not more than three law clerks for the court." and inserting "law clerks for the court and law clerks and secretaries for the senior judges."

(4) Section 11-722, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(5) Section 11-743, D.C. Code, is amended by striking "according to" and all that follows and inserting "in accordance with such rules and procedures as it may adopt."

(d) AMENDMENTS TO CHAPTER 9 OF TITLE 11, D.C. CODE.—

(1) Section 11-904(b), D.C. Code, is amended by striking "\$500" and inserting "\$2,500".

(2) Section 11-908(b), D.C. Code, is amended to read as follows:

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief justice of the Supreme Court of the District of Columbia the need for an additional judge or judges as provided in section 11-607 and 11-707."

(3) Section 11-910, D.C. Code, is amended by adding at the end the following new sentence: "In addition, the chief judge may appoint and remove law clerks for the court, who shall serve as directed by the chief judge."

(4) Section 11-946, D.C. Code, is amended by striking "District of Columbia Court of Ap-

peals" each place it appears in the second and third sentences and inserting "Supreme Court of the District of Columbia".

(e) AMENDMENTS TO CHAPTER 15 OF TITLE 11, D.C. CODE.—

(1) Section 11-1501, D.C. Code, is amended to read as follows:

**"§ 11-1501. Appointment and qualifications of judges.**

"(a) Except as provided in section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the President shall nominate, from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under section 434 of such Act, and, by and with the advice and consent of the Senate, appoint all justices and judges of the District of Columbia courts.

"(b) No person may be nominated or appointed a justice or judge of a District of Columbia court unless that person—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding nomination or for such five years has served as a judge of the United States or the District of Columbia, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to nomination, and shall retain such residency as long as he or she serves as such judge, except judges appointed prior to December 23, 1973, who retain residency in Montgomery or Prince George's Counties in Maryland, Arlington or Fairfax Counties (or any cities within the outer boundaries thereof) or the city of Alexandria in Virginia shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

"(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

"(5) has not served, within a period of 2 years prior to nomination, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure or of the District of Columbia Judicial Nomination Commission."

(2) Section 11-1504(a)(1), D.C. Code, is amended by striking the period at the end of the first sentence and inserting the following: ", except that a retired judge may not serve or perform judicial duties on the Supreme Court of the District of Columbia."

(3) Section 11-1505(a), D.C. Code, is amended in the second sentence by striking "District" and all that follows and inserting "court of the District of Columbia on which the judge serves."

(4) Subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following new section:

**"§ 11-1506. Definitions.**

"For purposes of this chapter—

"(1) the term 'judge' means any justice of the Supreme Court of the District of Columbia, or any judge of the District of Columbia Court of Appeals or the Superior Court; and

"(2) the term 'chief judge' means the chief justice of the Supreme Court of the District of Columbia, or the chief judges of the District of Columbia Court of Appeals or the Superior Court, as appropriate."

(5) Section 11-1526, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(6) Section 11-1528, D.C. Code, is amended by subsection (a)(2)(C) by inserting "the Supreme Court of the District of Columbia or" after "elevation to".

(7) Section 11-1529, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(8) Section 11-1561, D.C. Code, is amended—

(A) in paragraph (1), by inserting "any justice of the Supreme Court of the District of Columbia," before "any judge"; and

(B) in paragraph (2), by inserting "a justice in the Supreme Court of the District of Columbia," before "a judge".

(9) The table of sections for subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following:

"11-1506. Definitions."

(f) AMENDMENTS TO CHAPTER 17 OF TITLE 11, D.C. CODE.—

(1) Section 11-1701, D.C. Code, is amended—

(A) by amending subsection (a) to read as follows:

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of the chief justice of the Supreme Court of the District of Columbia (who shall serve as chairperson) and two other justices of such court, the chief judge of the District of Columbia Court of Appeals, and the chief judge of the Superior Court of the District of Columbia and two additional judges of such court."

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:

"(4) Preparation and publication of an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and any recommendations relating to the courts."

(ii) by striking paragraphs (6) and (9) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7); and

(C) in subsection (c)—

(i) by amending paragraph (2) to read as follows:

"(2) formulate and enforce standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system;"

(ii) in paragraph (3), by striking ", and institute such changes" and all that follows through "justice",

(iii) by striking "and" at the end of paragraph (3),

(iv) by striking the period at the end of paragraph (4) and inserting a semicolon, and

(v) by adding at the end the following new paragraphs:

"(5) submit the annual budget requests of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court to the Mayor of the District of Columbia as part of the integrated budget of the District of Columbia court system, except that any such request may be modified upon the concurrence of 5 of the 7 members of the Joint Committee; and

"(6) with the concurrence of the chief justice of the Supreme Court of the District of Columbia and the respective chief judges of the other District of Columbia courts, pre-

pare and implement other policies and practices for the District of Columbia court system and resolve other matters which may be of joint and mutual concern of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court."

(2) Section 11-1702, D.C. Code, is amended—

(A) in the heading, by inserting "the chief justice and the" after "of";

(B) by redesignating subsections (a) and (b) as subsections (b) and (c); and

(C) by inserting before subsection (b) the following new subsection:

"(a) The chief justice of the Supreme Court of the District of Columbia, in addition to the authority conferred by chapter 6 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b).

consistent with the general policies and directives of the Joint Committee."

(3) Section 11-1703(a), D.C. Code, is amended—

(A) by striking "He" each place it appears and inserting "The Executive Officer"; and

(B) in the fourth sentence, by striking "judges" and inserting "judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia".

(4) Section 11-1721, D.C. Code, is amended by amending the matter following the heading to read as follows:

"(a) The Supreme Court of the District of Columbia shall have a clerk appointed by the chief justice of that court who shall, under the direction of the chief justice, be responsible for the daily operations of that court and serve as the clerk of the District of Columbia Court of Appeals.

"(b) The Superior Court of the District of Columbia shall have a clerk appointed by the chief judge of that court who shall, under the direction of the chief judge, be responsible for the administration of that court.

"(c) Each such clerk appointed under this section shall receive a level of compensation, including retirement benefits, determined by the Joint Committee on Judicial Administration, except that such level may not exceed the level of compensation provided for the Executive Officer."

(5) Section 11-1730(a), D.C. Code, is amended—

(A) by striking "Judges" and inserting "Justices and judges";

(B) by inserting "11-609," after "sections"; and

(C) by inserting "chief justice or" after "respective".

(6) Section 11-1731, D.C. Code, is amended—

(A) by striking "or the chief judge" and inserting ", the chief justice, or the chief judges";

(B) in paragraph (7), by striking "the District of Columbia Ball Agency" and inserting "the District of Columbia Pre-trial Services Agency";

(C) by inserting "and" at the end of paragraph (9); and

(D) by striking paragraphs (10) and (11) and inserting the following:

"(10) the Department of Human Services."

(7) Section 11-1741, D.C. Code, is amended—

(A) by amending the matter preceding paragraph (1) to read as follows: "Within the

District of Columbia courts, and subject to the supervision of the chief justice of the Supreme Court of the District of Columbia (acting in consultation with the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia), the Executive Officer shall—

(B) by inserting "chief justice or" before "chief" each place it appears in paragraphs (5), (7), and (9);

(C) by striking "and" at the end of paragraph (8);

(D) by striking the period at the end of paragraph (9) and inserting "; and"; and

(E) by adding at the end the following:

"(10) be responsible for the allocation, negotiation for, and provision of space in the courts."

(8) Section 11-1745(b)(2), D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(9) Section 11-1747, D.C. Code, is amended by striking "him" and inserting "the Executive Officer".

(10) The table of sections for subchapter I of chapter 17 of title 11, D.C. Code, is amended by amending the item relating to section 11-1702 to read as follows:

"11-1702. Responsibilities of the chief justice and the chief judges in the respective courts."

(g) AMENDMENTS TO CHAPTER 25 OF TITLE 11, D.C. CODE.—

(1) Section 11-2501, D.C. Code, is amended—

(A) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(B) by amending subsection (c) to read as follows:

"(c) Members of the bar of the District of Columbia Court of Appeals in good standing on the effective date of title I of the District of Columbia Judicial Reorganization Act of 1992 shall be automatically enrolled as members of the bar of the Supreme Court of the District of Columbia, and shall be subject to its disciplinary jurisdiction."

(2) Section 11-2502, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(3) Section 11-2503, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(4) Section 11-2504, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "other courts of the District of Columbia".

(h) AMENDMENT TO CHAPTER 26 OF TITLE 11, D.C. CODE.—Section 11-2607, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(i) AMENDMENT TO CHAPTER 3 OF TITLE 13, D.C. CODE.—Section 13-302, D.C. Code, is amended by inserting "the Supreme Court of the District of Columbia," after "process of".

(j) AMENDMENTS TO CHAPTER 3 OF TITLE 17, D.C. CODE.—

(1) The chapter heading for chapter 3 of title 17, D.C. Code, is amended to read as follows: "SUPREME COURT OF THE DISTRICT OF COLUMBIA AND DISTRICT OF COLUMBIA COURT OF APPEALS".

(2) Section 17-302, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(3) Section 17-305, D.C. Code, is amended by adding at the end the following new subsection:

"(c) The Supreme Court of the District of Columbia shall apply the same standards regarding the scope of review and the reversal of judgment as the District of Columbia Court of Appeals applies under subsections (a) and (b)."

(4) Section 17-306, D.C. Code, is amended by inserting "Supreme Court of the District of Columbia or the" before "District".

(k) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5102(c)(4) of title 5, United States Code, is amended by striking "the chief judges" and inserting "the chief justice and the associate justices of the Supreme Court of the District of Columbia and the chief judges".

(l) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—(1) Section 3006a(k) of title 18, United States Code, is amended in the second sentence by striking "the Superior Court" and all that follows and inserting "the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, or the Superior Court of the District of Columbia."

(2) Section 6001(4) of title 18, United States Code, is amended by inserting "the Supreme Court of the District of Columbia," before "the District of Columbia Court of Appeals."

(m) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—(1) Section 1257 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(2) Section 2113 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized to be appropriated to the District of Columbia, there are authorized to be appropriated to the District of Columbia for costs incurred by the District of Columbia in implementing the amendments made by sections 101 and 103 and in carrying out section 102 the following amounts:

(1) \$1,200,000 for fiscal year 1993.

(2) \$5,000,000 for fiscal year 1994.

(3) \$4,000,000 for fiscal year 1995.

(4) \$3,000,000 for fiscal year 1996.

(5) \$2,000,000 for fiscal year 1997.

(6) \$1,000,000 for fiscal year 1998.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization referred to in subsection (a) shall remain available to the District of Columbia until expended.

SEC. 105. EFFECTIVE DATE.

Except as provided in section 102, this title and the amendments made by this title shall take effect 6 months after the date of enactment of this Act.

SEC. 106. SEVERABILITY.

If any provision of this Act shall be held invalid, the remaining provisions shall not be affected thereby.

## TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

SEC. 201. DESIGNATION OF CHIEF JUDGE.

Section 11-1503(a), D.C. Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the chief justice or chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nomination Commission from among the judges of the court in regular active service. A chief judge shall serve for a term of 4 years or until a

successor is designated, and shall be eligible for redesignation. A judge may relinquish the position of chief judge, after giving notice to the District of Columbia Judicial Nomination Commission.

"(2) Notwithstanding the first sentence of paragraph (1), the first chief justice of the Supreme Court of the District of Columbia shall be appointed in accordance with section 102(a) of the District of Columbia Judicial Reorganization Act of 1992."

SEC. 202. COMPOSITION OF SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Section 11-903, D.C. Code, as amended by section 138 of the District of Columbia Appropriations Act, 1990, is amended—

(1) by striking "Subject to the enactment of authorizing legislation, the" and inserting "The";

(2) effective October 1, 1992, by striking "fifty-eight" and inserting "sixty"; and

(3) effective October 1, 1993, by striking "sixty" and inserting "sixty-two".

SEC. 203. STUDY OF FEASIBILITY OF ESTABLISHING DISTRICT OF COLUMBIA NIGHT COURT.

(a) STUDY.—The Executive Officer of the District of Columbia courts shall conduct a study of the feasibility and desirability of establishing a District of Columbia Night Court as a division of the Superior Court of the District of Columbia.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Executive Officer shall submit a report on the study conducted under subsection (a) to the Joint Committee on Judicial Administration in the District of Columbia, which shall forward the study together with any comments and recommendations to Congress not later than 180 days after the date of the enactment of this Act.

SEC. 204. EFFECTIVE DATE.

Except as provided in section 202, the amendments made by sections 201 and 202 shall take effect on the date of the enactment of this Act.♦

By Mr. RUDMAN (for himself, Mr. KENNEDY, Mr. COHEN, Mr. DODD, Mr. PACKWOOD, Mr. ADAMS, Mr. WELLSTONE, Mr. METZENBAUM, Mr. HATFIELD, and Mr. HARKIN):

S. 2870. A bill to authorize appropriations for the Legal Services Corporation; to the Committee on Labor and Human Resources.

LEGAL SERVICES REAUTHORIZATION ACT

Mr. RUDMAN. Mr. President, I am pleased today to join Senator KENNEDY, the distinguished chairman of the Labor and Human Resources Committee, and Senators COHEN, DODD, PACKWOOD, ADAMS, WELLSTONE, METZENBAUM, HATFIELD, and HARKIN in introducing legislation to reauthorize the Legal Services Corporation.

The program of providing civil legal services to the poor was last reauthorized in 1977. That authorization expired in 1981. Since that time, the program has been continued and revised in appropriations acts. It is time for this program to be properly reauthorized and the action of the House of Representatives in passing H.R. 2039, the Legal Services Reauthorization Act of 1992 by a vote of 253 to 154 on May 12, clears the way for the Senate to act ex-

peditiously on this bipartisan legislative initiative which builds upon the effective compromise on legal services that has evolved over the last 12 years.

Mr. President, when I came to the Senate in 1981, support for the Legal Services Corporation was at an all-time low. The administration was proposing to abolish the Corporation and legal services programs were being criticized for engaging in political activities that were not central to their primary purpose of providing bread and butter legal services to the poor. Much of my time in the Senate over the last 12 years, has been devoted to ensuring that the program of providing basic legal representation to the poor in family law matters, housing disputes, and so forth was continued. This was accomplished through a multiyear, bipartisan effort to enact reforms in the program and to ensure that the Legal Services Corporation, a nonprofit corporation in the District of Columbia, properly carried out this program of reform. Beginning in 1982 and continuing through the present time, appropriations acts providing funding for the Legal Services Corporation have carried a series of riders specifying the manner in which the Corporation and its grantees would provide legal services to the poor.

Mr. President, these appropriations riders have instituted programmatic reforms by placing restrictions on class action suits, legislative and administrative advocacy, the representation of aliens, and certain training activities previously undertaken by legal services programs. By requiring that a majority of the board of directors of each legal services program be appointed by the bar associations representing a majority of the attorneys in the area served by the program, we have ensured that programs are responsive to the civil legal needs of the poor in their local areas and reflect local priorities.

Unfortunately, the members of the Board of Directors of the Legal Services Corporation and its staff in the past have not always been committed to preserving a system of legal services for the poor. As a result, appropriations riders have also placed controls on the actions of the Corporation itself, which oversees the 325 local nonprofit providers of legal services, along with a series of State support units, 16 national support centers, a national clearinghouse, law school clinics, and other training and technical assistance projects. One rider has subjected Corporation regulations to reprogramming guidelines to provide an opportunity for review of regulatory proposals prior to their implementation by the appropriate committees of Congress. In some instances, Congress, through the appropriations process, has prohibited the Corporation from taking certain actions which would have been detrimental to legal services programs. In other

cases, Congress has, within certain parameters, permitted the Corporation to experiment with the development of innovative ways to provide legal services to the poor. For example, law school clinics were developed and implemented under the guidance of the Appropriations Committee as was the current effort under way at the Corporation to assess the value of incentives to spur competition among programs.

The bill Senator KENNEDY and I are introducing today incorporates many of the appropriations restrictions into the Legal Services Act. I ask unanimous consent that a summary of the bill and the changes it makes to the House bill and existing law be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. RUDMAN. Mr. President, as I prepare to leave the Senate, I am reassured that the current Board of Directors of the Legal Services Corporation under the leadership of such distinguished attorneys as LSC Chairman George Wittgraf from Iowa, and Board members Howard Dana from Maine, Basile Uddo from Louisiana, and my good friend Tom Rath from New Hampshire, is committed to providing high quality legal assistance to meet the civil legal needs of our Nation's poor. The time has come to reach a bipartisan agreement on the reauthorization of this important program. Senator KENNEDY has set a hearing date of June 23 for consideration of the measure by the Labor and Human Resources Committee. I look forward to working with him and the distinguished ranking Republican member of the Committee, Senator HATCH, who was instrumental in originally helping to develop many of the forms which are incorporated in this important legislation. I am hopeful that we will have an act reauthorizing the Legal Services Corporation signed into law before the 102d Congress adjourns sine die.

#### EXHIBIT 1

##### SUMMARY—LEGAL SERVICES CORPORATION REAUTHORIZATION

What the Rudman-Kennedy bill would do: In substantial part, the bill is similar or identical to the bill and codifies many of the riders that are now a part of the annual appropriations for LSC. A section by section analysis of the bill and its changes from the House bill follows:

Sec. 1. Short Title and Table of Contents. Conforming change to table of contents.

Sec. 2. Reference to Legal Services Corporation Act. Technical change to House-passed bill.

Sec. 3. Authorization of Appropriations. Authorizes such sums as may be necessary for each of fiscal years 1993-1997. House bill covers fiscal years 1992-1996.

Sec. 4. Protection Against Theft and Fraud. No substantive changes to House bill which applies federal fraud and embezzlement statutes to LSC and to recipients, grantees or contractors of the Corporation. Clarifies that LSC funds are federal funds for

the purpose of all federal criminal laws and subject to federal audit provisions and the False Claims Act, except for quitam provisions. Technical changes to House bill.

Sec. 5. Prohibitions on Lobbying. Maintains the 1984 Congressional compromise on legislative lobbying and participation in administrative rulemaking. Similar to House bill. Same as the Appropriations rider (existing law), except that LSC grantees would be permitted to engage in self-help lobbying on legal services issues, as permitted by House bill.

Sec. 6. Enforcement, Sanctions, and Monitoring. Four substantive changes to House bill outlined below; several technical changes.

(1) The Senate bill deletes the 30-day time limitation in which the Corporation may undertake an investigation following a written request alleging a violation of the LSC statute or a rule, regulation, or guideline of the Corporation. No time limitation is imposed by Senate bill.

(2) The Senate bill restores language in the House Committee-reported bill that was deleted on House floor which provides protections from disclosure in the monitoring and evaluation process of certain private and personal employee records.

(3) The Senate bill modifies the existing law prohibition against legal services employees engaging in any activity in violation of an outstanding court injunction to clarify that the determination of whether an injunction has been violated should be made by the Court. This issue was not addressed by the House bill.

(4) The Senate bill clarifies current law to require that the annual financial audit of local programs must be an independent audit. The language authorizes the Corporation to conduct additional separate audits, the cost of which would be borne by the Corporation. Issue not addressed by the House bill.

Both bills give the Corporation explicit authority to defund grantees for cause (failure to comply with the Act or failure to provide economical and effective legal assistance) after providing notice and an opportunity for a hearing; lay out a process for evaluating and monitoring legal services grant recipients; require the Corporation to look at the grantee performance in terms of the quality of legal assistance provided; and clarify that the Corporation's authority to impose restrictions on the representation of legal services clients does not extend beyond the powers granted to the Corporation by the statute. The Corporation is permitted, as under existing law, to deny an application for refunding; however, provisions have been included to prevent terminations, suspensions or reductions in funding in excess of 5 percent or \$20,000 unless the recipient has been afforded reasonable notice and a hearing. This section also provides the LSC Inspector General with the same authority as he has under the Inspector General Act.

Sec. 7. Class Actions. Maintains existing law on class action suits which precludes filing suit against governmental entities unless they have been notified and reasonable efforts to resolve the matter without litigation have not been successful. Senate bill removes one clause in House bill to conform the restrictions on class actions to the appropriations rider (existing law) and clarifies that the section applies to LSC funds.

Sec. 8. Negotiation Requirement. Requires that recipients adopt policies consistent with applicable ethical rules, to encourage staff to attempt to negotiate settlements

and to use Alternative Dispute Resolution (ADR) where appropriate and available. Amends the House language on ADR to encourage, rather than require, its use.

Sec. 9. Prohibition on Use of Funds for Redistricting. Continues existing prohibitions on redistricting litigation at local, state or federal levels; deletes House language regarding the timing or taking of a census.

Sec. 10. Restrictions on Use of Funds for Legal Assistance to Aliens. Incorporates the appropriations rider restrictions on the use of LSC funds for representation of aliens and expands the categories of aliens who can be represented to reflect recent amendments to federal law providing for the representation of all aliens authorized to work in the U.S., family unity aliens, aliens eligible for treatment of emergency medical conditions under Medicaid, and aliens in foster care. Provisions affecting aliens in foster care and certain aliens granted INS work authorization are expansions on the House bill. The Senate bill also makes some technical changes to correct drafting errors.

Sec. 11. Governing Bodies of Recipients. The Senate bill makes one change to the House bill which incorporates the appropriations rider on governing bodies into the LSC Act and applies the rider to any LSC recipient which has as one of its purposes the provision of legal assistance. The Senate bill would apply the requirement for one-third eligible clients to those recipients who have their primary purpose the provision of legal assistance (existing law requirement). Several technical changes to House bill are included.

Sec. 12. Professional Responsibilities. No changes to House bill which updates the Act to incorporate changes made in the rules of professional responsibility by the American Bar Association and state bar associations and to require programs to follow rules of ethics and professional responsibility that apply in their local jurisdictions.

Sec. 13. Solicitation. Deletes House section on solicitation. Replaces section with provisions setting forth conditions under which LSC attorneys can engage in the outside practice of law, codifying existing LSC regulation (45 C.F.R. Part 1604) which bans the outside practice of law except under certain conditions.

Sec. 14. Certain Eviction Proceedings. No substantive changes to House bill which prohibits the representation of convicted drug dealers in public housing eviction proceedings. Several technical changes.

Sec. 15. Procedural Safeguards for Litigation. No substantive changes to House bill which requires programs to obtain a written retainer agreement signed by the plaintiffs before engaging in precomplaint settlement negotiations or pursuing litigation which requires recipients to disclose plaintiff identify in litigation, absent a court order permitting a "John Doe" complaint. One technical change to fix drafting error.

Sec. 16. Competition Study. Requires LSC to study the feasibility of the use of competition in the delivery of legal services and related activities. Makes minor changes to House bill to permit the Corporation to continue the competition study already underway by the LSC Board of Directors and to expand representation on the competition advisory board.

Sec. 17. Training. Makes minor and technical change to make House bill conform to appropriations rider/existing law.

Sec. 18. Limitation on Use Amendments. No changes to House bill. Eliminates restriction on use of funds for school desegregation litigation.

Sec. 19. Recordkeeping and Non-Corporation Funds. Deletes Section 19 of House bill and replaces it with the following: (1) Under current law, LSC funds are restricted by the LSC Act and the appropriations rider; non-LSC public funds are not subject to any statutory restrictions, and private funds are exempt from the appropriations rider but covered by the LSC Act. The Senate bill continues all restrictions on LSC funding but deregulates private funding. (2) Senate bill replaces House timekeeping provisions with language requiring LSC grantees to follow time and recordkeeping requirements established by the Office of Management and Budget in Circular A-122 (Cost Principles for Nonprofit Organizations).

Sec. 20. Evasion. Prohibits the use of alternative corporations to evade provisions of the LSC Act. The Senate bill makes one modification to clarify that sharing staff does not constitute the establishment of an alternative corporation. Several technical changes are also included.

Sec. 21. Fee-Generating Case Provisions. No changes to House bill which is consistent with existing restrictions on fee generating cases, the Corporation regulation at 45 CFR 1609.5 and the appropriations rider. Language prohibits receipt of attorneys' fees in Social Security retirement and SSI disability cases. Consistent with the Appropriations rider, language prevents the Corporation from taking any action to impose a recapture provision or otherwise offsetting attorney's fees against Legal Services grant or contract funds.

Sec. 22. Attorney's Fees Provisions. Senate bill deletes House provisions permitting courts to assess LSC programs with reasonable costs and attorney's fees incurred by defendants in certain instances. Courts currently have the ability to assess these sanctions. Senate bill has LSC attorneys play by same rules as other attorneys.

Senate bill replaces section with new language defining political activity and clarifying the existing law prohibition against such activity.

Sec. 23. Corporation Board Control Over Policy. No substantive changes to House bill which amends the LSC Act to clarify that the Board of Directors of the Corporation has the responsibility to establish policy and impose grant conditions. One technical change.

Sec. 24. Reprogramming Provisions. No changes to House bill, which is consistent with existing law (appropriations rider) requiring the Corporation to notify committees of Congress fifteen days prior to the publication of final rules or regulations.

Sec. 25. 12-Month Grants. Technical change to House section providing that grants are made on a 12-month basis. Senate change conforms bill to Senate authorization period (FY 1993-1997) established in Section 3.

Sec. 26. Establishment of Local Priorities. No substantive changes to House bill which clarifies that priorities are established by local programs in accordance with the legal services statute. Spells out the process for establishing priorities, which for the most part codifies 45 CFR 1620 of the Corporation's regulations. One technical clarifying change to identify goals referenced.

Sec. 27. Staff Attorneys. No substantive changes to House bill which at the Corporation's request updates definition of a "staff attorney". One technical change to correct drafting error.

Sec. 28. Study on Legal Assistance to Older Americans. No changes to House bill which requires a study of the extent and effectiveness of legal assistance to Older Americans.

Mr. KENNEDY. I am pleased to join my outstanding colleague, the Senator from New Hampshire, in introducing the Legal Services Reauthorization Act of 1992.

For over a decade, Senator RUDMAN has encouraged and led a broad bipartisan consensus in Congress on behalf of continuing support for the Legal Services Corporation.

I cannot think of a more fitting tribute to his outstanding leadership than to enact this important legislation this year.

The Constitution guarantees all persons "the equal protection of the laws."

But those majestic words are an empty promise to millions of Americans too poor to afford a lawyer to assist them in protecting their legal rights. A right without a remedy is no right at all; and without counsel, poor persons are often powerless against the injustices they suffer. It is ironic that those who often pay lip service to the currently fashionable concept of empowerment as the antidote to poverty are so quick to reject it in the case of legal services.

Beginning with the Office of Economic Opportunity in 1965, the Federal Government has given financial support for programs that provide legal assistance to the indigent.

In 1974, Congress passed the Legal Services Corporation Act to establish an independent corporation to administer the Federal legal services program in a manner free from the pressures of partisan politics.

When he signed that historic act President Nixon recognized that the creation of an independent corporation was intended to ensure that the lawyers in the program have the full freedom to protect the best interests of their clients in keeping with the canons of ethics and the high standards of the legal profession.

In recent years, however, that protection has not been sufficient. The Legal Services Corporation has often been bogged down in partisan controversies.

Shortly after he was elected, President Reagan proposed to abolish it. In 1981, LSC funds were cut by 25 percent. These cuts have persisted. Federal funding for legal services today is about 40 percent less than it was in 1981.

State and local governments and private bar initiatives have struggled to fill this gap. But millions of poor persons are denied access to legal services they need in order to protect their most basic rights.

In Massachusetts, one study estimated that legal services programs are able to meet only 15 percent of the legal needs of poor persons. This pattern is repeated throughout the Nation.

In addition, while funding has been reduced, the Corporation itself has fre-

quently shown hostility toward the very legal services it was created to support. Under the guise of monitoring the expenditure of Federal funds, Corporation staff members have harassed overburdened local programs with excessive paperwork and auditing. The Corporation proposed a series of regulations restricting local programs far in excess of what Congress has intended.

As a result of these controversies, the Legal Services Corporation Act itself has not been reauthorized since 1977, and funds have been provided on year-to-year basis in annual appropriations bills.

The bill we are introducing today is a sensible and balanced effort to revitalize the act and provide guidance to the Corporation in administering this important program.

It maintains most of the restrictions that currently apply to the Corporation and its grantees, while strengthening local control and improving the quality and effectiveness of legal services.

The bill also makes numerous substantive changes to address questions that have arisen in the 15 years since Congress last reauthorized the act.

The Committee on Labor and Human Resources will hold hearings on this legislation next week. I look forward to working with Senator RUDMAN and other Senators to move this legislation through the Senate this summer.

The House has already passed similar legislation. Again, I commend Senator RUDMAN for his leadership, and I am hopeful we can pass a bill that will gain President Bush's support and be enacted into law this year.

Mr. HATFIELD. Mr. President, I am pleased to join Senators RUDMAN and KENNEDY and others in introducing a bill to provide reauthorization of the Legal Services Corporation [LSC]. This nonprofit corporation has not been reauthorized since 1977 so that we have had to continuously include provision for these important services in bills under the jurisdiction of the Appropriations Committee. It is time that we take action toward reauthorizing the LSC.

The function of the LSC is to fund nonprofit providers of legal services who deliver these services to poor persons in every county in the United States. These are disadvantaged people who would otherwise not be able to receive help with civil legal problems. Allow me to give you an example from my home State. I am proud to call Willamette University in Salem, OR, my alma mater. The Willamette University College of Law seeks to operate a legal clinic which specializes in providing legal services in divorce and custody proceedings of low-income residents in the area. These are clients that the county legal aid service must currently turn away because of limited

resources. Clinics like this all over the country are made possible through the distribution of LSC resources.

The bill we are introducing today attempts to put some safeguards on the use and administration of these funds so that the Federal money provided will be put to its best use. However, I would like to make clear my regret that this bill as introduced will not include existing restrictions on the use of LSC funds for any abortion litigation. This restriction is currently designated by language in the appropriation act which funds the LSC. The restriction on use of funds for abortion litigation was included in the appropriations process because of a legitimate concern that Federal funds be used by legal services programs in a manner that is neutral on the contentious issue of abortion. There is also the desire that scarce resources be used for the more common needs of the poor such as tenant eviction proceedings.

I would like to express my admiration for the Senator from New Hampshire for leading the fight for legal services for the poor over his many years of public service. Now, I look forward to upcoming hearings on this bill that the Senator from Massachusetts has ensured will soon take place.

By Mr. JOHNSTON:

S. 2871. A bill to clarify enforcement provisions of the Federal Power Act concerning hydroelectric power licensing; to the Committee on Energy and Natural Resources.

#### FEDERAL POWER ACT AMENDMENTS

● Mr. JOHNSTON. Mr. President, I am today introducing an amendment to the Federal Power Act [FPA] to improve the Federal Energy Regulatory Commission's [FERC] ability to ensure that hydroelectric plants produce electricity in a safe and environmentally acceptable manner. The FERC in the last years has progressed tremendously, improving interagency coordination and doing a good job of balancing competing interests in hydroelectric licensing. As with most energy and environmental issues, it is difficult to make everyone happy in every situation. Hydroelectric licensing remains a contentious subject. However, what we can all agree upon is that all hydroelectric facilities should be restricted from unlawful operation.

Under the existing section 31 of the Federal Power Act, which details FERC's enforcement powers concerning hydropower licensing, the FERC may, assuming the necessary procedures are followed and the necessary findings are made, assess penalties against any "licensee, permittee, or exemptee" in violation of part I of the FPA or Commission directives thereunder.

On May 5, 1992, the U.S. Court of Appeals for the D.C. Circuit issued its decision in *Wolverine Power Co. v. FERC* (No. 90-1597), a case in which the Com-

mission had assessed a \$2,024,000 penalty against Wolverine Power Co. for operating four hydroprojects without a license. The court determined that section 31 of the FPA authorizes the Commission to assess civil penalties only against the holder of a license, permit, or exemption, and not against a person who operates a hydroelectric project without a license or exemption in violation of the FPA. Because Wolverine was not licensed, the court vacated the Commission's orders assessing the civil penalty against Wolverine, and also vacated the Commission's regulations implementing section 31.

This situation presents a gap in FERC's ability to regulate or penalize an unlicensed hydroelectric project developer, that violates directives under the Federal Power Act. In order to give FERC more effective control over all hydroelectric developers, licensed and unlicensed, the bill I have introduced would delete the phrase "licensee, permittee, or exemptee" in section 31 and replace it with "person, State, or municipality". In order to avoid ambiguity concerning the scope of FERC powers, the bill would also clarify that FERC can assess civil penalties for violations of its orders as well as regulations or other directives. I believe that these changes will give FERC more appropriate authority to ensure that hydroelectric projects produce electricity in a safe and environmentally acceptable manner.●

By Mr. GRAHAM (for himself, Mr. FOWLER, and Mr. MACK):

S. 2872. A bill to establish Dry Tortugas National Park in the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

#### DRY TORTUGAS NATIONAL PARK ESTABLISHMENT ACT

Mr. GRAHAM. Mr. President, today I am introducing legislation on behalf of myself and my colleagues, Senators FOWLER and MACK, redesignating Fort Jefferson National Monument as Dry Tortugas National Park.

The Dry Tortugas are a small group of islands located about 70 miles due west of Key West, and completely isolated from land; the only access being privately owned or chartered boats or seaplanes. Initially discovered by Ponce de Leon, and home to Fort Jefferson since its construction in 1846, the area has profited from a long, rich cultural history.

Mr. President, every military engagement in the United States, from the Civil War until the Bay of Pigs used Fort Jefferson and Dry Tortugas as part of the American military activity.

Located on Garden Key, within the Dry Tortugas, Fort Jefferson remains the largest stone fort in the Western Hemisphere, and a wonderful example of 19th century military architecture. With 50-foot high, 8-foot thick outer

walls, surrounding an 11 acre compound, Fort Jefferson is truly impressive to behold.

It so impressed President Roosevelt that in 1935, he proclaimed Fort Jefferson a national monument; the status it now enjoys. Presently the monument covers 100 square miles, encompassing not only the fort and Garden Key, but the surrounding islands, including the beautiful Loggerhead Key, coral reefs, and delicate marine ecosystems.

The area of the Dry Tortugas contains a magnificent diversity of animal and plant life, many of which are threatened or endangered. Endangered sea turtles and several species of birds use the relatively untainted shores of the Dry Tortugas for their seasonal nesting grounds. In addition, the islands are lined by a healthy coral reef system, unfortunately and increasingly it is a true rarity in this part of the world.

Unfortunately, because of Fort Jefferson's status as a national monument, the National Park Service has not been able to give it the priority attention it requires. As a result, the fort is vulnerable to deterioration.

It is my hope that by upgrading its status from national monument to national park, the area will receive the enhanced support from the National Park Service needed to restore and preserve its natural and cultural integrity.

Under the designation of a National Park, the Secretary of the Interior would be empowered to acquire lands and interests within the park's boundaries by donation or exchange. The Secretary would similarly be authorized to acquire and operate a site in Key West, FL, for the purposes of properly administering the park.

In addition, this legislation would allow the U.S. Coast Guard to surrender an island, presently located within the monument's boundaries. The Coast Guard no longer uses the island, except to maintain a small lighthouse.

Mr. President, I do not wish my colleagues to be mistaken. This legislation will not alter or modify the existing boundaries of the monument, but merely upgrades its funding status to that of a park in the national park system.

Companion legislation has been introduced in the House by our distinguished colleague, Representative DANTE FASCELL.

Mr. President, Representative FASCELL has recently announced that he will be leaving the Congress at the end of this term, concluding a long, distinguished career in the Congress. In 1959, I had the great honor of serving as an intern in the office of Congressman DANTE FASCELL. From that experience, I know the personification of public service which he represents. He has served his Nation, his State, his congressional district with great distinction.

Mr. President, I call upon my colleagues to approve this measure as a small tribute to our colleague and friend, DANTE FASCELL, and in recognition of the unique natural and national history represented by the Dry Tortugas.

Mr. President, I ask unanimous consent to have printed in the RECORD immediately following my remarks a section-by-section analysis of the legislation, and a full copy of the legislation.

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

S. 2872

*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 "Dry Tortugas National Park Establishment Act".

**SEC. 2. PURPOSE.**

The purpose of this Act is to preserve and protect, for the education, inspiration, and enjoyment of present and future generations, nationally significant natural, historic, scenic, marine, and scientific values in Fort Jefferson National Monument in South Florida.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) **MONUMENT.**—The term "Monument" means Fort Jefferson National Monument in South Florida.

(2) **PARK.**—The term "Park" means Dry Tortugas National Park established by section 4.

(3) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior.

**SEC. 4. ESTABLISHMENT.**

(a) **IN GENERAL.**—Fort Jefferson National Monument, consisting of the lands, waters, and interests in lands and waters described in section 201 of Public Law 96-287, is redesignated as "Dry Tortugas National Park".

(b) **ADMINISTRATION.**—The Park shall be administered by the Secretary as a unit of the National Park System under the laws applicable to the System and consistent with the purpose of this Act.

(c) **MANAGEMENT.**—The Park shall be managed—

(1) to protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community;

(2) to protect populations of fish and wildlife, including loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species;

(3) to protect the pristine natural environment of the Dry Tortugas group of islands;

(4) to protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of 19th century masonry fortification;

(5) to preserve and protect submerged cultural resources; and

(6) in a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

**SEC. 5. LAND ACQUISITION AND TRANSFER OF PROPERTY.**

(a) **IN GENERAL.**—Within the Park, the Secretary may acquire lands and interests in land by donation or exchange.

(b) **EXCHANGE WITH STATE OF FLORIDA.**—For the purpose of acquiring property by exchange with the State of Florida, the Secretary may exchange those Federal lands that were excluded from the Monument by section 201 of Public Law 96-287 and that are

directly adjacent to lands owned by the State of Florida outside of the Park, for lands owned by the State of Florida within the Park.

(c) **COAST GUARD LANDS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), if the Commandant of the United States Coast Guard determines that all or any substantial portion of lands under the administration of the United States Coast Guard located within the Park, including Loggerhead Key, are not needed by the United States Coast Guard, the lands shall be transferred to the Secretary for the purpose of carrying out this Act.

(2) **RESERVATION OF RIGHT.**—The Commandant of the United States Coast Guard may reserve the right to maintain and utilize the lighthouse on Loggerhead Key that is in existence on the date of enactment of this Act in a manner consistent with the purposes of the United States Coast Guard and the purpose of this Act.

**SEC. 6. ADMINISTRATIVE SITE.**

The Secretary may acquire and operate an administrative site in Key West, Florida, for Park administration and to further the purpose of this Act. The Secretary may acquire an administrative site in accordance with section 5(a).

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act. Any funds available for the Monument shall be made available for the Park.

**SECTION-BY-SECTION ANALYSIS**

**TITLE I**

Sec. 101(a) redesignates Ft. Jefferson National Monument as Dry Tortugas National Park.

(b) States purposes for which Park shall be managed, including protection and interpretation of a pristine subtropical marine ecosystem; protection of fish and wildlife populations; protection of the pristine natural environment of the Dry Tortugas island group; protection, stabilization, restoration and interpretation of Ft. Jefferson; preservation and protection of submerged cultural resources; and scientific research.

Sec. 102. **LAND ACQUISITION AND TRANSFER OF PROPERTY.**—Provides for acquisition by donation or exchange between the United States and the State of Florida and, within the federal government, between the National Park Service and the U.S. Coast Guard. Provides for the Coast Guard to maintain and utilize the existing lighthouse on Loggerhead Key.

Sec. 103. authorizes acquisition of an administrative site in Key West using authority provided in Sec. 102.

Sec. 104. authorizes sums to be made available to carry out the purposes of the act and funds available for the monument shall be made available for the park, along with authorizations of funds.

Mr. MACK. Mr. President, I rise in support of the bill to redesignate Fort Jefferson National Monument as the Dry Tortugas National Park.

The cluster of seven coral reefs that lie almost 70 miles west of Key West known as the Dry Tortugas is home to a myriad of marine, plant, and animal life as well as the largest of the 19th century American coastal forts. Fort Jefferson has been of military strategic importance to the United States from the time it was constructed in 1846 through World Wars I and II and finally

in 1962 when it was used as a military outpost during the Cuban missile crisis of 1962. The Dry Tortugas, named for its lack of fresh water and abundance of sea turtles, is home to a dozen endangered and threatened species.

Fort Jefferson National Monument receives an average of 20,000 visitors a year which arrive by private boat, chartered seaplane or chartered sportfishing or dive boat. For those lucky enough to visit this wonderful place they will be treated to a plethora of natural and historical beauty. The shipwrecks on the surrounding reefs constitute one of the Nation's principal ship graveyards and date back to the 1600's. It's over 64,000 acres encompass a striking combination of historic resources and a pristine subtropical marine environment.

Raising the designation of the Fort Jefferson National Monument to the Dry Tortugas National Park will help to focus the appropriate attention on this precious national resource. I urge my colleagues to support this legislation, and to visit this beautiful part of American history.

By Mr. BREAUX (for himself, Mr. COATS, Mr. DASCHLE, Mr. LUGAR, Mr. NUNN, and Mr. DIXON):

S. 2873. A bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits; to the Committee on Finance.

MEDICAL COST CONTAINMENT ACT OF 1992

Mr. BREAUX. Mr. President, I rise to introduce a bill entitled the Medical Cost Containment Act of 1992 and to make a few comments about it.

Mr. President, we had hearings this morning in the Senate Finance Committee where, Chairman BENTSEN and the ranking member, Senator PACKWOOD have held an exhausting series of hearings on major health care reform legislation.

Mr. President, the bill I am introducing today is sponsored by Senators COATS, DASCHLE, LUGAR, NUNN, and DIXON. I certainly hope others, after they have an opportunity to review the content of the Medical Cost Containment Act of 1992, will, too.

It is a relatively novel approach, Mr. President, one that I think merits our favorable consideration. I would suggest that \$4,500 is about what the average employer contributes to each employee that works for him in terms of buying health insurance for that employee and that employee's family.

It is also a fact, Mr. President, that the average person in this country spends less than \$3,000 a year in medical expenses for himself and his family.

My suggestion is very simple, Mr. President: That each employer have the opportunity to contribute an amount, for example \$3,000, to a medical savings account for his employee, and that that savings account would

belong to that employee who would pay his smaller medical bills out of it and if there is anything left after the end of the year, under my legislation that person would then be able to keep those amounts of money, roll them over to the next year, and that would be able to occur every year under this plan.

That person who does not spend the money would actually have title to it, he would own it, he would not pay taxes on it, but he would pay taxes on interest built up in that account. The \$1,500 in this example that the employer would save could then be used to buy a catastrophic policy for that employee and his family which would cover any expenses over \$3,000.

Two things happen under this plan, Mr. President, which I think are very important.

One, we cut out an incredible amount of bureaucracy, and an incredible amount of paperwork. Studies have shown us that between 20 and 24 percent of all American health care costs now go for administrative costs. If an employee was able to go to the doctor, go to the hospital, pay for the services out of this account, it would eliminate the need for forms and for claims filing to insurance companies and for paperwork from the doctor to the insurance company and from the patient. It would be a lot easier, a lot smoother.

The second thing, the most important thing I think it would do, Mr. President, is that it would put more discipline, more choices in the hands of the employee when he or she is shopping for health care in America. It is clear, I think that the people are not careful when they know that some third party is paying for their health care. They are less careful about how they buy and purchase health care in this country. But if their spending comes out of their savings account which would be created by this legislation, Mr. President, I would suggest that people would be more careful, they would be more cost conscious, they would shop in a more educated fashion, as to which hospital they go to, which physician, which doctor they choose to go to for the services they need. You bring about a greater discipline and I think ultimately you would reduce health care costs in this country.

We had the president of Golden Rule Insurance Co., the chairman of the board, Mr. Pat Rooney, present this concept before the Senate Finance Committee this morning. I think he has an idea that is well worth considering.

We have made some refinements in his proposal which I think will improve the legislation. But, I think, Mr. President, and my colleagues, that after people look at the concept of a medical care savings account that is carefully crafted, they will come to the same

conclusion that I have reached; that is, it is an ingredient in an overall health reform package that we in Congress could consider.

I think if you allow individual consumers to be more active in how their health care costs are paid for, they will indeed be wiser consumers, and ultimately bring about some great savings in the health care industry in the United States.

What we are going to propose will place more of the responsibility for purchasing health care services in the hands of those who are best equipped to make rational financial decisions, the individual American consumer.

First, I will explain what I am proposing, then I will provide some background information on the concept. Under this bill, an employer would be able to offer to his employees a new form of medical plan that would have two parts: a high deductible insurance policy with a deductible no greater than \$3,000 plus a medical savings account. The amount of money deposited into the medical savings account would be the difference between the employer's cost of providing a high premium policy with a low deductible and the new low premium policy with a high deductible. The employer would be required to contribute at least this amount each year, indexed for inflation.

The funds that are contributed to the savings account each year can be used on a tax free basis for qualified medical expenses. If the employee uses the funds for nonmedical expenses he would have to pay tax on the amount of withdrawal. In addition, to minimize the overall cost to the Federal treasury, the employee would be required to pay tax on the interest build up each year.

The key to my proposal is a change in the Tax Code which would permit employees to keep any of the money that is left over in their medical care savings account at the end of a year. This would encourage individuals to be more cautious about their spending decisions, as if they were spending their own money. Funds left over at the end of each year could either be kept by that individual in the account to pay for long-term care services after retirement, or to pay for health insurance expenses during periods of unemployment.

Under current law, employers can set up "flexible spending accounts" to help employees pay for their health care needs. The problem with these accounts is that an employee must use all the money in their account each year or lose what is left over. This provides a perverse incentive for employees to spend all of the money in their account and to overutilize health care services. What I am proposing turns that perverse incentive around—if an employee knows that he or she will be

able to keep any money that is left over at the end of the year, they will be more prudent about how they spend it.

This legislation will allow employers to restructure the health coverage that they provide to their employees in a way that better serves their employees' needs and which promises to save money over the long term. It will lead to savings in two ways: First, through reduced premiums as employees begin to spend more wisely and, second, through administrative savings.

Most people in this country today who have insurance get it through their employer. The most common type of insurance is fee-for-service, like the regular Blue Cross and Blue Shield plans. This system insulates employees from the true costs of their insurance coverage and of the medical services that they purchase. The fact that a third-party payer is responsible for handling health care bills relieves consumers and providers of any sense of obligation to be thrifty when it comes to spending on health care.

We heard interesting testimony in the Finance Committee last Wednesday, May 6, from the Public Agenda Foundation. Most Americans overestimate what they are paying for their health insurance. In focus groups it was found that people thought their out-of-pocket costs and premiums accounted for as much as 70-80 percent of their health care costs. This is exactly wrong. Actually, employers and the Government pay for about 70 to 80 percent of health care costs while individuals only pick up 20 to 30 percent through out-of-pocket payments. This illustrates my point that individuals do not know who is paying or how much is being paid for their health care coverage.

Senators and Senate employees who are covered by Blue Cross's regular plan or under the Kaiser Permanente HMO plan only pay about 25 percent of the premium cost of their coverage while the governments picks up the other 75 percent. I wonder how many Senators and employees around here are aware of this.

Under my proposal, consumers will spend more wisely. This should lead to cheaper premiums in the long run as individuals use fewer unnecessary services and make more of an effort to keep track of where the money is flowing.

The use of medical care savings accounts will also begin to address the problem of excessive administrative costs under our existing private insurance system. Estimates of the amount of potential savings in this area range from \$60 to as much as \$100 billion annually.

In one sample region of the United States, two-thirds of all claims dollars paid out in a year currently fall into the \$3,000 and under category. In this same region, 94 percent of insured indi-

viduals do not pay more than \$3,000 in a given year for health care services.

I myself do not ever remember spending nearly that much on health care for myself in a given year. I have four kids and had to pay deductibles for each of them. By the time I hit the deductible for my son, John, it was Beth's turn to get hurt and I would have to start all over.

All of these low dollar claims for routine checkups must be handled by doctors' offices and insurance companies in the same way as large claims. A \$50 claim costs as much to process as a \$500 claim.

My proposal will allow individuals and doctors' offices to avoid these administrative expenses and hassles. They will be able to simply write a check on their medical savings account, hand it to their doctor and be out the door. Claims processing costs for claims under medical savings accounts would be greatly reduced.

Mr. President, what I am proposing is only intended to be one part of the overall debate on health care reform that Congress must tackle. I do not see this proposal as the answer to all of our problems. Rather, it is a way to improve the options that are available to employers and employees under the existing system in this country. I am a cosponsor of S. 1872, the Better Access to Affordable Health Care Act, introduced by the chairman of the Finance Committee, Senator BENTSEN, which will reform the small group insurance market and which will begin the process of reforming rating practices in the insurance industry. I continue to support this legislation and would ideally like to see my proposal enacted in combination with the reforms contained in S. 1872.

I also realize that the enactment of medical care savings accounts will not address the larger question of access to care for the tens of millions of uninsured Americans. I support broader reform efforts in this area and was a co-signer of Senator WOFFORD's letter to the majority leader urging that the Senate take up broader reform this year. I continue to support these efforts.

Thank you for the opportunity to present this proposal. I urge my colleagues to join me in addressing at least this part of the problem as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2873

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) **SHORT TITLE.**—This Act may be cited as the "Medical Cost Containment Act of 1992".

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 2. MEDICAL CARE SAVINGS BENEFITS.**

(a) **IN GENERAL.**—Section 106 is amended to read as follows:

**"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.**

"(a) **IN GENERAL.**—Gross income of an employee does not include employer-provided—

"(1) coverage under an accident or health plan, and

"(2) medical care savings benefits.

"(b) **MEDICAL CARE SAVINGS BENEFIT.**—

"(1) **IN GENERAL.**—For purposes of this section, the term 'medical care savings benefit' means an amount equal to the qualified premium differential amount—

"(A) which is credited by the employer to an employee during a plan year to pay for medical care (as defined in section 213(d)) of the employee, the employee's spouse, or any dependent of such employee (as defined in section 152) and,

"(B) to the extent that any amount remains credited to such employee at the end of each plan year, which is contributed to a medical care savings account established under section 408A for such employee.

"(2) **QUALIFIED PREMIUM DIFFERENTIAL AMOUNT.**—For purposes of paragraph (1), the qualified premium differential amount for an employee is equal to—

"(A) the premium differential amount realized by the employer in the plan year in which the employee elects coverage under a qualified higher deductible health plan, and

"(B) for each subsequent plan year during which such election remains in effect, the amount determined under subparagraph (A) increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the plan year begins, by substituting 'the calendar year preceding the calendar year in which the plan year described in section 106(b)(2)(A) began' for 'calendar year 1989'.

"(3) **QUALIFIED HIGHER DEDUCTIBLE HEALTH PLAN.**—

"(A) **IN GENERAL.**—For purposes of paragraph (2), the term 'qualified higher deductible health plan' means a group health plan which provides, for a higher deductible (not to exceed \$3,000), similar benefits to—

"(i) other group health plans offered by the employer,

"(ii) other group health plans previously offered by the employer, in the case in which a single group health plan is offered by the employer, or

"(iii) other group health plans for similar employees in the same geographic area, in the case in which the employer has not previously offered any group health plan.

"(B) **DEDUCTIBLE LIMITATION ADJUSTED FOR INFLATION.**—In the case of any taxable year beginning in a calendar year after 1993, the dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1992' for 'calendar year 1989'.

"(C) **GROUP HEALTH PLAN.**—For purposes of subparagraph (A), the term 'group health

plan' has the meaning given such term by section 5000(b)(1).

"(4) DETERMINATION OF PREMIUM DIFFERENTIAL.—For purposes of this subsection, in making a determination of a premium differential for any year, the employer shall use only actual premiums charged to such employer, or, in the case of group health plans described in subparagraphs (B) and (C) of paragraph (3), bona fide premium quotes for such year.

"(5) SPECIAL RULES RELATING TO PAYMENTS FROM MEDICAL CARE SAVINGS BENEFIT ACCOUNT BALANCE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), if the employer provides for level installment payments during the year, the employer shall provide that the maximum amount of reimbursement at a particular time during the period of coverage shall be limited to the amount of actual contributions to the medical care savings benefit account.

"(B) ADVANCE EXCEPTION.—An employee may be advanced, interest free, such amounts necessary to cover incurred expenses for medical care which exceed the amount then credited to the employee's account, upon the employee's agreement to repay such advancement from future installments or upon ceasing to be a plan participant.

"(5) REPORTING.—Each employer shall issue to each employee, not less frequently than quarterly, a statement setting forth the amount remaining in such employee's account."

### SEC. 3. MEDICAL CARE SAVINGS ACCOUNT.

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

#### "SEC. 408A. MEDICAL CARE SAVINGS ACCOUNTS.

"(a) MEDICAL CARE SAVINGS ACCOUNTS.—For purposes of this section, the term 'medical care savings account' means a trust created or organized in the United States for the exclusive benefit of an individual, the individual's spouse, or the individual's dependents (as defined in section 152), but only if the written instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of the amount described in section 106(b)(1)(B).

"(2) The trustee is a bank (as defined in subsection (d)), life insurance company (as defined in section 816(a)), or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of the account is nonforfeitable.

"(5) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(b) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—The aggregate amount of contributions described in section 106(b)(1)(B) in any medical care savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical care savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated busi-

ness income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE EMPLOYEE ENGAGED IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit any medical care savings account is established, that individual the individual's spouse, or any dependent of such individual (as defined in section 152) engages in any transaction prohibited by section 4975 with respect to such account, such account ceases to be a medical care savings account as of the first day of such taxable year. For purposes of this paragraph the individual for whose benefit any account was established is treated as the creator of such account.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical care savings account by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (c) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year of the individual for whose benefit a medical care savings account is established, that individual uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(4) COMMINGLING MEDICAL CARE SAVINGS ACCOUNT AMOUNTS IN CERTAIN COMMON TRUST FUNDS AND COMMON INVESTMENT FUNDS.—Any common trust fund or common investment fund of medical care savings account assets which is exempt from taxation under this subtitle does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION IN GROSS INCOME.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of a medical care savings account consisting of contributions described in section 106(b)(1)(B) shall be included in gross income by the distributee.

"(B) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution shall be treated as allocated first to earnings and then to contributions.

"(2) DISTRIBUTIONS FOR MEDICAL CARE.—Paragraph (1) shall not apply to amounts paid directly or indirectly for medical care (as defined in section 213(d)) of the individual for whose benefit such account is maintained, the individual's spouse, or any dependent of such individual (as defined in section 152).

"(3) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution which shall not be included in the gross income of the distributee if it meets the requirements of subparagraph (A) and (B).

"(A) IN GENERAL.—Paragraph (1) does not apply to any amount paid or distributed out of a medical care savings account to the individual for whose benefit the account is maintained if the entire amount received is paid into a medical care savings account for the benefit of such individual not later than the 60th day after the day on which such individual receives the payment or distribution.

"(B) LIMITATION.—This paragraph does not apply to any amount described in paragraph

(A) received by an individual from a medical care savings account if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from a medical care savings account which was not includable in such individual's gross income because of the application of this paragraph.

"(C) DENIAL OF ROLLOVER TREATMENT FOR INHERITED ACCOUNTS, ETC.—

"(1) IN GENERAL.—In the case of an inherited medical care savings account—

"(I) this paragraph shall not apply to any amount received by an individual from such an account (and no amount transferred from such account to another medical care savings account shall be excluded from gross income by reason of such transfer), and

"(II) such inherited account shall not be treated as a medical care savings account for purposes of determining whether any other amount is a rollover contribution.

"(ii) INHERITED MEDICAL CARE SAVINGS ACCOUNT.—A medical care savings account shall be treated as inherited if—

"(I) the individual for whose benefit the account is maintained acquired such account by reason of the death of another individual, and

"(II) such individual was not the surviving spouse of such other individual.

"(d) BANK.—For purposes of subsection (a)(2), the term 'bank' means—

"(1) a bank (as defined in section 581),

"(2) an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act), and

"(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State.

"(e) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in subsection (d)), a life insurance company (as defined in section 816(a)), or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the account will be consistent with the requirements of this section, and the custodial account would, except for the fact that it is not a trust, constitute a medical care savings account described in subsection (b). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) REPORTS.—The trustee of a medical care savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "MEDICAL CARE SAVINGS ACCOUNTS," after "ACCOUNTS," in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical care savings account (within the meaning of section 408A(a)), or",

(3) by striking out "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL CARE SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical care savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 408A(a)(1) for such taxable year."

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL CARE SAVINGS ACCOUNTS.—An individual for whose benefit a medical care savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical care savings account by reason of the application of section 408A(b)(2)(A) to such account.", and

(2) by inserting "or a medical care savings account described in section 408A(a)" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON MEDICAL CARE SAVINGS ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR A MEDICAL CARE SAVINGS ACCOUNT" after "ANNUITIES" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 408A(g) to file a report regarding a medical care savings account at the time and in the manner required by such section shall pay a penalty of \$50 for each failure unless it is shown that such failure is due to reasonable cause."

(f) CONFORMING AMENDMENTS.—

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

"Sec. 408A. Medical care savings accounts."

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical care savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(3) The table of sections for subchapter B of chapter 68 is amended by inserting "or on medical care savings accounts" after "annuities" in the item relating to section 6693.

#### SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1992.

By Mr. FORD (for himself, Ms. MIKULSKI, and Mr. SARBANES):

S. 2874. A bill to revise the deadline for the destruction of the United

States' stockpile of old lethal chemical agents and munitions; to establish a commission to advise the President and Congress on alternative technologies appropriate for use in the disposal of lethal chemical agents and munitions; to encourage international cooperation on the disposal of lethal chemical agents and munitions; and for other purposes; to the Committee on Armed Services.

#### CHEMICAL DEMILITARIZATION PROGRAM REVISIONS ACT

Mr. FORD. Mr. President, for the past decade the Army has been wrestling with the problem of disposal of its chemical agents and munitions stockpiles. Located at eight locations throughout the United States, the stockpiles have been stored, in some cases, since World War I. As times have changed, the need for these chemical weapons has disappeared, resulting in the Army's current mission to destroy its stockpiles.

Demographics at the storage sites have also changed over time. Large residential communities have grown within only a few miles of formerly isolated areas, particularly in three places: Kentucky, Maryland, and Indiana. Residents there are extremely concerned about the prospect of having chemical munitions burned in their backyards, and rightfully so.

In undertaking the destruction of the chemical stockpile, the Army was tasked with choosing a method of disposal which would perform the task within a given timeframe, which was environmentally sound, and which was not prohibitively expensive. The Army chose incineration. However, over the intervening years a great deal has been learned about the safe disposal of chemical weapons, and advancements have been made in other disposal areas, all of which have raised questions about the efficacy of incineration.

Just how much progress has been made is not entirely clear. The Army is not even sure, which is why it has asked the National Research Council of the National Academy of Science to undertake a study of alternatives for weapons disposals. The study is due early next year.

Last fall I requested the Office of Technology Assessment to examine alternatives to on-site incineration. That study will be released at the end of June, and I believe OTA will recommend that, as a hedge against certain potential obstacles, the Army should develop a backup plan to its current technological choice.

The idea of alternative technologies is not new, but it should not be ignored. Few would argue it is only right and fair that a thorough and honest look be taken at the possibility of using a different destruction technology. That is why Senators MIKULSKI, SARBANES, and I are introducing today the "Chemical Demilitarization

Program Revisions Act of 1992," legislation to form an independent commission to once and for all identify the safest and most effective methods of disposing of the chemical weapons stockpile. Its final report will offer well-based projections on which Congress and the Army should be able to make a definitive decision on the future direction of the Army's chemical weapons disposal program.

Our bill establishes the Chemical Demilitarization Advisory Commission. Slated to be in operation by January 1993, the member Commission is directed to report back to the Congress and the President within 1 year on the cost, timeframe, probability of success, and degree of risk to the public health and safety and the environment of technologies identified as appropriate for munitions disposal. The Commission shall also determine which technologies can be specifically applied to the three sites where public opposition to the incineration technology is the greatest, those with 6 percent or less of the stockpile—Richmond Army Depot in Kentucky, Aberdeen Proving Ground in Maryland, and Newport Army Ammunition Plant in Indiana.

Not later than 180 days after the Commission releases its report, the Secretary of Defense must, in turn, submit to Congress a revised chemical weapons disposal concept plan. The determinations of the Commission shall be central to the Secretary's deliberations.

Legislation similar to this was introduced in the House of Representatives by Congressman TOM MCMILLEN and has already been incorporated into H.R. 5006, the Department of Defense authorization bill for fiscal year 1993; we hope the Armed Services Committee will see fit to do the same over here. It is critical that this provision become law.

As we said earlier, many of our constituents are very, very uneasy at the prospect of having chemical munitions incinerated so close to their homes and schools; how can anyone object to conducting further study to determine if indeed there is a more benign way to destroy the Nation's chemical stockpile?

But perhaps even more compelling is the cold hard fact that the Army has no contingency plan in the event a state denies an environmental permit to build the incinerator, or if cost overruns or technical problems bring the baseline technology to a screeching halt. Both the General Accounting Office in a hearing held Tuesday before House Government Operations and the OTA in the aforementioned report have focused on the shortsightedness of the Army not having a backup plan. This is a problem which will not go away—but which our legislation may cure.

By Mr. LEAHY:

S. 2875. A bill to amend the Child Nutrition Act of 1966 to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula, for the special supplemental food program for women, infants, and children [WIC], and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WIC INFANT FORMULA PROCUREMENT ACT

• Mr. LEAHY. Mr. President, during debate on the budget resolution earlier this year, 92 Senators joined me in recommending a \$400 million increase in the WIC Program.

I hope that each of those Senators will join me in my outrage at learning of allegations that the three major infant formula manufacturers have been cheating the WIC Program out of millions of dollars.

On June 11, the Federal Trade Commission ended a 2-year investigation by bringing charges in Federal court against the largest manufacturer of infant formula for bid-rigging under the WIC Program. The two remaining infant formula manufacturers agreed to settlements with the FTC on similar charges.

I introduced legislation in 1989, later signed into law, which required States to buy infant formula for WIC through competitive bidding and other cost containment procedures.

However, according to the FTC, Abbott Laboratories, Mead Johnson & Co. and American Home Products Corp. tried to undermine WIC competitive bidding—a procedure that currently saves enough money to put an additional 1 million mothers and their children on the WIC Program at no additional cost to taxpayers.

We cannot tolerate price fixing that puts corporate profits ahead of hungry infants, children, and pregnant women.

Today, I am introducing the WIC Infant Formula Procurement Act. Under this bill, infant formula manufacturers who swindle the WIC Program could be fined up to \$100 million, and be barred from the WIC infant formula market for up to 2 years.

The bill would also heighten competition in the WIC infant formula market, by providing cash incentives and technical assistance to States who increase their buying power by forming blocs to purchase formula.

The special supplemental food program for women, infants, and children [WIC], is universally acclaimed as one of our Nation's most successful nutritional programs.

WIC provides food, nutritional instruction, health assessments, and medically prescribed supplements—and saves taxpayers money.

A 1991 USDA study showed that for every WIC dollar spent on a pregnant woman, between \$2.98 and \$4.75 was saved in Medicaid costs for the newborn during the first 60 days after birth.

I estimate that the bill I am offering today could save the WIC Program up to \$30 million, by requiring infant formula companies to bid for large regions, instead of in 50 separate States. This will promote high-volume discounts and prevent pharmaceutical companies from taking advantage of smaller States.

If these savings are realized under this bill, almost 60,000 more infants, children, and mothers can participate in WIC without costing taxpayers 1 cent.

Let our message today be loud and clear: Hungry children and their mothers are more important than illegal corporate profits.

I ask unanimous consent that the bill, the Infant Formula Procurement Act, be printed in the RECORD, and that there also be included in the RECORD the accompanying documents detailing the actions of the Federal Trade Commission.

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

*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 "WIC Infant Formula Procurement Act of 1992".

**SEC. 2. WIC INFANT FORMULA PROTECTION.**

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this Act to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

**SEC. 3. DEFINITIONS.**

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the sup-

plemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency."

**SEC. 4. PROCUREMENT OF INFANT FORMULA FOR WIC.**

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

"(G)(i) The Secretary shall, no more frequently than annually, solicit bids for a cost-containment contract to be entered into by infant formula manufacturers and the State agencies that elect to have the Secretary perform the bid solicitation and selection process on each such State agency's behalf. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall consider whether infant formula manufacturers likely to submit bids can compete effectively and whether the size of the groups is sufficiently small to promote competition.

"(iii) State agencies electing to require the Secretary to perform the bid solicitation and selection process on their behalf shall enter into the resulting containment contract and shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v) The term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be for not less than 2 years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure, to the maximum extent possible, that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(H)(i) In soliciting bids for contracts for infant formula for WIC, the Secretary and State agencies shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited—

"(I) for both types of infant formula (a combined bid for both soy- and milk-based formula) to be supplied by the same manufacturer; and

"(II) for each type of infant formula, separately.

"(i) The requirements of clause (1) shall not apply if the Secretary, or State agencies, determine for any particular solicitation, that—

"(I) the number of manufacturers and other suppliers eligible to bid will likely be decreased under the approach described in clause (1);

"(II) administrative costs involved in implementing the separate and joint bids would be excessive in relation to the benefits gained; or

"(III) the total rebates or discounts received are likely to decrease under such an approach.

"(ii) State agencies deciding not to accept bids for each type of formula under clause (1) shall advise the Secretary of the basis for the decision, taking into account the requirements set forth in clause (ii).

"(iv) The Secretary shall report to Congress by March 1, 1994, on the decisions State agencies and the Secretary have made regarding bid solicitations under clause (1), along with any recommendations the Secretary may have to increase competition by encouraging the participation of additional infant formula manufacturers in the program established by this section.

"(I) To reduce the costs of any supplemental foods, the Secretary shall—

"(i) promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) encourage and promote the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) encourage the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a

rebate or discount system, will not exceed the savings anticipated to be generated by the procedures;

"(III) the procedures would be consistent with the purposes of the program; and

"(vi) make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one-half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula by two or more state agencies, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) soliciting or accepting bids for each type of infant formula (milk or soy based) under subclauses (I) and (II) of subparagraph (H);

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program established under this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress and for up to 2 years from the date the bids are opened and shall be subject to fines of up to \$100,000,000, as determined by the Secretary taking into account potential harm to the program established under this section. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the fine, referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph."

#### SEC. 5. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for which such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary."

#### SEC. 6. INCENTIVE TO ENCOURAGE JOINT PURCHASING OF INFANT FORMULA.

Section 17(h)(2)(A) Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iv) be designated to provide funds, to the extent funds are not already provided under subparagraph (I)(vii) for the same purpose, to help defray reasonable anticipated expenses associated with—

"(I) the joint purchasing of infant formula by two or more State agencies, without regard to whether procedures relating to the solicitation of bids were performed by the Secretary;

"(II) soliciting or accepting bids for each type of infant formula (milk or soy based) under subclauses (I) and (II) of subparagraph (H);

"(III) efforts to contain costs regarding the purchase of supplemental foods other than infant formula; or

"(IV) other efforts related to program cost containment."

#### SEC. 7. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and"

#### FTC CHARGES ABBOTT LABORATORIES WITH BID-RIGGING IN FEDERAL-STATE NUTRITION ASSISTANCE PROGRAM, AND WITH CONSPIRING NOT TO ADVERTISE INFANT FORMULA TO CONSUMERS

Abbott Laboratories, the leading U.S. manufacturer of infant formula, was charged by the Federal Trade Commission in federal district court this morning in connection with its bid in a Puerto Rico contract to provide formula to more than 40,000 infants through a federally-subsidized nutrition-assistance program. In a second complaint against Abbott, to be litigated in an administrative proceeding, the FTC alleged that the company conspired with others to refrain from advertising infant formula directly to consumers.

Abbott is based in Abbott Park, Illinois. Its Columbus, Ohio division, Ross Laboratories, manufactures and sells "Similac" and "Isomil" brands of formula, and had more than 50 percent of the U.S. market for infant formula in 1990.

The FTC also announced separate charges and proposed settlement agreements today with Abbott's two leading competitors in the infant formula market—American Home Products and Mead Johnson & Company. (See separate news release).

#### BID-RIGGING CHARGES

More than a third of the infant formula sales in the United States are subsidized by the federal government through the Special Supplemental Food Program for Women, Infants and Children (WIC), administered by USDA. States solicit bids from manufacturers to supply formula to WIC participants in either of two ways. Under an open-market system, several manufacturers can supply formula. Under the alternative, a sole-source system, the manufacturer who submits a sealed bid with the lowest unit price or highest rebate to the state is selected to supply formula to that state's WIC participants.

In general, under both systems, WIC participants receive vouchers to purchase the supplemental food at a local grocery store. Under the sole-source system, the voucher is

good only for the designated manufacturer's product. The grocery store redeems the vouchers received with the state WIC agency for the prevailing retail price. The state then submits the voucher to the manufacturer and receives the agreed upon rebate.

Because under an open market system, all companies—even those who do not offer any rebate—can sell their product through the WIC program, generally the preferred choice from a cost-containment standpoint is sole source. Manufacturers usually offer a large rebate to win such a contract.

According to the FTC complaint against Abbott, Puerto Rico requested bids to supply infant formula for its WIC program in June 1990, giving companies the option of bidding for a sole-source system and an open-market system. Thereafter, the FTC charged, Abbott "conspired or combined with others to fix, stabilize or otherwise manipulate Puerto Rico WIC rebate bids and to guarantee an open market system rather than a sole source system." As a separate count, the FTC charged that Abbott provided information that showed to competing bidders that it preferred the open-market system and would bid in a way to ensure that it would prevail in Puerto Rico—conduct that led to the manipulation of bid results.

These actions reduced competition in the bidding process, the FTC alleged in its complaint against Abbott, and as a consequence, the federal government is losing millions of dollars in rebates each year in Puerto Rico. This, in turn, is raising taxpayer costs and reducing the number of families receiving WIC assistance, the FTC charged.

#### CONSUMER ADVERTISING CHARGES

According to the FTC administrative complaint, Abbott conspired with others not to advertise to consumers through the mass media. This conduct is alleged to include discussions at meetings of the Infant Formula Council (the industry trade association), held during the 1980's to draft guidelines that would have prohibited the use of mass media advertising directly to consumers. The administrative complaint also alleges that Abbott and other members of the Council agreed to exchange information about their plans with regard to direct consumer advertising through the mass media. Finally, the complaint alleges that Abbott requested health care professionals to ask other infant formula manufacturers to stop consumer advertising.

This conduct deprived consumers of the benefits of competition in the marketplace, the FTC alleged.

If the FTC's administrative charges against Abbott with regard to advertising restrictions are upheld after a trial before an administrative law judge, the Commission could impose cease and desist provisions prohibiting Abbott from engaging in the challenged behavior in the future, subject to civil penalty. As to the charges relating to the bidding in Puerto Rico, the FTC asked the federal district court to prohibit that challenged behavior as well, and to award such other relief as the court may deem appropriate, including restitution of the amounts lost to the federal government by virtue of Abbott's unfair methods of competition.

Note: The Commission issues or files a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. Neither complaint is a finding or ruling that the named party has violated the law. The administrative complaint marks the beginning

of a proceeding in which the allegations will be ruled upon after a formal hearing by an administrative law judge.

The district court complaint against Abbott, which contains the Puerto Rico bid-rigging allegations, was filed in U.S. District Court for the District of Columbia this morning. The administrative complaint against Abbott, which contains the allegations relating to restrictions on direct consumer advertising, was issued by the Commission yesterday, June 10. The Commission vote to initiate these actions was 4-0 with Commissioner Roscoe B. Starek, III recused. In voting for the federal district court complaint, Commissioner Mary L. Azcuenaga said she concurred with Court I alleging a conspiracy but dissented with respect to Court II alleging unlawful unilateral conduct. In voting for the administrative complaint, Commissioner Azcuenaga said she concurred only with the allegation that Abbott entered into a conspiracy with others to refrain from advertising to consumers.

#### FTC SETTLEMENTS WITH TWO LEADING U.S. INFANT-FORMULA MAKERS IN CONNECTION WITH BIDDING PRACTICES NETS 3.6 MILLION POUNDS OF POWDERED INFANT FORMULA AS RESTITUTION TO THE FEDERAL GOVERNMENT

Two of the three leading U.S. manufacturers of infant formula have agreed to settle charges announced today by the Federal Trade Commission. The FTC settled three separate charges against Mead Johnson & Company and one charge against American Home Products (AHP). The charge common to both companies relates to their bidding practices for the Puerto Rico contract to provide formula to more than 40,000 infants through a federally-subsidized nutrition-assistance program. In connection with the Puerto Rico bidding, the settlements, to be filed for approval in federal district court, require these companies to deliver a total of 3.6 million pounds of powdered infant formula to the U.S. Department of Agriculture (USDA), which administers the nutrition assistance program, known as WIC (the Special Supplemental Food Program for Women, Infants and Children).

The FTC also has settled charges relating to the absence of advertising directly to consumers through the mass media by Mead Johnson during a period prior to 1988. The complaint alleges that Mead Johnson exchanged information with competitors about its plans with regard to mass media advertising, and charges that this reduced uncertainty among competitors and injured competition. The complaint also alleges that Mead Johnson participated in the information exchange with no independent legitimate business reason. The proposed settlement prohibits Mead Johnson from engaging in certain information exchanges with its competitors relating to direct consumer advertising through the mass media, although it preserves Mead Johnson's right to decide independently whether or not to advertise. Finally, the FTC settled a charge that Mead Johnson engaged in an unfair method of competition relating to bidding for WIC contracts in 1990 by sending out letters on March 6, 1990 to four states announcing, in advance, the amount of rebates it would offer for what were supposed to be sealed bids. The complaint also alleged that Mead Johnson knew or should have known that its competitors would become aware of the information contained in those letters.

Mead Johnson, an Evansville, Indiana corporation and a wholly-owned subsidiary of Bristol-Myers Squibb Company, manufac-

tures and sells "Enfamil" and "Prosobee" brands of formula and had more than 30 percent of the 1990 infant formula market. AHP is based in New York City and manufactures and sells "SMA" and "Nursoy" brands of formula through its Radnor, Pennsylvania-based Wyeth-Ayerst Laboratories division. Wyeth-Ayerst was the third largest manufacturer of infant formula in the United States in 1990.

According to the FTC, approximately 90 percent of the infant formula market was concentrated among Mead Johnson, AHP and a third company, Abbott Laboratories (against whom the FTC also announced charges today—see separate news release) during the relevant period. The complaint alleges that the market is difficult to enter, and there has been limited competition among brands based on wholesale prices. Throughout the relevant period, there was virtually no advertising through the mass media directly to consumers, the FTC said.

#### ALLEGED IMPROPRIETIES IN THE 1990 PUERTO RICO WIC BID

More than a third of the infant formula sales in the United States are subsidized by the federal government through the Special Supplemental Food Program for Women, Infants and Children (WIC), administered by USDA. States solicit bids from manufacturers to supply formula to WIC participants in either of two ways. Under an open-market system, several manufacturers can offer rebates and supply formula. Under the alternative, a sole-source system, the manufacturer who submits a sealed bid with the lowest unit price or highest rebate to the state is selected to supply formula to that state's WIC participants.

In general, under both systems, WIC participants receive vouchers to purchase the supplemental food at a local grocery store. Under the sole-source system, the voucher is good only for the designated manufacturer's product. The grocery store redeems the vouchers received with the state WIC agency for the prevailing retail price. The state then submits the voucher to the manufacturer and receives the agreed upon rebate.

Because under an open market system, all companies—even those who do not offer any rebate—can sell their product through the WIC program, generally the preferred choice from a cost containment standpoint is sole source. Manufacturers usually offer a larger rebate to win such a contract.

According to the FTC complaints against Mead Johnson and AHP, Puerto Rico requested bids to supply infant formula for its WIC program in June 1990, giving companies the option of bidding for a sole-source system and an open-market system. Thereafter, the FTC charged, each company provided information showing to its competitors that it preferred the open-market system and would bid in a manner to ensure that it would prevail in Puerto Rico. According to the FTC complaints, Mead Johnson and AHP then submitted identical bids for both the open-market and the sole-source options. The first bid was cancelled and a new request was issued, and the companies submitted the same bids again. The FTC alleged that these bids "were significantly below contemporaneous rebate bids submitted in response to requests from other WIC programs." The bidding resulted in the implementation of an open market system.

The provision of information reduced uncertainty relating to Mead Johnson's and AHP's rebate bids, the FTC alleged, and reduced competition among the defendants' and their competitors for the Puerto Rico

WIC contract during 1990, resulting in substantial injury, including the loss of millions of dollars, to the federal government's WIC program.

#### CONSUMER ADVERTISING

According to the FTC complaint, at meetings of the Infant Formula Council (the industry trade association), held during the 1980's to draft guidelines that would have prohibited the use of consumer advertising, Mead Johnson exchanged information with competitors about its plans with regard to mass media advertising and other forms of direct-to-consumer promotions. The FTC alleged this conduct by Mead Johnson also injured competition. No consumer advertising violations were charged against AHP.

#### MARCH 6, 1990 LETTERS

In the final allegation against Mead Johnson, the FTC charged the company with reducing uncertainty among competitors by sending letters in March 1990 to four states announcing the dollar amount it intended to bid when those states requested sealed bids for new WIC contracts. The FTC alleged that Mead Johnson knew, or should have known, that the information would be shared with its competitors. The complaint also alleges that these competitors did become aware of the content of the letters, and that, consequently, competition between the three major formula manufacturers for WIC contracts in 1990 was reduced.

#### SETTLEMENT AGREEMENTS WITH MEAD JOHNSON AND AHP

Under proposed settlement agreements with Mead Johnson and AHP, which require federal district court approval, the defendants would be prohibited from:

Requesting or encouraging any WIC official to administer bidding in violation of federal or state requirements;

agreeing, attempting to agree, or enforcing an agreement with a competitor regarding rebate bids for WIC programs;

exercising any third-year option on their July 1990 contracts with the Puerto Rico WIC program or exercising any right to protest should Puerto Rico terminate those contracts and issue a new invitation for bids; and

disclosing prior to the date for submission of sealed bids to provide formula through a state WIC program, the amount of their bid for that request or any other WIC program request, or their intention to bid in a manner that will increase the likelihood that an open-market system will prevail over a sole-source system.

The settlement agreement with Mead Johnson would further prohibit that company from: intentionally exchanging information with a competitor about mass media advertising directly to consumers; agreeing or attempting to agree with a competitor to refrain from or restrict marketing practices that are otherwise legal; and from soliciting adherence from competitors to either restrict mass media advertising directly to consumers or to adopt an Infant Formula Council code or the codes of other organizations that would restrict such advertising. Mead Johnson would be permitted to communicate any positions it holds on such practices or codes to entities other than to its competitors, however. Moreover, Mead Johnson remains free to unilaterally decide whether or not to advertise, or to issue its own advertising code, or to engage in certain activity with its competitors which is protected by the first amendment, such as petitioning the government to enact legislation relating to advertising. The proposed con-

sent order also would allow the exchange of technical, scientific, and safety information as long as it does not involve information relating to direct consumer advertising through the mass media.

Note: These proposed consent orders are for settlement purposes only and do not constitute an admission by the defendants of law violations. They require the court's approval and have the force of law when signed by the judge.

Both complaints and proposed settlement agreements were filed in U.S. District Court for the District of Columbia, this morning. The Commission vote to initiate these actions was 3-1, with Commissioner Roscoe B. Starek, III recused and Commissioner Mary L. Azcuenaga dissenting. Commissioner Azcuenaga said that she voted against the complaints because they failed to allege a bid-rigging conspiracy. She stated she would have voted in favor of the complaints and settlements with Mead Johnson and AHP relating to the Puerto Rico bidding if the complaints had alleged a conspiracy. In addition, Commissioner Azcuenaga indicated that she would have voted in favor of the complaint and settlement with Mead Johnson relating to the advertising issue if the complaint had alleged a conspiracy. ●

By Mr. KERRY:

S.J. Res. 318. Joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day"; to the Committee on the Judiciary.

#### VIETNAM VETERANS MEMORIAL 10TH ANNIVERSARY DAY

● Mr. KERRY. Mr. President, in honor of the tenth anniversary of the dedication of the Vietnam Veterans Memorial, I am pleased to introduce today a joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day."

Plans are currently underway for an historic celebration commemorating the tenth anniversary of the most visited monument in Washington—The Vietnam Veterans Memorial. It is fitting that we celebrate the anniversary of The Wall's dedication with activities that allow veterans—and Americans across the country—to remember and reflect upon the events surrounding the Vietnam war.

No one could have imagined the impact this tribute would have on veterans and their families. People from across the country come to visit the Vietnam Memorial and are deeply and personally moved, as I myself have been. Seeing the names of those men and women who lost their lives or were classified as missing in action embedded in the wall touches a part of us, veterans and non-veterans alike, and brings us all a little closer to understanding the personal sacrifices of war.

I hope you will join me—as a cosponsor of this joint resolution—in honoring the role the Vietnam Veterans Memorial has played in bringing out the thoughts and emotions Americans experienced in this very divisive period in our history. I believe the Memorial has played a major role in healing some of the war's wounds and this is a fitting

way to acknowledge this contribution. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

#### S.J. RES. 318

Whereas on November 13, 1982, the Vietnam Veterans Memorial was dedicated in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War, particularly those who gave their lives or who remain missing;

Whereas the Vietnam Memorial, located on a site in West Potomac Park in the District of Columbia near the Lincoln Memorial as authorized by Public Law 96-297, was constructed with funds raised entirely from private sources;

Whereas this memorial, bearing the names of 58,183 men and women, has become the most visited memorial in the Nation's capital;

Whereas November 13, 1992, marks the 10th anniversary of the Vietnam Veterans Memorial, a milestone which will be observed during 1992 through educational seminars, a reading of the names on the Wall, veterans reunions, and other appropriate events;

Whereas the anniversary offers an opportunity for the entire country to reflect on the Vietnam Veterans Memorial and its role in healing the Nation's wounds from the Vietnam era; and

Whereas the anniversary will enable new generations to discuss lessons learned in the decade since the Memorial's dedication: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 13, 1992, is designated as "Vietnam Veterans Memorial 10th Anniversary Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.●*

By Mrs. KASSEBAUM, (for herself, Mr. ADAMS, Mr. AKAKA, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GORE, Mr. GORTON, Mr. HATCH, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUE, Mr. JEFFORDS, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KOHL, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SASSER, Mr. SEYMOUR, Mr. SIMON, Mr. SPECTER, Mr. SYMMS, and Mr. THURMOND):

S.J. Res. 319. Joint resolution to designate the second Sunday in October of 1992 as "National Children's Day"; to the Committee on the Judiciary.

## NATIONAL CHILDREN'S DAY

• Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation to designate the second Sunday in October as National Children's Day. This will be the fourth year that Congress has designated this day as a time to celebrate the joy and promise of our Nation's children.

The recent focus on the troubles of urban areas and the hopelessness felt by so many Americans have caused each of us to reflect on the importance of families as the foundation of our society. In a free society, and particularly one as diverse as ours, individuals are constantly exposed to varied and conflicting ideas and ways of life. One of our most precious God-given rights—and responsibilities—is to choose from among these competing values those which best exemplify the way we hope to live our lives. I believe that one of the primary responsibilities of parenthood is instilling in one's children a sense of moral values. Success or failure rests with the family, which is the single most important influence on the formation of the principles followed by an individual throughout his or her lifetime.

In light of the struggles faced by many American families, it is particularly important to focus on the happiness that children bring to our world. National Children's Day provides us with the opportunity to celebrate the hope that children bring to our families, our communities, and our country; to illustrate their achievements; and to illuminate the challenges which children face in their everyday lives.

As our Nation's greatest resource, children are our Nation's greatest responsibility. National Children's Day provides us with an opportunity to rededicate our energies to improving the lives of children and their families. Government must strive to create innovative programs which are effective and efficient. We must not constrain ourselves by the boundaries of our current system but begin to view children within the context of their lives—their families and their communities.

Please join with me in designating the second Sunday in October as National Children's Day. The strength of a society should not be measured by its capacity to wage war but by its capacity to care for its children.♦

By Mr. CRANSTON:

S. 2876. A bill to amend the Federal Election Campaign Act of 1971 to make clear that for the purposes of that Act, a general election for the Office of President or Vice President includes all proceedings up to and including the selection of the President and Vice President in the electoral college or the House of Representatives and Senate; to the Committee on Rules and Administration.

## GENERAL ELECTION FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. CRANSTON. Mr. President, our Nation finds itself facing the distinct possibility that the President and Vice President could be chosen by the House of Representatives and the Senate respectively. While the 12th amendment outlines the process by which these choices are to be made, it, of course, does not clarify whether action by the House and Senate is an election for purposes of Federal campaign finance laws.

I am glad the chairman of the Rules Committee happens to be on the floor at the moment, because this is a matter that I think his committee should consider.

The question of whether the 2 months between the general election and action by Congress would be considered an election is critical. If considered an election, current spending limits and other proscriptions would apply to this time period. However, if this period is not considered an election, corporations, labor unions, millionaires, billionaires, and foreigners could be able to contribute unlimited amounts to the candidate of their respective choice.

The campaigns would presumably be aimed not only at Senators and Representatives, but also at their constituents back home, who might influence their votes for President and Vice President.

So I rise to introduce legislation that would make clear that an election for the office of President or Vice President includes all proceedings up to and including the selection of the President and Vice President in the electoral college and in the House of Representatives and in the Senate.

Frankly, I am not sure that this is the best approach. There are many ramifications and many questions raised by this issue. I do not pretend to have all the answers. But my hope is that this bill will prompt us to consider this important issue.

Mr. President, I ask unanimous consent that the text of the bill and an article that caused me to think about this—it appeared in yesterday's Washington Post—be printed in the RECORD.

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

S. 2876

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. GENERAL ELECTIONS FOR THE OFFICES OF PRESIDENT AND VICE PRESIDENT.

Section 301 of the Federal Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following new paragraph:

"(20) The term 'election', in reference to a general election for the office of President or Vice President, includes all proceedings up to and including the selection of the President and Vice President in the electoral col-

lege or the House of Representatives and Senate."

## THE MOST EXPENSIVE ELECTION OF ALL

(By Robert P. Charrow and Joseph O'Neak)

Unnoticed among all the crystal ball gazing about Ross Perot and the electoral college is one deceptively simple issue that may have as much impact on the possible House action as all the arcane intricacies of the 12th Amendment: Is the House's selection of president an "election" for purposes of the statutory and regulatory restrictions that normally govern campaigns for federal office?

To put the issue in context, there would be a two-month hiatus between the general election in November and the House action in early January. During this period the candidates and their supporters would not be sitting by idly. They would undoubtedly unleash a massive campaign unprecedented in our nation's history. Some of these efforts might involve behind-the-scenes wheeling and dealing of an intensity that would make traditional pork-barreling seem saintly. Other efforts might involve media blitzes of the type that normally dog the airwaves during major campaigns. Whatever the ultimate tenor of these efforts, one thing is certain—vast sums of money would be needed. Perot already has his war chest, but what about George Bush and Bill Clinton?

The ease with which either candidate can raise and spend money will turn on whether the November-December race to the White House is an "election." The Federal Election Campaign Act of 1971, as amended, bans contributions by corporations, labor unions and foreign nationals, limits individual contributions to \$1,000 per election per candidate, requires candidates to publicly disclose contributions from a single source in excess of \$200 and mandates that campaign advertisements indicate the organization that paid for the ad. That law, however, only applies to payments made for the purpose of influencing a federal election. The possibility that a presidential contest would be thrown to the House was never considered when Congress enacted the law.

Instead, the law defines "election" somewhat circularly to mean "a general, special, primary, or runoff election." Would House action, under the 12th Amendment, qualify as either a "special or runoff election?" Probably not, according to the Federal Election Commission, the agency charged with enforcing our campaign finance laws. The FEC's regulations provide that a special election is one held to fill a vacancy in a federal office. Since the House would select the next president about two weeks before Bush's current term ends, there would be no vacancy. Thus the House action is not a "special election." A runoff election is defined as one that is governed by state law, which is not the case here. In short, our fundamental campaign finance laws would probably not apply.

As a result, both Bush and Clinton would be free to accept large donations from corporations, labor unions, wealthy individuals and possibly even foreign nationals. Furthermore, wealthy institutions and individuals would be free to underwrite media campaigns on their own. Without the limitations of our campaign finance laws, the process of selecting the next president could easily degenerate to pre-Watergate standards, giving the rich and powerful the untrammelled opportunity to purchase political favors.

The ramifications of treating the House action as a non-election transcend campaign finance laws. The rules governing access to

television and radio are also keyed to the existence of an "election." Under the Communications Act of 1934, broadcasters cannot charge candidates more than they charge their best customers. This statutory discount, though, ends with the general election on Nov. 3. Thereafter, the broadcaster is free to charge whatever the market will bear, thereby placing an even greater premium on raising large sums of cash.

If the 12th Amendment's process for selecting a president is not an "election" for many regulatory purposes, then what is it, and what restrictions, if any, apply? At best, it would appear that the campaign leading up to the final House action is, as a matter of law, little more than good old-fashioned lobbying. And lobbying is subject to relatively few restrictions. A paid lobbyist must register with the clerk of the House and divulge on whose behalf he is operating and how much he or she is spending. These requirements fall far short of the type of protections and openness afforded by campaign finance laws.

The mere possibility that the real campaign for president will be surreptitiously funded by unlimited donations from corporations, labor unions and high-rollers should be disquieting to most Americans. Congress and the White House could seek legislation that would extend the normal election laws to cover the process of selecting a president and vice president under the 12th Amendment. But it is unlikely that they will, because those laws would place greater restrictions on Bush and Clinton than on Perot.

The FEC may be asked to redefine the term "election" to fill the legal void, but it is unlikely that that commission, consisting of three Democrats and three Republicans, would take any action that would handicap the standard bearers of the two major parties. In short, if the 12th Amendment comes into play, get ready for the most expensive "selection" that money can buy.

By Mr. COATS (for Mr. BAUCUS, for himself and Mr. COATS):

S. 2877. A bill entitled the "Interstate Transportation of Municipal Waste Act of 1992"; read the first time.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

• Mr. BAUCUS. Mr. President, I rise today to introduce a bill to give Governors the legal authority to restrict out-of-State municipal waste.

On May 20, the Environment and Public Works Committee favorably reported the reauthorization of the Resource Conservation and Recovery Act. Included in that bill is an amendment authored by myself and Senator CHAFEE to give Governors the authority to restrict out-of-State waste disposal.

The amendment was the result of many meetings and long negotiations to find an acceptable compromise. And while it does not give everyone everything that they wanted, it is a sound and workable solution to the problem of interstate transportation of solid waste.

The bill as reported also includes provisions to comprehensively address a broad range of recycling and solid waste issues. It includes an amendment to expand the reporting requirements

under the very successful Community Right-to-Know Program. It includes recycling provisions that for the first time establish the concept that companies, not just local taxpayers, are responsible for recycling some of their paper and packaging. And it includes a number of provisions to address orphan wastes like scrap tires, used oil, and batteries.

As I told the Senate on May 20, it is my hope that the Senate will shortly consider the reported bill. The committee is filing its report today and S. 976 will be on the Senate calendar shortly. I will be working with Senators to further refine and improve the bill for consideration by the Senate.

However, I understand how important it is to many Senators to resolve the interstate waste transportation problem. For more than 2 years, Senator COATS has been seeking legislation to give States the authority to restrict out-of-State waste.

I am also fully aware of the complexity and controversy surrounding the reported RCRA bill, and the time it may take to enact such legislation. Nevertheless, I would like to continue to work with my colleagues to pass such legislation.

But for two principal reasons, I have decided to introduce separate legislation to address the interstate waste issue.

First, two recent rulings by the U.S. Supreme Court on interstate waste signal a renewed urgency to resolve this problem. In these cases, the Court ruled that two State laws which treat out-of-State waste differently than in-State waste violate the commerce clause of the Constitution.

Second, there are a limited number of days left this Congress within which we can pass a comprehensive RCRA bill. Therefore, I have decided that it is in our best interest to proceed with interstate waste legislation now.

I have talked with the majority leader and he has agreed to call up the legislation I am introducing today, as soon as possible. So I believe the chance to enact this bill, this year, is very good.

Let me describe the provisions. For the most part it is the same as the interstate amendment that was adopted by the Environment Committee, with three changes.

First, the Environment Committee provision, while allowing all States to stop new waste shipments, allows only certain States—those importing more than 1 million tons—to freeze shipments at 1991 levels.

The legislation I am introducing today, corrects this problem by extending this freeze authority to all States.

Second, Senator COATS and others have expressed concerns that the committee bill does not protect States whose imports have dropped since 1991.

Under the committee bill, States like Indiana, for example, whose imports

this year have dropped, could find them growing back to 1991 levels.

The bill I am introducing today, therefore, gives States the authority to ensure that this does not happen. It allows all States to freeze current shipments of municipal waste at the 1991 or 1992 levels, whichever is less.

Finally, there is some uncertainty about the effect of the language in the committee bill limiting a Governor's authority to restrict out-of-State waste to circumstances that do not result in a breach of a contract.

The bill I am introducing today, clarifies that this applies only to written, legally binding contracts. Additionally, to assist States in administering their interstate authority, the bill authorizes the Governor to require that all such contracts be filed in the State.

I believe that this legislation provides States with the authority necessary to control out-of-State wastes, in an orderly fashion, without seriously disrupting interstate commerce and without creating chaos in our solid waste disposal system. I look forward to working with my colleagues to see that this legislation is considered by the Senate as soon as possible. •

ADDITIONAL COSPONSORS

S. 898

At the request of Mr. LEAHY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 898, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the safety of exported pesticides, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 2064

At the request of Mr. HATFIELD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2064, a bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs, to expand the Job Corps program, and for other purposes.

S. 2624

At the request of Mr. GLENN, the name of the Senator from Rhode Island

[Mr. PELL] was added as a cosponsor of S. 2624, a bill to authorize appropriations for the Interagency Council on the Homeless, the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 2656

At the request of Mr. FORD, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2682

At the request of Mr. BUMPERS, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Ohio [Mr. GLENN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2694

At the request of Ms. MIKULSKI, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 2694, a bill to limit the authority of the Secretary of the Army to provide for the incineration of lethal chemical agents at Aberdeen Proving Grounds, Maryland.

S. 2697

At the request of Mr. MCCAIN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2697, a bill to provide transitional protections and benefits for Reserves whose status in the reserve components of the Armed Forces is adversely affected by certain reductions in the force structure of the Armed Forces, and for other purposes.

S. 2826

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2831

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2831, a bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

S. 2851

At the request of Mr. JOHNSTON, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure

the long-term conservation of the Pacific yew, and for other purposes.

SENATE JOINT RESOLUTION 287

At the request of Mr. SIMON, the names of the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. FOWLER], the Senator from Florida [Mr. GRAHAM], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Wisconsin [Mr. KOHL], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. COATS], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. LOTT], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 287, a joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week".

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the names of the Senator from Connecticut [Mr. DODD], the Senator from Idaho [Mr. SYMMS], the Senator from Georgia [Mr. FOWLER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nebraska [Mr. KERREY], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".

SENATE RESOLUTION 303

At the request of Mr. MITCHELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of Senate Resolution 303, a resolution to express the sense of the Senate that the Secretary of Agriculture should conduct a study of options for implementing universal-type school lunch and breakfast programs.

SENATE JOINT RESOLUTION 305

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], and the Senator from Virginia [Mr. WARNER] were

added as cosponsors of Senate Joint Resolution 305, a joint resolution to designate October 1992 as "Polish American Heritage Month".

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month".

SENATE RESOLUTION 314

At the request of Mr. DECONCINI, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Resolution 314, a resolution concerning the provision of humanitarian aid to civilian populations in and around Sarajevo.

#### SENATE RESOLUTION 316—RELATIVE TO PAYMENT OF FEDERAL INCOME TAXES BY FOREIGN CONTROLLED CORPORATIONS

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. RES. 316

Whereas FCC's are evading billions of dollars each year in Federal income taxes by using gimmicks such as transfer pricing to understate their earnings;

Whereas middle-income Americans will continue to carry the burden until we put a stop to the \$30 billion per year tax evasion by FCC's;

Whereas statistics show that in some cases United States subsidiaries of foreign firms are reporting average profits on their tax returns of one-tenth of one percent, while United States companies are reporting 8 to 10 percent;

Whereas during the 1980's assets and receipts of FCC's increased at almost 20 percent annually while reported profits were very low and in some years reflected losses;

Whereas during the four year period 1986 to 1989, United States assets of foreign controlled companies increased by 70 percent and receipts increased by 78 percent. During this period, the United States economy as a whole never grew faster than 3 percent;

Whereas Japanese companies as a group grew faster than overall foreign companies. During 1986 to 1989, the assets of Japanese controlled United States companies increased by 142 percent and receipts increased slightly over 100 percent;

Whereas evidence collected over the past two years by congressional committees suggests massive underreporting on Federal income tax returns by FCC's;

Whereas Congressional investigations uncovered companies that have been operating in the United States for years and have never paid "one thin dime" in Federal taxes despite the fact they have sold billions of dollars of cars, stereos, and many other products to United States consumers;

Whereas the companies under investigation are in the electronics, automobile and motorcycle industries. These are areas where foreign companies, especially Japan, hold a large share of the United States market;

Whereas the issues in this Resolution are two fold: First, ensuring fairness to the United States taxpayer, especially in light of deficit reduction. Second, but not less important, is ensuring fairness to United States businesses and their ability to be competitive against firms that pay low or no taxes: Now, therefore, be it

*Resolved*, That the United States Senate urges the Secretary of the Treasury to support its Internal Revenue Service agents in the field and vigorously take enforcement action against foreign companies who continue to defraud the United States Government and the American people by their blatant evasion of taxes.

Mr. D'AMATO. Mr. President, I rise today to urge my colleagues to support me in an effort to bring tax fairness to this country by demanding that foreign companies start paying their fair share. Over the years numerous articles have been written, most recently by the London Sunday Times, chronicling the blatant tax evasion perpetrated by foreign corporations, mostly Japanese, operating in the United States.

These are companies operating in the automotive, electronic and motorcycle industries. From 1986 to 1989—the most recent data available—U.S. assets of foreign controlled companies increased 70 percent from \$841 billion to \$1.429 trillion and receipts increased 78 percent from \$543 billion to \$967 billion. During this same period, the U.S. economy as a whole never grew faster than 3 percent. Within the overall commercial activity of foreign companies operating in the United States, Japanese companies as a group grew even faster. Their assets increased 142 percent from \$132.8 billion to \$322 billion and receipts increased over 100 percent from \$126.1 billion to \$253 billion.

Mr. President, would you believe that with assets and receipts going through the roof, these companies paid little or no taxes during those years. As a matter of fact, investigations conducted by congressional committees have found massive underreporting of Federal income taxes by foreign-controlled corporations operating in the United States. And the worst part about it is, nobody seems to care because to date, nothing substantial has been done about it.

Mr. President, now is time for us to do something about this massive fraud; a fraud that would be prosecuted if it were committed by a U.S. citizen. We must see to it that these foreign companies pay their fair share, and in the process relieve the tax burden that has been riding far too long on the backs of the American people.

On March 24, 1992, my colleague, Senator HELMS, issued a statement calling for a stop to the tax manipulation being perpetrated by foreign companies. Such manipulation has been estimated in the billions and could total approximately \$30 billion each year. You can bet that it will continue to rise each and every year until we take

appropriate action. It's appalling to know that in a 4-year period, although assets and receipts substantially increased, the Government is being asked to believe that profits have declined. Do you think our intelligence has been insulted long enough?

Mr. President, we need to fully support the IRS in its attempts to crack down on this tax fraud, because that is exactly what it is. At the same time, we must also ensure that the IRS puts more emphasis on stopping this fraud by expanding its manpower and examinations of foreign companies. There are currently 45,000 foreign-controlled companies operating in the United States, and believe it or not, 70 percent of them do not pay U.S. taxes. Worse yet, the IRS has only 2,500 or 5 percent of them under audit. It is an outrage to think that even 20 percent of foreign companies could be defrauding the American people and the Government, let alone 70 percent.

Mr. President, it is time to send a message to foreign tax cheats that they must pay their fair share or face the same threat of penalties and interest and if appropriate criminal charges, that hang over the head of the ordinary American taxpayer. By doing so we will send a positive message to the taxpayers of this country, because the issues in this resolution is twofold: First, there is a need to provide fairness to the U.S. taxpayer, especially in light of deficit reduction. Second, we must provide fairness to U.S. businesses and enhance their ability to be competitive against firms that pay little or no taxes.

Therefore, Mr. President, I urge every Senator to support this resolution, and I urge the Treasury Department to provide the necessary support to the Internal Revenue Service that will allow vigorous enforcement action against egregious offenders.

#### SENATE RESOLUTION 317—ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 317

*Resolved*, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed \$74,880 for the purchase of one hundred and four thousand 1993 "We the People" historical calendars. The calendars shall be distributed as prescribed by the committee.

#### SENATE RESOLUTION 318—ORIGINAL RESOLUTION REPORTED AUTHORIZING SENATE PARTICIPATION IN STATE AND LOCAL GOVERNMENT TRANSIT PROGRAMS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 318

*Resolved*, That (a) the Senate shall participate in State and local government transit programs to encourage employees of the Senate to use public transportation pursuant to section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991.

(b) The Committee on Rules and Administration is authorized to issue regulations pertaining to Senate participation in State and local government transit programs through, and at the discretion of, its Members, committees, officers, and officials.

#### SENATE RESOLUTION 319—SENSE OF THE SENATE CONCERNING THE ILLEGALITY OF KIDNAPING AMERICAN CITIZENS

Mr. MOYNIHAN (for himself and Mr. PELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 319

Whereas, the Iranian Parliament has approved legislation authorizing Iranian officials to seize Americans anywhere in the world if they are alleged to have violated Iranian law;

Whereas, there have been incidents in the past where persons in the United States have been abducted to stand trial abroad;

Whereas, as a result of certain actions taken by United States officials and the recent decision of the United States Supreme Court in the case of United States v. Alvarez-Machain other nations may believe that the United States accepts the international legality of kidnaping;

Whereas, the United States has a strong interest in strengthening respect for the rule of law and the system of international extradition treaties so as to more effectively combat crime, including drug trafficking: Now, therefore, be it

*Resolved by the Senate*, that:

(1) Anyone who attempts to kidnap a person in the United States for the purpose of bringing that person to trial abroad should be deemed to have committed a crime in the United States and dealt with accordingly;

(2) The United States should vigorously pursue drug traffickers and any person involved in the murder of United States Drug Enforcement Agency officials through the existing international legal framework, including extradition treaties; and,

(3) United States officials should refrain from committing the crime of kidnaping which weakens international cooperation against crime, encourages the abduction of American citizens and subverts respect for the rule of law.

Mr. MOYNIHAN. Mr. President, in 1826 James Kent, New York lawyer, Federalist, appointed master in chancery by John Jay, and professor at Columbia College, published the first of his four-volume "Commentaries on

American Law," part I of which was titled "Of the Law of Nations." The first lecture, "Of the Foundation and History of the Law of Nations" began:

When the United States ceased to be a part of the British empire and assumed the character of an independent nation, they became subject to that system of rules which reason, morality, and custom had established among the civilized nations of Europe, as their public law.

That is the first sentence of the first book on American law, read by law students to this day. Chancellor Kent made it clear that the Continental Congress immediately accepted the requirements of international law:

During the war of the American revolution, Congress claimed cognizance of all matters arising upon the law of nations, and they professed obedience to that law. \* \* \*

Congress accepted international law—made this very clear—and surely assumed that the executive branch would also adhere to the law of nations. And, as the lawyers would say, Mr. President, a fortiori assumed that the courts would enforce this law. Yet we have just had from the Supreme Court a decision which Mr. Justice Stevens has referred to as "monstrous"; a decision which states that the United States has the power to kidnap the citizens of other countries—even countries with which we have comprehensive extradition treaties—and bring them back here to the United States for trial. In this case, a Mexican citizen.

Mr. President, in 1928, Justice Brandeis wrote:

Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

It is a matter of profound concern that this is a view that the chief law enforcement officials of the United States apparently either do not understand or do not embrace. Today, thanks to these officials, the United States officially supports a practice—kidnaping—denounced by the overwhelming majority of nations, but endorsed by Iran. We have done what no civilized nation in modern history has ever done: To assert the lawless right to invade another country's sovereignty and bring someone back to try them here. Not as a matter of special circumstance, but as a general rule.

I am speaking, of course, of the behavior of the Government of the United States in defending the legality of kidnaping a Mexican citizen to stand trial in the United States.

The salient facts in the Mexican case are few and not in serious dispute. It is alleged that Humberto Alvarez-Machain, a citizen and resident of Mexico, participated in the torture and

murder of DEA agent Enrique Camarena-Salazar and a Mexican pilot working with him. DEA agents allegedly arranged for Alvarez-Machain to be kidnaped, placed aboard a private plane, and flown to the United States where he was promptly arrested. The Government of Mexico immediately protested these actions, demanded that Alvarez-Machain be returned and offered to try him in Mexico. The United States has refused to comply, despite the existence of a comprehensive extradition treaty between the United States and Mexico and a clear rule of customary international law forbidding state kidnaping.

Canada has supported the Mexican protest. The Canadian Ministry of External Affairs, their State Department, has declared—by way of warning us—that "any attempt by foreign officials to abduct someone from Canadian territory is a criminal act." Our neighbors to the north have put us on notice: Do not try it here; do not try with us what you tried with our neighbors to the south.

In a 6-3 decision handed down on Monday, the Supreme Court has ruled that Alvarez-Machain need not be returned to Mexico and may be tried in the United States. The dissent, written by Justice John Paul Stevens, is stinging. It may be the first time that an Associate Justice of the U.S. Supreme Court has described an opinion authored by the Chief Justice as "monstrous." I am aware of no other such instance. Justice Stevens writes:

The Court's admittedly "shocking" disdain for customary and conventional international law principles \* \* \* [is] entirely unsupported by case law and commentary.

As the Court observes at the outset of its opinion, there is reason to believe that respondent participated in an especially brutal murder of an American law enforcement agent. That fact, if true, may explain the Executive's intense interest in punishing respondent in our courts. Such an explanation, however, provides no jurisdiction for disregarding the Rule of Law that this Court has a duty to uphold.

\* \* \* \* \*

I suspect most courts throughout the civilized world \* \* \* will be deeply disturbed by the "monstrous" decision the Court announces today.

I will not discuss at length the question of whether the majority's decision that the United States-Mexico extradition treaty does not implicitly outlaw state-sponsored abduction, although I think it manifest that no government—and certainly no Mexican Government—would have agreed to an extradition treaty if it was understood that the United States Government considered the request to extradite a mere supplement to the right to abduct.

Prof. Lori Fisler Damrosch of the Columbia University School of Law has said that the majority opinion amounts to saying that if I have a con-

tract to sell widgets to another party I also have to add a specific clause which says that they cannot break into my warehouse and steal them.

Any American President who consented to the right of a foreign state to abduct American citizens would be subject to impeachment proceedings.

Mexico has now requested that the United States grant its request to extradite DEA officials believed to have been involved in the kidnaping so that they can stand trial in Mexico. If the United States refuses, do we agree that Mexico has the right to abduct them?

I see the distinguished chairman of the Committee on Foreign Relations has risen.

Mr. PELL. Mr. President, I wanted to ask the Senator a question. And it is: Is not the offense even more egregious if the one kidnaped should be a chief of government?

Mr. MOYNIHAN. We recognize a basic equality of all persons before the law, but some have a higher rank even in civil law societies. Yes, the proposition is particularly disturbing when applied to a head of state. I should not like to see this President or any other kidnaped by some thug of the ayatollah. We should not engage in or defend conduct which would grant a patina of legality to such brazen conduct.

I would like to take a moment of the Senate's time to discuss the question of whether this abduction violated customary international law and treaties which, under the Constitution, are the supreme law of the land. Justice Stevens joined by Justices Blackmun and O'Connor found that the abduction "unquestionably constitutes a flagrant violation of international law, and \* \* \* also constitutes a breach of our treaty obligations." The majority demurs, but does not disagree, on this point, noting with startling nonchalance that "Respondent and his amici may be correct that respondent's abduction was 'shocking' \* \* \* and that it may be in violation of general international law principles."

Mr. President, the third edition of the highly respected "Restatement of the Foreign Relations Law of the United States," published by the American Law Institute, is succinct and unequivocal on this point. Section 432(2) states that "[a] state's law enforcement officers may exercise their functions in the territory of another state only with the consent of the other state. \* \* \*" and comment (c) adds that—

[I]f a state's law enforcement officials exercise their functions in the territory of another state without the latter's consent, that state is entitled to protest and, in appropriate cases, to receive reparation from the offending state. If the unauthorized action includes abduction of a person, the state from which the person was abducted may demand return of the person, and international law requires that he be returned.

Oppenheim's "International Law," a leading treatise, states simply:

"It is \* \* \* a breach of International Law for a State to send its agents to the territory of another State to apprehend persons accused of having committed a crime.

Mr. President, there may be circumstances which permit no alternative to self-help. Legitimate authority may have completely collapsed in another state or that state may refuse to fulfill its international legal obligations. There are also special cases with special rules, such as the universal jurisdiction to try those who commit acts of piracy and the absolute legal obligation to help bring to justice one who has committed crimes against humanity. However, this is not a case where there was no authority able to respond. Mexico did not move as swiftly in this case as the DEA or I would like, but it has already prosecuted persons involved in this specific murder, one of whom is even now serving a 40-year prison sentence. The United States cannot and does not argue that this is a case where law and order had completely disappeared in a given area such that there was no effective legal authority or no internationally recognized sovereign in control. There are serious questions about the political independence of the Mexican courts. I have raised just such concerns. But I do not believe that the United States has even argued in this case that Mexico was unwilling or unable to try Alvarez-Machain.

Nor is it a case where there was an on-going crisis which required instant reaction as in the celebrated *Caroline* affair. In that case, Canadian militia entered the State of New York in 1837, seized the vessel *Caroline* which had been used to ferry rebels and weapons across the border and set it afire. In the end, Daniel Webster agreed that the British Government had satisfied his dictum that such a violation of United States sovereignty could only be justified if "the necessity of that self-defense is instant, overwhelming, and leaving no choice of means, and no moment for deliberation." Clearly in this case there were both alternative means and ample time for deliberation.

It is not a case where the United States can appeal to the board, unusual legal principles involving crimes against humanity, such as those documented by an international tribunal at Nuremberg. All states are under a legal obligation to assist in bringing such criminals to justice wherever they are found.

This is a case, Mr. President, where the United States could have proceeded legally, but choose not to do so. It represents an adventurism that is not in our best interests. One might have hoped that with the end of the cold war we might once again recognize that the United States supports the rule of law because it is in our interests to do so, not because it is a nice thing to do. Law authorizes and legitimates the use

of force; it does not prohibit it. If the excellence of U.S. arms made the Persian Gulf war successful, it was the Charter of the United Nations and the customary international law of collective self-defense which made it legitimate and which, therefore, made it possible to mobilize the world community to support U.S. actions.

The cry will be raised that those who draw the line at kidnaping are somehow soft on crime or indifferent to the crisis of epidemic drug use in this country. It is with just such arguments that the enemies of constitutional and legal order always advance their cause. That in this case or at that time the rule of law is a luxury that we cannot afford. The particular crises come and go, but the argument is always much the same. In the 1950's it was the Red Menace; today it is narcoterrorism. But then as now the Constitution affords all the means needed to defend without subverting our own commitment to law. Which is what the Constitution is all about.

Justice Stevens notes that in a recent decision, the courts of South Africa—citing earlier United States decisions—ruled that a defendant kidnaped by agents of South Africa must be released. As of Monday last, the United States no longer offers such a standard to the world. And it seems to me no coincidence that within a matter of a few days after the current Attorney General testified in defense of the legality of kidnaping that the Parliament of Iran approved a bill allowing Iranian officials to arrest Americans anywhere in the world if they violate Iranian law. I cannot conceive that an Attorney General would defend this kind of conduct as legal. I cannot conceive that a Solicitor General would take the legal arguments to the Court. It is conceivable, to avoid chastising the Government, but Justices Stevens, O'Connor, and Blackmun clearly have the right of it. I do not know how we reverse the Court, but I think the Senate should stand up and put other nations on notice that, if the PLO starts kidnaping in Brooklyn, if the Syrians start kidnaping in Washington, if Saddam Hussein starts kidnaping on military bases, if Iran passes a law declaring its right to kidnap, they will have the Senate to deal with. I have to assume based on its arguments before the Court that the executive branch will think that this is all right. I do not.

Mr. President, we have put our own people at risk. We have declared that countries have a right to do this, that Colonel Qadhafi has a right to do it. His agents—as far as we can tell—blew up a Pan American plane filled with students from the University of Syracuse and other Americans over Lockerbie, Scotland. Is it so difficult to imagine that he might attempt to kidnap an American here in this country? Is it difficult to imagine that Sad-

dam Hussein might attempt such a thing or hire someone here to do so?

It is particularly because of the Iranian Parliament's reported action that I am introducing today a sense-of-the-Senate resolution which would state to the World that the United States will not accept any attempt to kidnap American citizens to stand trial abroad. The resolution further states that it is in the interests of the United States to likewise refrain from kidnaping persons in order to bring them to trial in the United States. Such actions may seem appealing, but in the long run they weaken support for the rule of law and discourage international cooperation in the fight against drug trafficking. I ask unanimous consent that the text of the resolution be printed in the RECORD at the conclusion of these remarks.

Justice Stevens concluded his opinion with a quote from Thomas Paine which I would like to repeat for the benefit of my colleagues. Paine warned that an "avidity to punish is always dangerous to liberty" because it leads officials to "stretch, to misinterpret, and to misapply even the best of laws." He advises that—

He that would make his own liberty secure must guard even his enemy from oppression; for if he violates this duty he establishes a precedent that will reach to himself.

Mr. President, I hope we will pass this resolution, which, of course, will be referred to the Committee on Foreign Relations.

Mr. PELL. One further question to the Senator. That is: Would not the kidnaping of Noriega in Panama fall within the same terms of reference?

Mr. MOYNIHAN. I think it is a pattern of state conduct which we have commenced and which we may regret.

Mr. PELL. Exactly.

Mr. MOYNIHAN. Mr. President, I do not want to see President Bush disappear the night before a debate with Governor Clinton. That is at the level of levity. At the level of dead seriousness, there are terrorists the world over prepared to see Americans killed, and we have legitimated the proposition that a foreign government can send agents into this country or find agents in this country which will take Americans out of the jurisdiction, leave them defenseless in foreign lands, and they will say to us, "You did it, and we are doing it. What is the difference?"

Mr. President, I send to the desk a sense-of-the-Senate resolution and ask that it be referred to the proper committee, which is, of course, the committee of the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. MOYNIHAN. I thank the distinguished chairman of the Committee on Foreign Relations.

## AMENDMENTS SUBMITTED

## DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1992

## WELLSTONE AMENDMENT NO. 2432

Mr. WELLSTONE proposed an amendment to the amendment of the House to the amendment of the Senate numbered 1 to the bill (H.R. 5132) making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

At the appropriate place, insert the following:

For emergency disaster assistance payments made available to the Federal Emergency Management Agency, the Small Business Administration, and the Department of Agriculture that are necessary to provide for expenses related to recent tornado-related damage in the Midwest designated as presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assist Act, an additional amount for disaster relief, \$50,000,000, to remain available until expended, which funds shall be available only after submission to the Congress of a formal funding request by the President designating such funds as an "emergency requirement" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

## UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992

## GRAHAM AMENDMENT NO. 2433

Mr. GRAHAM proposed an amendment to the bill (H.R. 5260) to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes, as follows:

At the appropriate place, insert the following new section:

## SEC. . EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS.

Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1986 is amended by striking "before January 1, 1993,".

## AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 18, 1992, at 2:30 p.m. to hold a hearing on competition policy and the global economy.

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

## COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on

the Judiciary be authorized to meet during the session of the Senate on Thursday, June 18, 1992, at 2 p.m. to hold a hearing on the nomination of Norman H. Stahl, to be U.S. court of appeals judge for the first circuit, Thomas K. Moore, to be U.S. district court judge for the District of the Virgin Islands, Eduardo C. Robreno, to be U.S. district court judge for the Eastern District of Pennsylvania, and Gordon J. Quist, to be U.S. district court judge for the Western District of Michigan.

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

## SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. FORD. Mr. President, I ask unanimous consent that the Foreign Commerce and Tourism Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 18, 1992, at 2 p.m. on United States and foreign commercial service.

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

## COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 18, 1992, at 2:30 p.m., in open session, to receive testimony on Pacific Security.

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

## COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 18, 1992, at 9:30 a.m. to hold a hearing on comprehensive health care reform proposals.

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

## SPECIAL COMMITTEE ON AGING

Mr. FORD. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, June 18, 1992, at 9:30 a.m. to hold a hearing entitled "Aging Artfully: Health Benefits of Art and Dance."

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

## SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 18, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on S. 2044, the Native American Languages Act of 1991.

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

## PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the ses-

sion of the Senate on Thursday, June 18, 1992, to hold a hearing on Asian Organized Crime: The New International Criminal.

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

## ADDITIONAL STATEMENTS

## TV VIOLENCE CAUSES AGGRESSIVE BEHAVIOR

• Mr. SIMON. Mr. President, I have been catching up on my reading now that the balanced budget amendment is temporarily behind us, and I came across the testimony of Dr. Leonard N. Eron, research professor emeritus at the University of Illinois at Chicago, in behalf of the American Psychological Association, on violence in the media.

It is superb testimony that is solidly done.

My colleagues will recall that a couple of years ago, you passed a bill of mine making an exemption in the antitrust law so that television industry people could get together to establish standards that would reduce violence without violating the antitrust laws. As you may recall, that was passed over the objection of the broadcast industry.

They have been meeting some on it, and the cable industry has hired a distinguished researcher, Prof. George Gerbner, from the University of Pennsylvania. My hope is that we're going to get more than pious words from the television industry on this. I would urge my friends in television to read the testimony of Dr. Eron. I'm taking the liberty of sending this to some of them.

In his testimony, he says, "There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime and violence in society. The evidence comes from comes from the laboratory and real-life studies."

In his testimony, Dr. Eron also says that the effect of television violence—

Is not limited to children who are already disposed to being aggressive and is not restricted to this country. The fact that we get this same finding of a relation between television violence and aggression in children in study after study, in one country after another, cannot be ignored.

He adds:

Practically it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually.

He does not suggest, nor does anyone I know, that television violence is the sole cause of violence in our society. It is one factor, one piece of a mosaic. But it is one that the television industry can do something about now, if they have the will and the good sense to look at something more than the profits that the industry can make.

Clearly, the reason for the use of so much violence is that it does attract viewers. But if standards are adopted so that all of television voluntarily follows certain standards, no part of the industry will be hurt, and our society will benefit.

It is also interesting to read in Dr. Eron's statement about the "Yes I Can" program.

I believe that my colleagues and others interested in this subject will find the testimony of Dr. Eron, who chairs the American Psychological Association of Commission on Violence and Youth, of great interest.

Mr. President, I ask to insert his testimony into the RECORD at this point.

The testimony follows:

TESTIMONY OF LEONARD D. ERON, PH.D.

Mr. Chairman and members of the Committee, thank you for inviting me to appear before you. I am Leonard Eron, Research Professor Emeritus at the University of Illinois at Chicago, and Chairman of the Commission on Violence and Youth of the American Psychological Association. It is in both of these capacities that I address you today. In regard to the former, I have been asked by committee personnel to discuss my research on the relation between television violence and aggression. For the past 35 years I have been engaged in research on aggression and violence. My specific interest has been in how children, in their formative years, learn to be aggressive. One of the factors implicated in the development of aggressive and violent behavior is the amount of television violence to which a youngster is exposed.

There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socio-economic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. The fact that we get this same finding of a relation between television violence and aggression in children in study after study, in one country after another, cannot be ignored. The causal effect of television violence on aggression, even though it is not very large, exists. It cannot be denied or explained away. We have demonstrated this causal effect outside the laboratory in real-life among many different children. We have come to believe that a vicious cycle exists in which television violence makes children more aggressive and these more aggressive children turn to watching more violence to justify their own behaviors. Statistically this means that the effect is bidirectional. Practically it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually.

Over 30 years ago, when I started to do research on how children learn to be aggressive, I had no idea how important T.V. was as a determinant of aggressive behavior. I thought it was no more influential than the Saturday afternoon serial westerns that I used to attend, or the fairy stories my parents used to read to me before I went to bed or the comic books I pored over instead of doing my lessons. These, certainly, were very violent. But I grew up OK. I didn't enter a life of crime. I was not very violent. So I was skeptical about the effects of television

violence. And I think most people come to this subject matter with this same sort of set, unconvinced that television can have such deleterious effects. However, in 1960, we completed a survey of all third grade school children in a semi-rural county in New York State. We interviewed 875 boys and girls in school and did separate interviews with 80 percent of their parents. We were interested in how aggressive behavior, as it is manifested in school, is related to the kinds of childrearing practices parents use. An unexpected finding was that for boys there seemed to be a direct positive relation between the violence of the TV programs they preferred and how aggressive they were in school. Since this was not more than a contemporaneous relation we didn't have too much confidence in the finding by itself. You couldn't tell by these data alone whether aggressive boys liked violent television programs or whether the violent programs made boys aggressive—or whether aggression and watching violent television were both due to some other third variable. However, because these findings fit in well with certain theories about learning by imitation, a cause and effect relation was certainly plausible.

Ten years later, however, in 1970, we were fortunate in being able to reinterview over half of our original sample. Our most striking finding now was the positive relation between viewing of violent television at age eight and aggression at age 19 in the male subjects. Actually the relation was even stronger than it was when both variables were measured at age eight.

By use of a variety of statistical techniques it was demonstrated that the most plausible interpretation of these data was that early viewing of violent television caused later aggression. For example, if you control how aggressive boys are at age eight, the relation does not diminish. As a matter of fact those boys who at age eight were low aggressive but watched violent television were significantly more aggressive ten years later than boys who were originally high aggressive but did not watch violent programs.

Similarly we controlled for every other third variable that we could think of and had data on, which might account for this relation—IQ, social status, parents' aggression, social and geographical mobility, church attendance. None of these variables had an effect on the relation between violence of programs preferred by boys at age eight and how aggressive they were ten years later.

Then twelve years after that when the subjects were 30 years old, we interviewed them again and consulted archival data such as criminal justice records and found that the more frequently our subjects watched television at age 8 the more serious were the crimes for which they were convicted by age 30; the more aggressive was their behavior while under the influence of alcohol; and, the harsher was the punishment they administered to their own children. There was a strong correlation between a variety of television viewing behaviors at age 8 and a composite of aggressive behavior at age 30. These relations held up even when the subjects' initial aggressiveness, social class and IQ were controlled. Further, measurements of the subjects' own children, who were now the same age as the subjects when we first saw them, showed that the subjects' aggressiveness and violence viewing at age 8 related to their children's aggressiveness and their children's preferences for violence viewing 22 years later, when the subjects themselves were 30 years old. What one learns about life from the television screen seems to be transmitted even to the next generation!

Now it is not claimed that the specific programs these adults watched when they were 8 years old still had a direct effect on their behavior. However, what it probably does mean is that the continued viewing of these programs contributed to the development of certain attitudes and norms of behavior and taught these subjects when they were youngsters ways of solving interpersonal problems which remained with them over the years.

As I pointed out earlier, this finding of a causal link between the watching of violent television and subsequent aggressive behavior is not an isolated finding among a unique or nonrepresentative population in one area of the U.S., at a particular time. Seventeen years after our original data collection, we studied another large group of youngsters in a different geographical section of the U.S., a heterogeneous suburb of Chicago, following them for three years, and we obtained essentially the same results (Huesmann, Lagerspetz & Eron, 1984). Further, this three year follow up was replicated in four other countries, Australia, Finland, Israel, and Poland (Huesmann & Eron, 1986). The data from all five countries investigated in the study clearly indicate that more aggressive children watch more television, prefer more violent programs, identify more with TV characters, and perceive violence as more like real life than do less aggressive children. Further, it became clear that the relation between TV habits and aggression was not limited to boys as we had found in our original study. Girls, too, are affected. And generally the causal relation was bidirectional, with aggressive children watching more violent television and the violent television making them more aggressive.

Of course we do not contend that television violence is the only cause of aggression and violence in society today. Aggression is a multiple determined behavior. It is the product of a number of interacting factors—genetic, perinatal, physiological, neurological, and environmental. It is only when there is a convergence of factors that violent behavior occurs. No one factor is necessary or sufficient to produce long term anti-social behavior. Thus, media violence alone cannot account for the development of serious anti-social behavior. It is, however, a potential contributor to the learning environment of children who eventually go on to develop aggressive behavior. Furthermore, research support the view that the effect of violence viewing on aggression is relatively independent of other likely influences and is of a magnitude great enough to account for socially important differences. The current level of interpersonal violence has certainly been boosted by the long term effects of many persons' childhood exposure to a steady diet of TV violence.

We have been considering a number of variables which define the limits within which the effect of viewing television on the subsequent social behavior of children is operative. We turn now to a consideration of a likely model to explain how this effect comes about.

One aspect of the model has to do with arousal effects. Researches have alluded to this process as important in activating aggressive behaviors. It has been hypothesized that a heightened state of tension including a strong physiological component, results from frequent observation of high action sequences. Arousal here is seen as both a precursor and consequence of aggression (Huesmann, 1982). Another aspect of the model has to do with the rehearsal of the behaviors the child observes on the part of his

favorite TV characters. The more frequently the child rehearses the sequence by continued viewing, the more likely is it to be remembered and reenacted when the youngster is in a situation perceived to be similar. Further, by consistently observing aggressive behavior, the youngster comes to believe these are expected, appropriate ways of behaving and that most people solve problems in living that way. Norms for appropriate behavior are established and attitudes are formed or changed by observation of other persons' frequent behavior, especially if that behavior is sanctioned by authority figures (Tower, Singer, Singer and Biggs, 1979). The child who has been watching programs with primarily aggressive content comes away with the impression that the world is a jungle fraught with dangerous threats and the only way to survive is to be on the attack.

However, television's influence cannot be explained solely in terms of arousal or observational learning and the setting of norms of behavior. Aggressive behavior is overdetermined, and the variables we've been discussing all contribute their effects. The process, however, seems to be circular. Television violence viewing leads to heightened aggressiveness which in turn leads to more television violence viewing. Two mediating variables which appear to play a role in this cycle are the child's academic achievement and social popularity. Children who behave aggressively are less popular and, perhaps because their relations with their peers tend to be unsatisfying, less popular children watch more television and view more violence. The violence they see on television may reassure them that their own behavior is appropriate or teach them new coercive techniques which they then attempt to use in their interactions with others. Thus, they behave more aggressively which in turn makes them even less popular and drives them back to television. The evidence supports a similar role for academic failure. Those children who fail in school watch more television, perhaps because they find it more satisfying than schoolwork. Thus, they are exposed to more violence and have more opportunity to learn aggressive acts. Since their intellectual capacities are more limited, the easy aggressive solutions they observe may be incorporated more readily into their behavioral repertoire. In any case, the heavy violence viewing isolates them from their peers and gives them less time to work toward academic success. And of course, any resulting increase in aggression itself diminishes the child's popularity. Thus, the cycle continues with aggression, academic failure, social failure and violence viewing reinforcing each other.

#### CHICAGO INITIATIVE IN PREVENTION OF CHILDHOOD AGGRESSION

One need go no farther than the nearest city newspaper to learn of the challenges that beset our city schools today. The country is undergoing major demographic shifts. Schools now enroll greater numbers of students who are members of linguistic or cultural minorities and/or who present educational and behavioral challenges. Additionally, many of these students come from low income families. Dramatic shifts have also been witnessed in family configuration. Increasingly large numbers of children come from single parent families, many headed by teenage mothers. Associated with these changes are increased risks for school failure and the development of serious aggressive and antisocial behavior.

Schools and families often lack the resources to meet the demands of these stu-

dents. Yet, greater and greater responsibility is placed on the school personnel to provide for the social and emotional development of the children in their classrooms. Complicating these demands is the fact that teachers are increasingly confronted with students whose expectations, social behaviors, and values differ significantly from their own. The classroom teacher must decide how best to allocate scarce resources (time, attention, materials) to an increasingly diverse and often at-risk population of students. Far too often teachers have not been provided adequate training to accomplish this task.

Until recently, very few prevention and intervention programs have included consideration of the multiple contexts in which aggressive and antisocial behaviors are learned. While the school context is critical because of the amount of time and the number of years the child spends at school, there are many other important socializing influences. These influences include the peer, family and community context, as well as exposure to media violence.

In working with inner city children the community context is of particular relevance, because of the extreme environmental conditions which often exist there and which place entire populations of children at risk for the development of aggressive and violent behavior. Intervention programs are doomed to failure if they do not take into account the extreme and persistent environmental constraints such as violence, hopelessness, and limited social resources which surround these children twenty-four hours a day. It is naive to believe that we can change the attitudes and behavior of young people growing up under these conditions with any type of brief, single-focus program, such as public service announcements, classroom management strategies for teachers, or a few weekly lectures and exercises designed to change children's social skills or cognitions about aggression. In order to effect behavioral change, a more complex and sustained approach carried out more frequently over a number of years and affecting several psychosocial contexts and settings of development is necessary.

As part of a recent initiative in prevention research by the National Institute of Mental Health, The University of Illinois at Chicago has been awarded a large grant to conduct and evaluate a comprehensive program to prevent the development of antisocial behavior in children at risk. A team of professionals from the areas of psychology, education, and juvenile justice, with extensive experience in working with children and families, has been brought together to develop this program.

The Metropolitan Area Child Study is a large-scale (N=4,546), comprehensive, long range program in which interventions are being conducted throughout the school year in 16 schools with the same children over a period of two years and across a variety of contexts. These children will then be followed for a number of years to determine the long range effects of these efforts at preventing the emergence of antisocial aggression and violence. The contexts for intervention are the classroom, peer group, and family. However, because an important, but basically unanswered question, is how much intervention in which of these domains is necessary to prevent violence and aggression in the highest risk portion of this population, we are employing an additive model of program evaluation.

Utilizing this model, we begin with the most cost-effective and least intrusive meth-

od of intervention, a general enhancement, classroom-based primary prevention program. All children (except no treatment control children) are included in this general enhancement classroom-based program. This program consists of 80 classroom lessons utilizing the Yes I Can social responsibility training materials. The Yes I Can program focuses on promoting development in five areas of social cognition: Self-understanding; self as part of a community; social norms about violence/TV viewing habits; sense of control and hopefulness; social problem solving. Teachers participate in 30 hours of teacher training focusing on cultural diversity, development of prosocial and cooperative behaviors and classroom management.

A large group of children from grades 2, 3, and 5 who have been identified as being at high-risk for developing violent and aggressive behavior (N=975) are divided into two additional treatment groups. Both of these groups also receive more intensive cognitive training in small groups of high-risk peers. Only one of these groups of children also receives 22 sessions of family training during the first year of the program and monthly boosters during the second year. In this regard, it is important to examine the extent to which corresponding gains justify the social and economic costs of identifying children as high-risk, and the expenditure of resource necessary to involve multiple systems in treatment programs. This focus also addresses the concern of whether prevention programs should single out high-risk children for special attention, or should be limited to general enhancement programs for all children.

We believe that focusing on the child's cognitions as the critical locus of change holds promise for long-term generalized effects. However, since these cognitions are learned and maintained in multiple settings, we also believe that the conditions for the learning of aggression present in at least some of these settings must also be altered. The need for a comprehensive approach is most critical in inner city communities, where the environmental risk factors are so extreme that they placed entire populations of children at risk and can exacerbate the impact of individual risk factors.

#### APA COMMISSION ON VIOLENCE AND YOUTH

As part of my remarks today, I also want to give a brief report on the American Psychological Association Commission on Violence and Youth, of which I am the Chair. A year ago the Commission was established to bring psychology's expertise to bear on the problems of young people who are victims, witnesses, or perpetrators of violence or who live under the constant threat of violence.

The APA has asked the Commission to (1) review psychological knowledge related to violence and youth, (2) describe applications of that knowledge to prevent or stop violence and to temper its negative consequences, and (3) recommend promising directions for public policy, research, and program development.

We have solicited ideas and materials from many people who are concerned about violence and youth. Last fall we conducted 2 days of hearings in which we heard testimony from researchers and program staff in the areas of sexual assault, law enforcement, health care, and community services, as well as representatives of the religious community and state and federal government agencies.

Speakers repeatedly urged APA to bring a scientific perspective to public policy on violence, and they underscored the urgent need for immediate, sound interventions.

Other participants at the hearings outlined the special vulnerability of racial and ethnic minorities, young people with disabilities, and lesbian and gay youth. Young people who appeared vividly described their experiences of living with the constant threat of violence in their schools and neighborhoods.

The Commission's work is supported by a cadre of experts made up of APA members and other professionals whose expertise complements that of the twelve Commission members. These volunteers are contributing materials and ideas for the Commission to consider, and some of them will participate in developing and reviewing the Commission's report to the Association.

The Commission will present its findings and recommendations in a report scheduled for release in December 1992. Besides advancing the understanding of violence and youth by psychologists, we want the report to offer practical help to communities and institutions coping with issues related to violence and youth. For this reason, we decided to make preventive and rehabilitative interventions the focus of the report. We also will discuss the relation between violence and culture, as well as social and historical issues that underlie the context for our society's current violence.

I am confident that material from these hearings will be germane to the work of our Commission. Moreover, I trust that our Commission's final conclusions and recommendations will be valuable well beyond organized psychology. We want our report to be a springboard for developing programs and policies that can help to stop the tidal wave of violence that is harming our young people nationwide.

Thank you for this opportunity to summarize these issues. I would be happy to respond to any questions you might have.

#### IN RECOGNITION OF RT. REV. MSGR. JOHN F. SAMMON

• Mr. SEYMOUR. Mr. President, I rise today in recognition of Msgr. John F. Sammon upon the 50th anniversary of his ordination to the priesthood. Monsignor Sammon has been an extraordinary fixture in Orange County, CA, as well as loved tremendously by all.

Monsignor Sammon was born in Pittsfield, MA. He attended St. Joseph School and St. Joseph High School in Pittsfield. He continued his education at the Holy Cross College in Worcester, MA, and attended St. Mary's Seminary in Baltimore, MD. Monsignor Sammon was ordained on May 30, 1942 for the Archdiocese of Los Angeles and served the Archdiocese until 1960 when he was appointed to St. Cecilia Catholic Church in Tustin. On May 7, 1974, he received the title of monsignor.

Monsignor Sammon has served as chaplain of many organizations such as the Catholic Daughters of America, First Friday Friars, the Holy Family Retreat Association, the Orange County Chapter of the Knights of Columbus, the Rams Football Team and the Serra Club. Monsignor Sammon also serves as a board member of the Christian Service Council on Aging, Concern Counseling, Inc., Emergency Medical Services, Florence Crittenton Services, Meals on Wheels and the Women's

Transitional Living Center, just to name a few.

Monsignor Sammon has been honored with many awards from Man of the Year for the First Friday Friars for 1977 to the George Washington Award presented by the Valley Forge Freedom Foundation in 1973. He is the second priest to ever receive this award. Monsignor Sammon has received many more honors worthy of mentioning, however, we would probably be here all day.

Mr. President, I ask my colleagues to join me today in recognizing this extraordinary man for his exceptional service to not only his first and foremost commitment, God, but to the community as well. •

#### ANTICOMPETITIVE PRACTICES IN THE RETAIL GASOLINE MARKET

• Mr. DECONCINI. Mr. President, recently I chaired a hearing in the Judiciary Committee's Subcommittee on Antitrust, Monopolies and Business Rights that focused on anticompetitive practices in the retail gasoline market. This is an issue I have been concerned about for some time.

Consumers benefit from strong competition in the retail gasoline marketplace. Unfortunately, over the years, anticompetitive practices have developed in this sector.

For some time now, several major oil refiners have attempted to control the gasoline retail market. To achieve this objective, major oil companies have undertaken an effort to systematically eliminate independent dealers from business.

Through discriminatory wholesale pricing, burdensome supply contracts, and the direct operation of retail gas stations, the major oil companies are gradually squeezing the independent dealer from the market.

Their strategy has been successful. The Department of Energy reports that the number of dealer-operated outlets declined from 91,000 in 1981 to 42,000 in 1990. The result has been reduced competition leading to higher gas prices, fewer full service pumps, and inadequate emergency and repair facilities for motorists.

Both distributors and retailers are being harmed by the current practices that are conducted by refiners. The historic structure of the gasoline market—which has served the American consumer so well—is quickly fading.

Hundreds or thousands of small businessmen competing for business through fair competition and services better serves consumers than the situation that is developing—a situation where a few major oil companies control the market and set prices from their corporate boardrooms in Los Angeles, New York, or Houston.

It is clear that existing law is inadequate to resolve the anticompetitive

practices that are occurring in this industry.

It is for that reason that I introduced S. 790, the Motor Fuel Consumer Protection Act. This is a bipartisan measure that has the support of both the chairman of the Antitrust Subcommittee, Senator METZENBAUM, and the ranking Republican, Senator THURMOND. S. 790 will return price competition to the retail gasoline market.

Divorcement legislation has passed the Senate Judiciary Committee before—the last time in 1986. Since that time, however, the need for this legislation has increased dramatically. The Judiciary Subcommittee on Antitrust, Monopolies and Business Rights has now held two hearings on S. 790. Last week, the subcommittee overwhelmingly passed this bill and sent it to the full Judiciary Committee.

This is important consumer legislation that I hope will eventually be acted upon by the full Senate. •

#### IN RECOGNITION OF LT. GEN. ROBERT D. BECKEL

• Mr. SEYMOUR. Mr. President, I rise today in recognition of Lt. Gen. Robert Beckel, commander of 15th Air Force, March Air Force Base in California upon his retirement from service to the U.S. Air Force.

General Beckel earned a bachelor of science degree from the U.S. Air Force Academy in 1959 as a member of its first class. Upon his graduation from the academy, he was commissioned as a second lieutenant. He received pilot wings in June 1960 at Vance Air Force Base, OK, where he was the outstanding graduate of his class. He continued to earn a master of science degree in international affairs from George Washington University in 1971 and completed the naval command and staff course in 1971 as well as the National War College in 1975.

In August of 1961, General Beckel was assigned to the 49th Tactical Fighter Wing, Spangdahlem Air Base, West Germany, where he flew F-100's and F-105's. General Beckel then became a member of the U.S. Air Force Aerial Demonstration Squadron, the Thunderbirds, from 1965 to 1967. He also flew the solo position for the "Ambassadors in Blue" in demonstrations throughout the world.

He served as flight commander of the 614th Tactical Fighter Squadron, South Vietnam, and flew 313 combat missions in the F-100 from December 1967 until January 1969. General Beckel was assigned to the Office of Legislative Liaison, Secretary of the Air Force, Washington, DC, in 1971 and then became chief aide to Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff.

Mr. President, this is just a few of the accomplishments General Beckel has made in his career with the U.S. Air Force. I ask that my colleagues

join me today in congratulating and commending General Beckel on his many achievements over the years and to wish him much deserved rest, relaxation and good health in months and years to come. Thank you, General Beckel, for your commitment to the United States of America.●

#### ECONOMIC SANCTIONS MUST REMAIN IN FORCE

● Mr. DECONCINI. Mr. President, I was flabbergasted by an article which appeared in yesterday's New York Times that efforts are underway here in Washington seeking rulings from the Treasury Department to exempt the Belgrade-based ICN-Galenika Pharmaceutical Co. from these sanctions. By coincidence, Galenika is owned by Milan Panic, an American who has been nominated to serve as Prime Minister of the rump Yugoslavia. Apparently, the company is feeling the pinch of U.N.-imposed economic sanctions against Serbia and Montenegro in response to the war Belgrade has waged against the independent country of Bosnia-Herzegovina.

An exemption is presumably being sought because the company supplies certain pharmaceuticals to neighboring countries, including Bosnia-Herzegovina. A number of Washington insiders are reportedly pushing for a waiver for Galenika. I suspect that the real reasons for the request have more to do with profits than altruism. If this should prove to be the case, an exemption would certainly be out of the question. If Mr. Panic and others are so concerned about the humanitarian situation, perhaps they could use their influence to get Serbia and her allies to stop the fighting around Sarajevo long enough so that convoys of desperately needed food and medicine supplies can reach people of that besieged capital.

The U.N.-approved economic sanctions must remain in force until Serbia and Montenegro fully comply with Security Council resolutions. Mr. President, I request that the text of the New York Times article be included in the RECORD.

The article follows:

[From the New York Times, June 17, 1992]

AMERICAN OFFERED POST IN BELGRADE  
IT REMAINS UNCLEAR WHETHER SERBIAN-BORN  
INDUSTRIALIST WILL TAKE PREMIERSHIP  
(By Michael T. Kaufman)

BELGRADE, YUGOSLAVIA, June 18.—The ruling Socialist Party formally proposed today that the post of Prime Minister of Yugoslavia be given to a Serbian-born naturalized American pharmaceuticals magnate.

At a time when Yugoslavia is reeling under United Nations economic sanctions intended to punish the Belgrade Government for its support of ethnic fighting in Bosnia, the party said that Milan Panic, a millionaire industrialist from California, offers the best hope of leading the country from its crisis.

"With Mr. Panic's selection as Prime Minister, our country would come out of this

economic and social crisis much quicker," said Borislav Jovic, the chairman of the Socialist Party of Serbia, as quoted by the official Tanyug press agency.

#### IS THE CANDIDATE WILLING?

But it could not be learned if Mr. Panic was willing to take the job. The public affairs office at the Costa Mesa, Calif., headquarters of Mr. Panic's company, ICN Pharmaceuticals, said today that Mr. Panic was sticking by a statement he issued on Sunday listing a number of conditions for accepting the Yugoslav premiership.

In his statement, Mr. Panic (whose name is pronounced PAHN-itch) said that while "it would be a great honor for me to have the opportunity to help the people of my native country," he would consider taking the post only if he gets the backing of all political parties as well as of businessmen and intellectuals. Those conditions have not yet been met.

There appeared to be other potential obstacles to his candidacy. Should he accept the premiership, he would presumably lose his United States citizenship under American laws that prohibit citizens from taking posts in foreign governments. He might also face prosecution under a June 8 executive order by President Bush imposing sanctions against Serbia. The order prohibits Americans from assisting the authorities in Belgrade.

#### AN INTEREST IN ENDING SANCTIONS

One of ICN's most profitable holdings, the ICN-Galenika pharmaceutical company in Belgrade, would be helped by the lifting of the international sanctions.

At a shareholders' meeting last April, Mr. Panic said that ICN had increased first-quarter earnings by 30 percent, mainly on the strength of Galenika's performance. But two-thirds of the raw materials used by Galenika in the manufacture of pharmaceuticals have come from the United States.

Galenika's American vice chairman, John Scanlon, formerly United States Ambassador to Belgrade, is in Washington this week seeking rulings from the Treasury Department on Galenika's operations in light of the sanctions. Mr. Scanlon said he had pointed out that Galenika supplies a major portion of the needs for penicillin to Serbia, Montenegro, Macedonia and Bosnia and Herzegovina.

Officials at Galenika said today that Mr. Panic was expected here on Thursday.

#### DOMESTIC OPPOSITION GROWS

In turning to the American millionaire, the Serbs who dominate the Belgrade Government appeared to be trying to deflect and mute mounting anti-Government protests by students, churchmen and proponents of peace and greater democracy. The demonstrations, all of which emphasize the Government's Communist past and totalitarian habits, have focused around demands for the resignation of Slobodan Milosevic, who dominates Yugoslav politics as the President of Serbia.

On Monday the Socialists went outside their party to choose Dobric Cosic, a widely respected and popular writer, as President of the Yugoslav federation, now composed only of Serbia and Montenegro. Mr. Cosic is a passionate Serbian nationalist, and in this area his views may be expected to parallel those of Mr. Milosevic. But Mr. Cosic was expelled from the Communist Party in 1968, while Mr. Milosevic was the party chief in Serbia until 1989, and it was unclear whether the new federal President will try to undermine the old guard in control of Serbia.

Whatever Mr. Cosic's intentions, he would seem to have far less political power than Mr. Milosevic. But several Western diplomats said today that the moral authority he brought to the post gave him greater prerogatives than did the Constitution. Were he to urge new elections, Mr. Milosevic would almost have to comply, they said.

The nomination of Mr. Panic was also replete with Balkan complexities, beyond the obvious clash of having men who until very recently upheld Communism choosing someone who is probably the world's richest and most capitalistic Serb.

#### TIES WITH MONTENEGRO STRAINED

The selection is certain to strain relations between Serbia and its only remaining ally, Montenegro. The leaders of Montenegro had been promised that the Presidency would go to one of their people. When that pledge was broken with the selection of Mr. Cosic, the Montenegrins then felt that they would at least get to fill the post of Prime Minister, particularly since the new Constitution recommends that the two positions not be held by people from the same republic. Mr. Panic was born in Serbia.●

#### U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

● Mr. MCCONNELL. Mr. President, the so-called Earth summit has come to a close. Touted as a historic effort to rescue a world teetering on the brink of self-destruction, it was at times difficult to discern what the priority was: rhetoric or substantive progress.

There was lots of talk. Lots of politicking. Lots of hot air—which, by the way, contributes to global warming.

President Bush braved the barrage of predictable criticism from the liberal media, the developing world, the developed world, and the Democrats in Congress. The President was unfairly bashed for opposing fixed targets and timetables to the Framework Convention on Climate Change, and an inartfully drafted biodiversity treaty.

Sustainable international development requires not only environmental protection, but also a realistic consideration of economic ramifications. In the face of enormous political pressure from critics with their own agendas, President Bush reaffirmed his commitment to both the environment and sustainable development. His leadership in this area belies unjustified and inaccurate criticism. The President did not succumb to the cacophony of the pressure groups and commit the United States to wrong-headed proposals which could have wreaked havoc on our economy and on the lives of millions of working Americans.

Stepped in politically correct double-speak, and lacking any sound scientific basis, the press relentlessly hammered President Bush on the issue of global climate change. The President stood firm against legally binding targets and timetables for greenhouse gases. This may not be a fashionable position in some circles. It is the only position supported by the facts, and is far-

sighted in its regard for real long-term prosperity and environmental protection. Yet the naysayers self-righteously insist we should risk shackling our economy, putting Americans out of work, and determine later whether carbon dioxide emissions in fact present substantial risks of potential climate change.

Mr. President, there is no conclusive evidence of significant long-term global warming. Our understanding of the Earth's climate is quite primitive and does not take into account the dynamic interaction of such factors as water vapor, sunspots, volcanic activity, variations in the Earth's orbit around the Sun, and the effect of oceans and ocean currents.

While these forces have been at work for eons, some self-proclaimed environmental saviors can only cite the latest weather report, and prepare 30-second political ads.

While I agree with many in the environmental community that measures must be taken to minimize the potential for climate change, these measures should be the least cost alternatives in light of the many uncertainties. We must target our limited economic resources to the most pressing environmental risks, not those which are unclear or remote. The United States and the world should take steps to mitigate the possibility of global climate change through carefully calculated efforts to produce the greatest environmental benefits with the least harmful economic impacts.

That is exactly what President Bush accomplished in Rio. The President led the way in crafting a thoughtful, reasoned response in the face of shrill rhetoric. In the end, the President's initiative was adopted by the rest of the world. It requires nations to submit action plans to stabilize greenhouse emissions at 1990 levels. It provides for technology cooperation and commits funding. It does not bind the United States or any other nation to firm targets which have uncertain environmental benefits, but portentous economic impacts.

Mr. President, I will ask that an editorial from Roll Call entitled "Bush Finally Takes a Stand Against Environmental Hysteria" be placed in the RECORD following my remarks.

The President was also widely criticized for his hang-tough stance on the biodiversity treaty. It is somewhat amusing that the same Democrats that whined the loudest and most often about the recession are the same ones who are willing to sell one of the most promising sectors of our economy down the river for short-term political gain.

The American biotechnology industry is the world's most advanced. The reason we are No. 1 in high-technology industries in general, and biotechnology in particular, is because the United States has made a long stand-

ing commitment to the protection of intellectual property rights. This has encouraged investment in research and development that ensures our Nation's position as a leader in fostering new technology. But the critics would prefer that the President give the shaft to intellectual property, and would no doubt later criticize him loudly for the resulting loss in American jobs.

Mr. President, international cooperation on biodiversity is imperative. It is my hope that the United States will continue to work in the international community to forge such cooperation. However, we should not sign a bad agreement just to appease Third World nations and political critics with their respective agendas. The President stood firm against this criticism, and he was absolutely justified. Mr. President, I will ask that following my remarks an editorial from USA Today supporting President Bush's opposition to the biodiversity treaty appear in the RECORD.

President Bush has taken significant steps to protect biodiversity by aggressively pursuing policies to slow world deforestation. At a 1990 summit of industrial nations, the President called for an international convention to address this matter, and has moved ahead on this policy despite international sluggishness. The international community has been slow to follow President Bush's lead in this area, and hopes for a forests convention at Rio was dashed. President Bush has challenged the developed countries to put their money where their prolific mouths are by doubling U.S. assistance to bilateral forestry projects. The international efforts being pursued by the President will have a positive impact in slowing the destruction of rainforests, which contain over half of the world's species of plants and animals.

The President has also implemented an innovative strategy to encourage conservation by relieving the debt burdens of Third World nations. Over a quarter of a billion dollars in debt is expected to be reduced in this effort.

The President has been a leader in the world regarding the serious problem of deforestation. He has committed money to help developing countries devise and implement advanced forest management practices to sustainably manage the Earth's forests. This is an important step for impoverished countries whose economies depend on revenue from timber, but whose forestry practices threaten the world's biodiversity.

Add to that the President's request of \$734 million in environmentally related foreign assistance in fiscal year 1993, up from \$293 million in 1990. Real policies. Real money. Real leadership.

Looking back at the summit, there were four major groups who delighted in bashing the administration, but whose true interests appear to be far

from that of sustainable environmental development.

First, there was the cynical rhetoric of diplomats appeasing their strong green lobbies back home: many of our best allies. These nations theatrically cried alligator tears, with their pecuniary interests foremost in mind. Carbon dioxide targets and timetables would give these countries an enormous competitive advantage over the United States which relies on its natural endowment of coal.

Second, there were the emotionally charged pleas of environmental groups trying to pump up their membership rolls. Their simplistic positions and catchy sound bites make great direct mail, but poor environmental policy.

Third, the supposedly unbiased media, whose self-imposed need to summarize complex scientific issues into pithy bromides, come at the expense of exploring the legitimate positions of the United States throughout the negotiating process. With an MTV slickness, they blamed President Bush for every disagreement, every bracket, and every sticking point.

And finally, of course, the politically driven diatribes of liberal politicians in the United States, for whom environmentalism appears to their best bet at getting off the political endangered species list.

The rhetoric has been strident, inaccurate, and down right annoying. "The President needs to be a leader on world environment issues" all the critics declared. I agree with this statement, but when the representatives of Third World countries said this they meant, "The President needs to give us more money with fewer strings attached." When the environmental extremist said this they meant, "The President needs to blindly commit to policies without regard to scientific proof or economic impacts." And when the Democrats said this they meant, "The President needs to lose in November."

All of these groups had agendas tangential to reasonable environmental protection. But then there were those critics without hidden agendas: The apologists for U.S. policies who fail to recognize that no nation has done more, or spent more, on environmental protection than the United States.

In this year of sloganeering and poll watching, it may be an irresistible urge to gloss over the facts, and smear prudent policies in favor of environmental extremism. It is my hope that the one-sided coverage of the Rio summit will not undermine the level-headed policies advanced by President Bush.

The article earlier referred to follows:

[From USA Today, June 9, 1992]

BUSH IS RIGHT NOT TO SIGN ENVIRONMENTAL TREATY

Biodiversity treaty may sound good, but it demands too much of the USA and too little of others.

President Bush may be all alone this week in refusing to sign an Earth Summit treaty aimed at protecting endangered wildlife species.

He also happens to be right.

The so-called biodiversity treaty is long on good intentions. It offers underdeveloped countries economic aid in exchange for limiting the environmental damage they cause. It would protect dying species that might someday provide new medicines and foods.

But the price demanded of the USA is too high, and the promise of meaningful results is too low. The treaty would:

Deny the USA and other industrial nations control of the dollars they donate to conservation.

If the USA is going to spend money on conservation, it should be able to assure that the money is spent effectively.

Unwisely and unnecessarily force the emerging U.S. biotechnology industry—the undisputed world leader—to share confidential information and property rights with other countries.

Lead to international regulation of the genetic-engineering industry, impeding progress and endangering U.S. leadership in the field.

The treaty does all this without setting firm requirements for saving species.

Too much sacrifice; too few results. Bush should resist pressure from home and abroad to sign the treaty and work for changes.

Other developed countries pressing Bush to sign have less at stake. In fact, some could gain by opening up U.S. biotech efforts.

They also make weak arguments. Britain and Japan, for instance, say they share some of the same concerns but plan to sign anyway. If they have doubts, they should work for change.

President Bush should take the lead in advancing programs to prevent species from dying out. He should be willing to spend U.S. money and expertise to help avert environmental devastation.

But he should keep his name off this document until rightful U.S. concerns are addressed.

[From Roll Call, June 15, 1992]

#### BUSH FINALLY TAKES A STAND AGAINST ENVIRO-HYSTERIA

(By Morton M. Kondracke)

Much of the American press, the Democratic party, and the public is seized with a hysteria over global warming that may waste billions of dollars that could be better spent on other things, including saving human lives.

It's almost universally accepted in print and on television that global warming is an imminent menace to the earth—in total disregard of the fact that scientists are deeply divided over whether there is any danger at all.

Democratic Sen. Al Gore (Tenn) has made it onto the bestseller list with an apocalyptic book declaring that the so-called greenhouse effect is "the most serious threat that we have ever faced." Yet, the most-cited United Nations study on the subject says that warming of the atmosphere may amount to no more than two degrees over the next 35 years and may be primarily attributable to natural causes.

In a debate last February in New Hampshire, every single Democratic candidate for president agreed with Paul Tsongas's assessment that global warming is "the most serious environmental threat to this country."

Bill Clinton said, "I don't know if we're going to make any news tonight or not, but

I think we have just all said something that we ought to say together right now: Every one of us believes that the President should go to the Rio conference and say, "The United States has been lagging on agreeing to global standards on a global warming and we are going to agree right now with the Europeans on reducing CO<sub>2</sub> emission . . . and meet a common standard."

The Democrats' alarm is based on computer models predicting that increased CO<sub>2</sub> emissions from the burning of fossil fuels like coal and gasoline will so heat the atmosphere that crops will die and polar icecaps will melt, destorying coastal cities in floods.

But the Intergovernmental Panel on Climate Change, a U.S.-appointed agency, reported in 1990 that the average temperature of the earth has risen only one degree over the last 100 years and is still two degrees below its high point since the last Ice Age.

The Bush Administration's refusal to agree to specific standards for CO<sub>2</sub> emissions or sign a biodiversity treaty guaranteeing massive payments from the developed to the developing world sent foreign governments and the U.S. press into an orgy of America- and Bush-bashing at the Rio earth summit.

For weeks, virtually every TV and print story out of Rio focused on American "isolation" at the summit, without any exploration of what American aims were or the merits behind them. The media also lavished time and space on Gore, retiring Sen. Tim Wirth (D-Colo), and leaders of the world "green" movement, who repeatedly denounced Bush as an enemy of the environment.

It was not until two days before Bush left for Rio that the Administration roused itself to a spirited defense—and then only because a State Department official got fed up with European and Japanese environmental hypocrisy.

"Bob Zoellick pulled a 'Murphy Brown,'" said a White House official, referring to the Undersecretary of State for economic affairs, whose denunciations of the Europeans and Japanese in a background briefing won front-page headlines for his and a colleague's defense of the Administration's record.

Even then, much of the press ignored the record itself—which includes everything from passage of the Clean Air Act to speeded-up phase out of ozone-depleting chlorofluorocarbons and action to protect dolphins from drift nets—and concentrated its attention on the fact that a booklet reviewing that record was "glossy."

After debate within the White House over whether Zoellick's approach might not have been "too provocative"—one of those saying so was National Security Advisor Brent Scowcroft—President Bush finally issued a moderately tough statement as he departed for Rio, declaring that "environmental protection and a growing economy are inseparable."

That statement, scheduled for repeating in Rio, is in keeping with Bush's moderate policy on global warming and on environmental issues in general.

Democrats, greens, and the press like to portray Bush's policies as dominated by conservative developmentalists, de-regulators, and tree-cutters like Vice President Dan Quayle, Interior Secretary Manual Lujan, and former chief of staff John Sununu.

Inside the Administration, though, Bush is considered part of the "green gang," which includes EPA Administrator William Reilly, White House environmental chief Michael Deland, and Bob Grady, associate director of the Office of Management and Budget.

Zoellick and OMB Director Richard Darman are considered middle-of-the-roadsers who have tried to steer a course between Quayle and Reilly. Quayle's office is suspected of leaking Reilly's memo from Rio urging signing onto the biodiversity treaty in spite of the costs involved.

On global warming, the Administration has taken a distinctly centrist position, hiking research budgets on climatology and advocating cuts in CO<sub>2</sub> emissions as insurance against the possibility that the greenhouse effect is real, while rejecting hard numerical standards for reductions while the issue is being studied.

The Administration's chronic inability to explain what it's up to, though, has allowed it to become a punching bag for the greens, the media, and the Democrats.

They have all willfully ignored evidence that the computer models predicting global destruction from the greenhouse effect have severe flaws. Some of this evidence finally made it into the press—notably, in a Washington Post article by Boyce Reuberger and a Newsweek piece by Gregg Easterbrook—but the facts have been drowned out by a roar of apocalypticism.

As Reuberger's piece pointed out, "For at least two million years, the climate has been swinging wildly between ice ages and interludes of warmth—often far more warmth than the planet is now experiencing." Between 2,000 and 500 years ago, he wrote, the Earth was about one degree warmer than it is now. "From about the 10th Century through the 13 Century, for example, Europe was so warm that Greenland was, in fact, green with plants."

The key danger created by the clamor about global warming is that the most favored remedy of environmentalists—a reduction in use of fossil fuels—will mean a slowdown in economic growth around the world. This is a "cost" of billions of dollars which could be used to feed, employ and provide medicine to poor people both in the United States and elsewhere.

Democrats, of all people, should be especially attentive to the tradeoff between environmentalism and development. They presume to care about America's and the world's needy, but they are risking their chance to prosper on the basis of a crisis theory that is, to put it mildly, not proved.

In Arkansas, Bill Clinton has shown that he understands the need for balance between the environment and economic development. As a result, environmentalists are screaming at him for letting industry pollute the state's water. He ought to understand Bush's position and not assail him blindly.

One Democrat who does understand the costs of runaway environmentalism is Lawrence Summers, a Harvard professor, former top economic advisor to Michael Dukakis, and now chief economist at the World Bank.

Summers told the New York Times: "Poverty is already a worse killer than any foreseeable environmental distress," ending 34 million lives per year around the world. "Nobody should kid themselves that they are doing Bangladesh a favor when they worry about global warming." Al Gore and Bill Clinton are not doing people in Watts or Harlem any favor, either.●

#### IN RECOGNITION OF TONY WONG

● Mr. SEYMOUR. Mr. President, I rise today in recognition of Mr. Tony Wong, president and CEO of KaWES and Associates, Inc. upon his receipt of the 1992

Minority Lifetime Achievement Award presented to him by the U.S. Small Business Administration.

Mr. Wong has, for the past four decades, focused not only on his own business, but has carefully paved the way for other minority business persons beginning their own journeys. Mr. Wong started out as a non-English-speaking immigrant working at odd jobs while attending school, now Mr. Wong heads KaWES and Associates, a multidiscipline civil engineering firm which performs services for both private and public work projects, in site and land development, transportation and traffic engineering, as well as surveying.

Mr. Wong has also been very active in the promotion of minority, disadvantaged and women-owned business enterprises. He is also more than active in community interest programs as well as a member of numerous civic and professional organizations such as the Asian-American Architects and Engineers, the Asian Business Association, the American Society of Civil Engineers, and the American Public Works Association, just to name a few.

Mr. Wong's receipt of this prestigious award does not top his minority business advocacy. As past president of the Asian Business Association, he is well-known in the Asian/Pacific islander community as a powerful champion of important community issues such as the needs of immigrant communities and mainstream corporate entities. He is well-known and works effectively as a bridge among such diverse interest groups.

Mr. President, I ask that my colleagues join me today in recognition of this outstanding citizen and the tremendous achievements he has made throughout his life in America. I congratulate and commend Mr. Wong for his extraordinary strides and dedication to this great Nation and his community.●

#### MINOT: ALL-AMERICA CITY

● Mr. CONRAD. Mr. President, I rise today to pay tribute to the city of Minot, ND. Minot was recently named All-America City by the National Civic League, and it's an honor the city richly deserves.

Minot competed against 140 communities from across the country for this award, and was 1 of only 10 recognized as all-America cities. The National Civic League honored Minot for its strong, cohesive community. I can only second that conclusion here on the floor. The people of Minot have proven time and time again their ability to work as a community to get results.

I've worked with city leaders, university officials, business people, and countless others on issues of importance to the Minot community. I've watched the community pull together to keep the city growing and commerce

flourishing. The city's unique international flood agreement caught the attention of the National Civic League, and I would add that my experience working with the city to bring Choice International Hotels to Minot certainly showed the city at its finest.

Minot is one of the most enjoyable, pleasant cities in the State of North Dakota, and now can boast that it is one of the best cities in the country. On behalf of all North Dakota's communities, I congratulate Minot on being named an All-America City. It honestly is a magical community.●

#### SALUTE TO "PASSAGES"

● Mr. SEYMOUR. Mr. President, I am honored to rise today to bring to your attention a very special group of constituents. I am speaking about the thousands of Southeast Asian refugees that make the courageous journey to this Nation, fleeing life-threatening persecution in their native countries. They come to the United States in search of freedom—freedom from persecution, freedom of thought, and freedom of religion. They have experienced first hand, life in a society devoid of the basic freedoms that we, as Americans, sometimes take for granted.

Kimberly Chin, a student at California State University at Fresno, has adapted an anthology of refugee experiences into an 80-minute theater presentation entitled "Passages." "Passages" is based on a compilation by Katsuyo Howard and is being directed by Dr. Edward EmanuEl. Complete with music, song and slides, "Passages" tells the story of Southeast Asian children and their struggle for freedom. The cast is comprised entirely of Hmong, Vietnamese, Laotian, and Chinese actors. Never before has a performance such as this been presented to the public.

"Passages" puts the struggle for freedom in human terms and helps bridge the gap between East and West. Understanding other people and their culture is the key to tolerance.

The cast leaves Fresno, CA, on June 25 for performances in Hawaii and then will go on to various universities in Japan. "Passages" cooperates with President Bush's request for increased cultural exchange between the United States and Asian countries. The proceeds from the performances will benefit the Southeast Asian Foundation for International Understanding.

I commend Dr. EmanuEl and all those involved with "Passages" for their hard work and dedication to increasing cultural awareness and understanding. I wish them the best of luck on this exciting and important tour.●

#### STUDENTS FOR A BETTER ENVIRONMENT

● Mr. SIMON. Mr. President, I rise with pride today to recognize Students

for a Better Environment [SBE] from Willowbrook High School in Villa Park, IL, for its commitment to the environment and the community.

Students for a Better Environment is a group of 50 to 100 students who for the last 6 years have continually worked to improve the environment on the local, State, and national levels. It has promoted efforts in recycling, preservation of forests and animals, and the fight against global warming.

A sampling of SBE's numerous achievements demonstrates its commitment to a cleaner world: making Willowbrook the first school in DuPage County with a recycling program; encouraging local grocery stores to provide the choice of paper or plastic bags; petitioning State road authorities for the planting of wild flowers within highway off-ramp partitions; and continual petitioning to government officials for the passage of environmental causes.

In 1991, Students for a Better Environment was honored by a number of national magazines. Because of this recognition, SBE has become the model for student environmental groups across the country. Earthcare, a monthly newsletter, and an instructional video tape were created by SBE to spread the word and aid other schools in developing their organizations. I would like to submit an article from Earthcare as an example of the environmental awareness that SBE fosters in our young people.

Students for a Better Environment has promoted and continues to promote a safer, cleaner world. By instilling into our youth a sense of environmental responsibility, SBE has become a positive example to all citizens.

As we all know, Mr. President, working to improve the environment is of critical importance to our own well-being, and the well-being of future generations. I am, therefore, proud to recognize these young people from my State of Illinois who are so committed to a better future.

The article follows:

#### OIL CRISES

(By Steve Stone)

The crises involving Americans, to this day, continue to add up and bombard them. The most recent crisis involves oil and the pollution of the environment by oil. The source of this pollution: American drivers who change their own oil and discard the waste needlessly.

Right now, at this very moment, there are people changing their oil somewhere in the United States. They could be either at home or in stations. Quart by quart this repulsive sludge adds up every two weeks to the equivalent of 10 million gallons spilled by the Exxon Valdez off the coast of Alaska.

Due to the contaminants that get into used oil while in an automobile's engine, it is potentially more damaging to the environment than crude oil. Used oil can contain numerous toxins. Some toxins that can be included are lead, which can eventually cause brain damage; and benzene, a known carcinogen and an ingredient found in gasoline.

If this oil is continuously thrown into the trash, streams, or on the ground, we can look ahead for the deaths of plants, animals, and human beings. Oils can reduce the oxygen levels of lakes, streams, and even oceans, thus harming fish and other marine wildlife. Oil can also block out the essential sunlight needed by underwater plants. This oil contaminates water which can eventually find its way into public drinking supplies, thus affecting us.

To help solve these problems of oil and oil pollution we can propose possible laws and restrictions regarding the disposal of oil. We could possibly reduce the price of oil. We could probably reduce the cost of oil changes at stations so people won't change their own oil, thus more used oil would be recycled. Another possibility would be to invent something that uses used oil.

If nothing is done to solve this problem of oil pollution, I believe Americans will begin to ignore other crises that add up, such as air pollution and water pollution. As a result, the environment will not be a clean, healthy, and safe place to live in; instead it will be a poisoned place to live or die in. ●

#### TRIBUTE TO HARTFORD

● Mr. McCONNELL. Mr. President, I rise today to recognize the town of Hartford, situated in western Kentucky.

Hartford, located in Ohio County, is a pleasant community. The townspeople described Hartford as one big happy family. This is a simple community that does not attract much tourism, and it appreciates the uncomplicated life of a small town.

Hartford offers its citizens entertainment that is community oriented. The Courthouse Players, an amateur acting group, entertain the townspeople by performing skits in the old courthouse building. There is also a building dedicated to the U.S. Constitution and Bill of Rights. Area schoolchildren visit the exhibit to learn how these documents have played a profound role in the development of our great country.

Coal mining used to be the dominant industry in Ohio County. Depletion of that resource has caused the community to look in other directions for employment. This community was determined to overcome its misfortunes and proceed into new markets.

Applied Recovery and D&D Manufacturing are the most recent employers in Hartford. Hartford is constantly trying to bring in new industry and business to the community to absorb the loss from the coal industry.

Hartford is a community focused on family and hospitality. I pay tribute to Hartford and recognize it as one of Kentucky's finest towns.

Mr. President, the following article from the Louisville Courier-Journal is submitted for the CONGRESSIONAL RECORD.

The article follows:

#### HARTFORD

(By Cynthia Crossley)

If you've ever been to Hartford, you probably know about its Soreheads.

"Home of 2,000 Happy People and a few Soreheads," say the signs at the city limits.

In truth, the signs are not quite accurate. When the phrase was coined in the 1970s, Hartford's population was 1,868. In 1990, 2,532 people lived there. Hartford's population increased by only 30 in the 1990s, no big deal by itself. So it might be more accurate to say there are about 2,500 happy people, plus the Soreheads.

Why are there happy people in Hartford? Aside from the fact that it's a pleasant Western Kentucky community, residents offer reasons such as:

"The Courthouse Players," a dedicated group of amateurs who put on plays for an equally dedicated audience in an old courtroom. The company has a strong following, even though the theater lacks air conditioning and heat.

A small, rural hospital that is thriving, despite its location in an economically depressed area. Ohio County's 24-hour emergency room is usually busy until 1 a.m., and its obstetrics staff delivers about 130 to 140 babies per year.

A permanent exhibit building dedicated to the U.S. Constitution and Bill of Rights. Developer Eddie Hendricks gives talks there to schoolchildren about the Bill of Rights and other amendments.

When it's not being used for an event connected with the Constitution or the state of Kentucky, "The Hartford House" can be rented. Last December, a family rented the building. Their farflung offspring were coming back to visit, and Hendricks said the parents didn't feel their home could hold everyone. So on Christmas Day, folks brought their presents and their casseroles over to The Hartford House.

Hartford also has two water tanks towering over town side by side. They are a traveler's first sight of Hartford from the Green River Parkway.

"I suggested to the mayor that those twin water towers be labelled 'hot' and 'cold' but he hasn't done it," joked Dorothy Gentry, a local historian.

Actually, water is the focus of Hartford's major project. The city is building a \$2.5 million plant that will be able to treat up to a million gallons of water per day from the Rough River. Daily capacity is now 435,000 gallons. That covers the town's "essential needs," said Mayor Earl Russell, but leaves no room for the additional demand a new industry might have.

And, of course, the need for new industry—preferably a large number of small factories—is the major theme these days in Hartford and Ohio County, just as it is in many other places.

Once, in the late 1980s and early 1970s, coal was king in Ohio County. And as for other industries, Ohio County didn't feel the need for them. People without highschool diplomas could get jobs that paid \$25,000 per year in the strip mines. Coal-severance money, as well as revenue-sharing funds, poured into the county.

Ohio County was so flush that a former county judge-executive could afford the luxury of installing a security system in his office. Now, only one camera—a remnant—stares blindly at visitors. The rest of the system has been removed to save money. And Ohio County, along with the rest of the state, struggles to replace lost mining jobs.

Jerry Grooms, executive director of Ohio County's Industrial Foundation, says the community has had some success. Ohio gained two new—but small—industries within the last year. One is the 30-employee Ap-

plied Recovery, which processes medical waste and which has plans to expand. The other is D&D Manufacturing, a brand new plant with 17 employees who make a non-woven material for tobacco-plant beds. (Both industries are in Beaver Dam, where the county's industrial parks are. But that's not really a loss for Hartford, since the two towns are only four miles apart.)

Grooms said the industrial foundation also is working hard to share a poultry-processing company. The foundation also is looking for plants that might supply the \$500 million Scott Paper plant coming to neighboring Daviess County.

The foundation is being guided in that endeavor by a Tennessee Valley Authority study. The TVA and Western Kentucky University's Institute for Economic Development also are helping Ohio by offering the "SouthLink 2000" leadership-development program for the first time this year. The program, developed by the Southern Growth Policies Board, brings together a cross-section of a community to assess its assets and needs and to start addressing ways to improve things.

One situation the group may be considering is the drumbeat for Interstate 66, a federal highway proposed to cross Kentucky along the route of the Western Kentucky Parkway, or further south, along the Cumberland Parkway and U.S. 68-Ky. 80. Towns along both routes want the interstate for its economic development potential.

Says Grooms: "If I-66 goes through Bowling Green to Hopkinsville, it will be over my dead body."

However, just a few miles southeast of Beaver Dam and Hartford, the Green River Parkway intersects the Western Kentucky Parkway. That's prompted Ohio County to promote itself as "at the crossroads of Western Kentucky."

Yet that transportation bonus has lured only a Jerry's Restaurant and a BP gas station to a nearby parkway service area. The rest of the "crossroads" is empty farmland.

As the I-66 proposal develops, more than a few meetings may be held in Hartford's gleaming community center. Finished in 1980, the three-story building includes a 450-seat auditorium, offices for social-service agencies and modern, spacious courtrooms.

By blending the office needs of groups as disparate as the courts and the local health department, said attorney Frank Martin—former chairman of the Green River Area Development District and former Ohio County attorney—civic leaders could raise money for the center from equally disparate funding sources. As a result, the \$1.6 million building is paid for.

Now, "when politicians come to town we let them perform here," Mayor Russell said, as he stood on the auditorium stage.

About two blocks over from the community center is a historical center. An old house has been refurbished by the Ohio County Historical Society and turned into the Ohio County Museum.

One room represents a parlor from the late 1800s; another, a bedroom from the same era. There's a room devoted to early medical practices, and another that's kind of a hodge-podge of Ohio County bluegrass-music items and memorabilia from the county's old community schools.

On the museum's front lawn are four small buildings. One houses old farming implements. Another is a log cabin filled with "frontier" furniture. And a third is a tiny old country store, again stuffed with old merchandise and advertising signs.

The fourth is crammed with all the items the society can't fit into the museum or the other three buildings.

Russell said much of the historical society's possessions—and knowledge—reflect the work of Gentry, the local historian. She has also researched the history of numerous homes around Hartford, worked to get some of its buildings on the National Register of Historic Places, developed a walking-tour route around town and generally pushed Hartford to cherish its past.

Gentry said her goal is to have Hartford make its downtown over into a quaint collection of shops. She said Ohio County has dozens of crafts people and antique dealers who could fill those shops.

Russell considers people like Gentry an asset. Or maybe a Sorehead. Being a Sorehead is an honor in Hartford. One earns the title through community service.

Once the city council agrees to name someone a Sorehead, the name goes on the city's Sorehead inventory, which is used as the need arises. Russell, reviewing the list recently, said that the "few" Soreheads actually translated into "about 150 to 160 or so."

But, he added, "We don't give 'em to just anybody."

#### FAMOUS FACTS AND FIGURES

How did Hartford, and before it, Fort Hartford, get its name? No one's sure, so take your pick among three possible sources: One, the site served as a crossing on the Rough River for deer. (Male deer were once called harts and crossings were called fords.) Two, a settler named Hart lived by the ford. And some accounts pose the possibility that Hartford was named for the city in Connecticut.

McCreary Court is named after the town's first doctor, Charles McCreary. In 1813 he performed "the first known successful removal of an entire collarbone," the historical market in front of the town library says. This was done on a 14-year-old Muhlenberg County boy named Irvin. Some accounts say that Irvin endured the operation without anesthesia. In any case, he recovered and went on to live for another 36 years.

Some relatively famous folks from Hartford: Radio and Hollywood film producer Z. Wayne Griffin, whose stars include Clark Gable, Claudette Colbert and Fred MacMurray, internationally known painter Charles Courtney Curran (1861-1942), whose paintings tended to be seashore scenes with children, young women and water nymphs; the Rev. William Downs, who baptized Abraham Lincoln's father, Thomas Lincoln, when Downs was preaching near the Lincoln home on Knob Creek.

One very famous person from nearby Rosine is Bill Monroe, the father of bluegrass music. Monroe's uncle Pendleton Vandiver is buried in the Rosine Cemetery, and the fancy headstone includes the words from Monroe's famous song "Uncle Pen." Monroe's son has since moved Uncle Pen's cabin to Beanblossom, Ind., but the home where Monroe was born still stands, albeit in a somewhat hidden spot. Just outside Rosine, Rosine has country and bluegrass bands playing in its little community park in June. And Bratcher's Store often hosts country-, bluegrass- and gospel-music groups on weekends.●

#### INTRODUCTION OF THE EXPORT ENHANCEMENT ACT

● Mr. MACK. Mr. President, I am pleased to be an original cosponsor of

S. 2864, the Export Enhancement Act of 1992, which was introduced by Senator SARBANES and others yesterday. The bill renews the charter of the Export-Import Bank until September 30, 1997, and helps streamline our export promotion programs.

This bill includes a number of important measures, in addition to the renewal of the Bank charter. Most importantly, it extends the tied aid credit fund—the so-called war chest—authority for 3 years and authorizes appropriations of \$500 million for each fiscal year.

The war chest will help put teeth in the recent tied aid credit agreement successfully negotiated by the administration in the OECD. Many exporters have pointed out that the agreement, while a major step in the right direction, depends on vigilant enforcement by the United States, and that credible enforcement depends on continued creative and aggressive use of the war chest.

I have been impressed with Eximbank's aggressive use of the war chest in the past and am confident that the Bank will not simply rest on its laurels and will not be hesitant to use the war chest to enforce the new agreement, should that become necessary.

The bill also includes language that provides for Eximbank to consider, in determining whether to support a transaction with its loan, guarantee, or insurance program, to take into account not only the subsidy cost of the transaction under credit reform, but also the need to involve private capital in support of U.S. exports. I believe this language will encourage continued use of guarantees and serve as a desirable counterbalance to the shift in the subsidy cost calculation in favor of direct loans under credit reform.

I am also supportive of the language in the bill authorizing Eximbank to provide similar compensation and benefits as do the Federal bank regulatory agencies.

It would be a false economy to expect Eximbank to support our exporters at a world-class level if we do not compensate at a level that can maintain experienced personnel.

On the export promotion side, this bill takes important steps toward making U.S. export promotion programs better coordinated and more accessible to exporters. It establishes in statute the Trade Promotion Coordinating Committee [TPCC] created by President Bush and requires the TPCC to submit a Governmentwide export promotion strategy to Congress. It also requires Commerce's U.S. Foreign and Commercial Service field offices to act as one-stop shops to help U.S. exporters to access all U.S. Government export promotion programs.

As many have pointed out, the export sector has been one of the most robust sectors of the U.S. economy. I am hope-

ful that this bill will help make our export sector even more competitive and clear the path of business, including small business, through the maze of Government programs devoted to export promotion.●

#### APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 222, 93d Congress, appoints the following Senators to serve as ex officio members of the Committee on Commerce, Science, and Transportation for the purpose of participating in the National Ocean Policy Study: The Senator from South Carolina [Mr. THURMOND], the Senator from California [Mr. SEYMOUR], and the Senator from Maine [Mr. COHEN].

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

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

#### BILL READ FOR THE FIRST TIME—S. 2877

Mr. COATS. Mr. President, on behalf of myself and Senator BAUCUS, I send a bill to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2877) relating to the Interstate Transportation of Municipal Waste Act of 1992.

Mr. COATS. Mr. President, I now ask for its second reading.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard. The bill will be laid before the Senate on the next legislative day for its second reading.

#### ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, June 19; that following the prayer, the Journal of Proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that immediately after the Chair's announcement, the Senate then resume consideration of Calendar No. 483, H.R. 5260, the Unemployment Compensation Act.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate tonight, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:36 p.m., recessed until Friday, June 19, 1992, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 18, 1992:

ENVIRONMENTAL PROTECTION AGENCY

CHRISTIAN R. HOLMES IV. OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

CHRISTIAN R. HOLMES IV. OF CALIFORNIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CHARLES C. McDONALD, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. RONALD W. YATES, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CLIFFORD H. REES, JR., [redacted] UNITED STATES AIR FORCE.

ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. JOHN M. SHALIKASHVILI, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. BARRY R. MCCAFFREY, [redacted] UNITED STATES ARMY.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DONALD SNYDER, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES J. SEAROCK, JR., [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DAVID J. TEAL, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES MCCAUSLAND, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES A. MAY, JR., [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES L. JAMERSON, [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ARLEN D. JAMESON, [redacted] UNITED STATES AIR FORCE.

ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HENRY J. HATCH, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JEROME B. HILMES, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. FRANK F. LEDFORD, JR., [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JOHN T. MYERS, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES P. OTSTOTT, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. BILLY M. THOMAS, [redacted] UNITED STATES ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES W. CRYSEL, [redacted] UNITED STATES ARMY.